

# Code Technology Committee

## Area of Study – Day Care/Adult Care/Assisted Living

### PRELIMINARY ANALYSIS

September 21, 2005

#### History:

Congress Passes the Federal Fair Housing Act in 1968 which bars discrimination in housing on the basis of race, color, religion, sex, familial status or national origin.

After a number of lawsuits Congress in 1988 amends the FFHA to include coverage to “persons with disabilities”.

For purposes of enforcing this law, “Handicap” and “Disabled” are interchangeable terms.

Section 802 (42 USC 3602) FFHA Definitions @ (h):  
“Handicap” means, with respect to a person:

- (1) a physical or mental impairment which substantially limits one or more of such person’s major life activities
- (2) a record of having such an impairment, or
- (3) being regarded as having such impairment, but such term does not include current illegal use or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act).

#### 2003 IBC Definitions: Chapter 2

**ASSISTED LIVING FACILITIES:** See Section 310.2, “Residential Care/Assisted living facilities.”

**RESIDENTIAL CARE/ASSISTED LIVING FACILITIES:** See Section 310.2.

#### 2003 IBC Use and Occupancy Classifications: Chapter 3

**Section 305: Educational Group E**

**Section 305.2: Day Care:** The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2-1/2 years of age, shall be classified as Group E occupancy.

**Section 308: Institutional Group I**

Institutional Group I occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people are cared for or live in a supervised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment....Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4

**Section 308.2: Group I-1:**

This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

- Residential Board and Care Facilities
- Assisted Living Facilities
- Halfway Houses
- Group Homes
- Congregate care facilities
- Social rehabilitation facilities
- Alcohol and drug centers
- Convalescent facilities

A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.

**Section 308.3 Group I-2:**

This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

- Hospitals
- Nursing Homes
- Mental hospitals
- Detoxification facilities

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2

**Section 308.3.1 Child Care Facility:**

A child care facility that provides care on a 24-hour basis to more than five children 2-1/2 years of age or less shall be classified as Group I-2.

**Section 308.5 Group I-4, day care facilities:**

This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoptions and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the International residential code in accordance with Section. Places of worship during religious functions are not included.

**Section 308.5.1: Adult care facility:**

A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

Exception: A facility where occupants are capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group A-3.

**Section 308.5.2: Child care facility:**

A facility that provides supervision an personal care on less than a 24-hour basis for more that five children 2-1/2 years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than five but not more than 100 children 2-1/2 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

**Section 310 Residential Group R**

Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primary transient in nature, including:

Boarding houses (transient)  
Hotels (transient)  
Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses  
Boarding houses (not transient)  
Convents  
Dormitories  
Fraternities and sororities  
Monasteries  
Vacation timeshare properties  
Hotels (nontransient)  
Motels (nontransient)

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single-family home are permitted to comply with the International residential Code in accordance with Section 101.2

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the International Residential Code in accordance with Section 101.2

### **Section 310.2 Definitions**

**BOARDING HOUSE:** A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

**DORMITORY:** A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members

of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.

**DWELLING UNIT:** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**PERSONAL CARE SERVICE:** The care of residents who do not require chronic or convalescent medical or nursing care. Personal care involves responsibility for the safety of the resident while inside the building.

**RESIDENTIAL CARE/ASSISTED LIVING FACILITY:** A building or part thereof housing persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities.

## Group Classification Matrix

<u>Group</u>	<u># of Residents</u>	<u>Age of Occupants</u>	<u>Length of Stay</u>	<u>Self Evacuation</u>	<u>Code Section</u>
<b>A-3 Adult</b>	>5	“Adult”	<24-hour basis	Yes	308.5.1 Exception
<b>E</b>	>5	>2-1/2	Not Stated	Not Stated, but implied, Yes	305.2
<b>E</b>	100>5	<2-1/2	Not Stated, but implied <24-hour basis	Not Stated, but implied, No	308.5.2 Exception
<b>I-1</b>	>16	Not Stated	24-hour basis	Yes	308.2
<b>I-2</b>	>5	Not Stated	24-hour basis	No	308.3
<b>I-4</b>	>5	Not Stated	<24-hour basis	Not Stated, but implied, No	308.5
<b>I-4 Adult</b>	>5	“Adult”	<24-hour basis	Not Stated, but implied No	308.5.1
<b>I-4 Child</b>	>5	<2-1/2	<24-hour basis	Not Stated, but implied,	308.5.2

