

## CHAPTER 69A-40

### UNIFORM FIRE SAFETY STANDARDS FOR ASSISTED LIVING FACILITIES

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#### **69A-40.022 Title.**

These rules, comprising Rule Chapter 69A-40, F.A.C., shall be known as “The Uniform Fire Safety Standards for Assisted Living Facilities.”

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.11, 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.022.*

#### **69A-40.023 Purpose.**

The purpose of this rule chapter is to establish uniform requirements to provide a reasonable degree of safety from fire in buildings and structures used as assisted living facilities. These rules try to avoid requirements which might result in unreasonable hardship, or unnecessary inconvenience or interference with the normal use and occupancy of a building, but at the same time insist upon compliance with uniform standards for fire safety consistent with the public interest, even though a financial hardship may result in some individual cases.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.11, 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.023.*

#### **69A-40.024 Scope.**

(1) These rules apply to any institution, building, or buildings, residence, private home, boarding home, home for the aged, or any other place, whether operated for profit or not, which is an assisted living facility under the definitions of Chapter 429, F.S., and of Chapter 58A-5, F.A.C., and include the intergenerational respite care assisted living facility created pursuant to Section 429.071, F.S. These rules do not apply to transient rentals, as defined in Section 212.03, F.S.

(2) These rules are concerned with life safety during fires and similar emergencies. They address particular matters of construction, protection and occupancy of buildings to try to minimize danger to life from fire, smoke, fumes, or panic before buildings are vacated.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.41, 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.024, Amended 1-15-07.*

#### **69A-40.027 Definitions.**

(1) “Administrator” shall mean an individual who has general administrative charge of an assisted living facility.

(2) “Assisted Living Facility” (ALF) shall be as defined in Section 429.02(5), F.S. The definition does not apply to transient rentals as defined in Section 509.013(11), F.S. For firesafety purposes, the size of the facility is determined by the license as issued by the Agency for Health Care Administration.

(3) “Authority having jurisdiction” shall mean the governmental entity, organization, office, or individual responsible by law or ordinance to conduct and enforce uniform fire safety requirements in accordance with Section 633.206(2)(b), F.S.

(4) “Existing” shall refer to any assisted living facility that has been licensed prior to January 1, 1996.

(5) “Final Administrative Interpreting Authority” shall mean the State Fire Marshal.

(6) “Intergenerational Respite Care Assisted Living Facility” means a facility licensed pursuant to a 5 year pilot program established by the Agency for Health Care Administration to provide temporary personal, respite, and custodial care to minors and adults with disabilities and elderly persons with special needs who do not require 24-hour nursing services, and that provides respite care services for minors and adults with disabilities and elderly persons with special needs for a period of at least 24 hours but not more than 14 consecutive days, in which minors and adults reside in distinct and separate living units, with a maximum of 48 beds located in Miami-Dade County, and is operated as a not-for-profit entity.

(7) “NFPA” is the abbreviation for the National Fire Protection Association.

(8) “Owner” shall refer to the person, partnership, association, or corporation that owns the assisted living facilities enterprise, whether licensed or not. In the event a facility is operated by a person that leases the physical plant which is owned by another person, “owner” means the person that operates the facility. When the person that owns the physical plant is an affiliate of the person that operates the facility and has significant control over the day-to-day operation for the facility, he is considered an owner of the facility.

(9) “Point of Safety” shall be as defined in Chapter 22 and 23, NFPA 101, Life Safety Code, incorporated by reference in subsection 69A-40.028(1), F.A.C.

(10)(a) “Satisfactory Firesafety Inspection” shall mean there are no uncorrected firesafety deficiencies in the facility associated with fire alarm systems, installed fire sprinkler systems, or means of egress/escape components. For purposes of this definition, firesafety deficiencies associated with maintenance items, such as “an exit light burned out” or “an electrical wall outlet cover plate missing”, would not be considered as items for an unsatisfactory firesafety inspection.

(b) Facilities shall be granted a period of time to correct firesafety deficiencies that are determined by the firesafety authority having jurisdiction citing the deficiencies. The time periods granted shall be based on the risk to life and property created by the violation and the ease of correction. Those existing facilities that are required to install fire sprinkler systems shall be granted the time frames specified in Section 429.41(1)(a)2.i., F.S.