				No	
<b>R-3</b>	5 or less	“Adult/Child’	<24-hour basis	Not Stated	308.2 & 310.1
<b>R-4</b>	16<5	Not Stated	Not Stated but implied 24-hour basis	Not Stated	308.2 & 310.1

**Notes:**

- **Section 308.5.1 Adult Care Facility Exception** refers to an A-3 designation yet the A-3 Section, 303.1 makes no reference to it.
- **Section 308.5.2 Child Care Facility Exception** refers to an E designation yet the E Section 305 makes no reference to it.
- **Section 308.2 Group I-1** refers to the undefined terms “capable of responding to an emergency situation”. Screaming is a response, but I am sure that that was not what the code intended.
- **Section 308.4 Group I-3** refers to the undefined term “self-preservation”. There is more than one definition of that term.
- **Section 308.2 Group I-1** refers to a Group R-4 where the facility houses at least six and not more than 16 persons while Section 310.1 Residential Group R-4 refers to “more than five but not more than 16 persons.”
- **Section 308.2 Group I-1** makes reference to buildings housing more than 16 persons while Section 310.1 Residential Group R-4 makes reference to housing not more than 16 occupants, excluding staff. Is the staff included in the I-1 reference?
- **Why choose 2-1/2 years as a threshold? I refer to the Commentary from the 1996 BOCA National Building Code which states at 308.3.1,**
  - *Child care facilities housing more than five children 2-1/2 years and younger are classified in Use Group I-2 because children younger than 2-1/2 years old are not typically capable of independently responding to an emergency, but must be led or carried to safety. Under such circumstances, the occupants are considered nonambulatory.*

**Undefined Terms:**

- **Residential Board and Care Facilities:**
  - **Is that the same as a Residential Care/Assisted Living Facility?**
- **Assisted Living Facilities: (5,600,000 hits on google)**
- **Halfway Houses: (8,510,000 hits on google)**
- **Group Homes: (68,500,000 hits on google)**
- **Congregate care facilities: (1,610,000 hits on google)**

- **Social rehabilitation facilities: (31,500,000 hits on google)**
- **Alcohol and drug centers: (5,300,000 hits on google)**
- **Convalescent facilities: (711,000 hits on google)**
- **Self-Preservation**
- **“Responding to an emergency”**

**Definitions From:** *The New Illustrated Book of Development Definitions*, by Harvey S. Moskowitz and Carl G. Lindbloom, 1993, Rutgers, The State University of New Jersey

**ASSISTED LIVING FACILITY:** Residences for the frail elderly that provide rooms, meals, personal care, and supervision or self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

**BOARDING HOME FOR SHELTERED CARE:** A nonprofit or for-profit boarding home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services and transportation.

**BOARDING HOUSE:** A dwelling unit or part thereof in which, for compensation, lodging and meals are provided; personal and financial services may be offered as well.

**COMMUNITY RESIDENCES FOR THE DEVELOPMENTALLY DISABLED (CRDD):** A residential facility, licensed by the state, providing food, shelter, and personal guidance, with supervision, to developmentally disabled or mentally ill persons who require assistance, temporarily or permanently, in order to live in the community and shall include group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels.

**COMMUNITY RESIDENTIAL HOME:** A dwelling licensed to serve clients of the appropriate governmental department that provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of an aged person, a physically disabled or handicapped person, a developmentally disabled person, a nondangerous mentally ill person, and a child as defined in the appropriate statute.

**CONGREGATE RESIDENCE:** Apartments and dwellings with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents.

**FRATERNITY HOUSE:** A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors and affiliated with an institution of higher learning.