(c) During these time frames, the lack of a required fire sprinkler system shall not be grounds for denial of a “Satisfactory Firesafety Inspection.”

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.41, 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.027, Amended 1-15-07.*

**69A-40.028 Standards of the National Fire Protection Association Adopted.**

(1) Assisted living facilities shall comply with Chapter 22 or 23, of the “Life Safety Code”, NFPA 101, 1994 Edition, adopted and incorporated herein by reference, except as modified by Chapter 429, F.S.

(2)(a) When Chapters 22 and 23 of NFPA 101 Life Safety Code, 1994 edition, refer to other chapters or sections of the Code or other NFPA standards, the referenced standard shall be as stated in chapter 32, NFPA 101, Life Safety Code, 1994 edition, as is adopted and incorporated in subsection (1) above. Those standards are adopted and incorporated by reference and are as follows:

NFPA 10-1990, Standard for Portable Fire Extinguishers

NFPA 13-1994, Standard for the Installation of Sprinkler Systems

NFPA 13D-1994, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes

NFPA 13R-1994, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height

NFPA 14-1993, Standard for the Installation of Standpipe and Hose Systems

NFPA 25-1992, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems

NFPA 30-1993, Flammable and Combustible Liquids Code

NFPA 31-1992, Standard for the Installation of Oil Burning Equipment

NFPA 40-1988, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film

NFPA 45-1991, Standard on Fire Protection for Laboratories Using Chemicals

NFPA 54-1992, National Fuel Gas Code

NFPA 58-1992, Standard for Storage and Handling of Liquefied Petroleum Gases

NFPA 70-1993, National Electrical Code

NFPA 72-1993, National Fire Alarm Code

NFPA 80-1992, Standard for Fire Doors and Fire Windows

NFPA 82-1994, Standard on Incinerators and Waste and Linen Handling Systems and Equipment

NFPA 88A-1991, Standard for Parking Structures

NFPA 90A-1993, Standard for the Installation of Air Conditioning and Ventilating Systems

NFPA 90B-1993, Standard for the Installation of Warm Air Heating and Air Conditioning Systems

NFPA 91-1992, Standard for Exhaust Systems for Air Conveying of Materials

NFPA 96-1994, Standard for Ventilation Control and Fire Prevention of Commercial Cooking Operations

NFPA 99-1993, Standard for Health Care Facilities

NFPA 102-1992, Standard for Assembly Seating, Tents, and Membrane Structures

NFPA 110-1993, Standard for Emergency and Standby Power Systems

NFPA 111-1993, Standard on Stored Electrical Energy Emergency and Standby Power Systems

NFPA 211-1992, Standard for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances

NFPA 220-1992, Standard on Types of Building Construction

NFPA 241-1993, Standard for Safeguarding Construction, Alteration, and Demolition Operations

NFPA 251-1990, Standard Methods of Fire Tests of Building Construction and Materials

NFPA 252-1990, Standard Methods of Fire Tests of Door Assemblies

NFPA 253-1990, Standard Methods of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source

NFPA 255-1990, Standard Method of Test of Surface Burning Characteristics of Building Materials

NFPA 256-1993, Standard Methods of Fire Tests of Roof Coverings

NFPA 257-1990, Standard for Fire Tests of Window Assemblies

NFPA 260-1994, Standard Methods of Tests and Classification Systems for Cigarette Ignition Resistance of Components of Upholstered Furniture

NFPA 261-1994, Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes

NFPA 265-1994, Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Wall Coverings

NFPA 701-1989, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films

NFPA 703-1992, Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials

NFPA 1126-1992, Standard for the Use of Pyrotechnics before a Proximate Audience

(b) The codes and standards published by the National Fire Protection Association may be obtained by writing to the NFPA at: 1 Batterymarch Park, Quincy, Massachusetts 02269. All standards incorporated by reference in this rule are also available for public inspection during regular business hours at the Division of Fire Marshal, Larson Building, 200 East Gaines Street, Tallahassee, Florida.

(3) The Evacuation Capability Evaluation shall be in accordance with chapter 5, NFPA 101A, Guide on Alternative Approaches to Life Safety, 1995 edition, which is adopted and incorporated herein by reference. *Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.11, 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.028.*

#### **69A-40.029 Evacuation Capability Evaluation.**

(1) The assisted living facility administrator shall conduct an “Evacuation Capability Evaluation” and the local authority having jurisdiction shall validate the evacuation capability evaluation as required in Section 429.41(1)(a), F.S. For purposes of this section, “validate” shall mean that the evacuation capability evaluation forms are reviewed by the local authority having jurisdiction to insure completeness in accordance with Chapter 5, NFPA 101A, Guide on Alternative Approaches to Life Safety, 1995 edition, as incorporated in subsection 69A-40.028(3), F.A.C.

(2) Existing, licensed, sprinklered ALF’s are not required to conduct an evacuation capability evaluation. The State Fire Marshal’s office does recommend that evacuation capability be determined using a method acceptable to the local authority having jurisdiction over fire safety.

(3) Residents shall be permitted to relocate to a “Point of Safety” as defined in subsection 69A-40.027(9), F.A.C., and as specified in Section 429.41(1)(a)1.a., F.S.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.11, 429.41(1)(a), 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.029.*

#### **69A-40.031 Automatic Fire Sprinkler Systems.**

All requirements relating to automatic fire sprinkler systems for assisted living facilities are identified in Section 429.41(1)(a), F.S.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.11, 429.41(1)(a), 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.031.*

### **69A-40.033 Heating, Ventilating, and Air Conditioning Equipment.**

In accordance with the applicable sections of Chapters 22 and 23, NFPA 101, Life Safety Code, 1994 edition, small facilities (16 or fewer residents) are not required to comply with NFPA 96, Standard on Ventilation Control and Fire Protection of Commercial Cooking Operations. Large facilities shall comply with NFPA 96.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.11, 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.033.*

### **69A-40.035 Code Conflict Resolution.**

(1) Code enforcement conflict resolution of code issues cited by local government shall be resolved by the local governmental agency and city and/or county enforcement boards which have been established and identified in Section 553.73, F.S.

(2) Code enforcement conflict resolution of code issues cited by the Agency for Health Care Administration (AHCA) should be resolved between the Agency for Health Care Administration and the authority having jurisdiction.

(3) The State Fire Marshal's Office is the final administrative interpreting authority and as such will render interpretations and explanations of the codes.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.11, 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.035.*

### **69A-40.036 Fire Exit Drills.**

(1) An existing, unsprinklered ALF shall conduct fire exit drills monthly and at least twelve fire drills shall have been conducted during the previous year (four times per year on each new shift). New facilities with eight or fewer residents and a "Prompt" evacuation capability evaluation shall follow the above guidelines. If a facility has been in operation less than one year, it shall be permitted to have conducted a fire drill for each month of its operation.

(2) A new or existing sprinklered ALF shall conduct at least six fire drills per year, one every two months, with a minimum of two drills conducted during the night when residents are sleeping.

(3) Facilities that are fully sprinklered and in compliance with other firesafety standards are not required to conduct more than one of the required fire drills between the hours of 11 p.m. and 7 a.m. per year.

(4) Residents shall be permitted to relocate to a "Point of Safety" as defined in subsection 69A-40.027(8), F.A.C., and as specified in Section 429.41(1)(a), F.S.

*Rulemaking Authority 633.104, 622.206 FS. Law Implemented 429.11, 633.206 FS. History—New 1-7-97, Formerly 4A-40.036.*

### **69A-40.037 Intergenerational Respite Care Assisted Living Facility.**

(1) The living area for any minor, including the available means of egress, shall be on the level of exit discharge.

(2) Each living area or portion of living area for personal use, comprised of bathrooms, bathing areas, and sleeping areas serving minors, shall be served by exits separate from those serving other intergenerational respite care residents.

(3) Any exit designed to serve both minors and adults in any area other than the living area or portion of the living area for personal use referred to in subsection (2), such as living rooms and dining areas, shall be increased in size to 1.5 times the minimum required egress width.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented, 429.41, 633.206 FS. History—New 1-15-07.*