**GROUP HOMES:** See GROUP RESIDENCES.

**GROUP RESIDENCES:** See BOARDING HOME FOR SHELTERED CARE; BOARDING HOUSE; DORMITORY; FRATERNITY HOUSE

**HALFWAY HOUSE:** See BOARDING HOME FOR SHELTERED CARE.

**PERSONAL SERVICES:** Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Personal Services usually include the following: laundry, including cleaning and pressing service, linen supply, diaper service, beauty shops, barbershops, shoe repair, funeral services, steam bath, reducing salons and health clubs, clothing rental, locker rental, porter service and domestic services.

### **The New Jersey Department of Community Affairs defines “Egress Protocol” as follows:**

- The residents of a facility are presumed to have a *prompt self-evacuation capability* when the following conditions are met.:
  - A site specific evacuation plan must be drawn up and followed.
  - Fire drills, supervised by staff, must be performed at least once a month.
  - Each shift shall perform at least 4 fire drills per year
  - Fire drills shall be performed at random times so that residents are engaged in a variety of routine activities during the fire drills.
  - Fire drills shall assume different fire location simulations which require that all means of egress be used.
  - The evacuation plan shall include a designated meeting spot at which the residents assemble after evacuation the building.
  - A prompt egress time of three minutes or less must be attained and maintained by all residents in a (Use) Group R building
  - If any resident in the facility exceeds the allotted time, the facility manager must take one of the following steps: add awake staff to assure that the 3 minute prompt evacuation time is met; relocate or replace clients so that required time is met; conform to the I-1 (Use) Group.
  - Residents are not physically restrained or locked in at any time.
  - Written records must be maintained that include: date and time of the fire drill; location of simulated fire; evacuation plan followed; evaluation of residents’ evacuation times; names of residents and staff who participated in the drill.

### **Supervision:**

- Unfortunately, there is very little in the way of standardization for required supervision in the various types of facilities studied.



- Supervision and staffing patterns are primarily based on the needs of the patients/residents.
- The residents/clients/patients needs help to determine what level of medical and supervisory care that is necessary and appropriate staffing is theoretically altered to meet this need.
- The “higher level of functional ability” is one of the key factors in determining as well as the “program description” of the type of activities performed in each facility.
- Numerous articles were found which cited poorly trained or overworked staffs. One of the most glaring accidental deaths attributed to poorly trained staff came as the result of a nurse’s aid feeding a bedridden man an entire hot dog. The man’s chart stated that his food had to be ground up. The man choked to death...the aid responsible for his death, claimed that although she knew that the man could choke...she didn’t know how to use the blender to chop up the food.
- Many states require a multi-level review process of care facilities prior to the issuance of their license. Unfortunately, certain states allow residential type facilities with five (5) or fewer residents to operate without state-mandated licenses or inspections.
- Standardized criteria for staffing levels should be adopted to ensure that adequate personnel are available to supervise and assist the residents/children.

## **Fire Protection Requirement:**

**Section 308.3.1 Child Care Facility** which provides care on a 24-hour basis to more than 5 children 2-1/2 years of age or less shall be classified as Group I-2. However, the requirements in Section 407.5 which require automatic sprinkler systems in “smoke compartments containing patient sleeping units” mentions no requirement for the sleeping children who are also, “not capable of self preservation”. Why not?

Six children less than 2-1/2 years of age require sprinklers? Five do not?

Six children less than 2-1/2 years of age require smoke partitions. Five do not.

I believe that the term “patient” should be removed and a more all-encompassing term or terms must be substituted.

Table 503 does not permit a Group I-2 facility to be built under Type VB construction however; both the Group R-3 and R-4 permit it. In fact, you could build an unlimited area Group R-3 facility...but only 5 people could stay there.

Section 907.2.6.1 Group I-2 requires that, “corridors in nursing homes...detoxification facilities and spaces open to the corridors shall be equipped with an automatic fire detection system. Amend the requirement to include I-2 classified Day Care Facilities as described in Section 308.3.1

## **Statistics:**

- Based on the 2002 US Census:
- 98% of all people live in households with less than 16 people in them. ( Thank you Sara Rice)
  - 59.6 million people were 55 years old or older.
  - 44.9 million people were over 60 years old.
  - 33.7 million people were over 65 years old.
  - 3.4 million people were over 85 years old.
  - 37.6 million households with residents 55 years of age or older.
  - 19.7 million children were 5 years old or younger.
  - The estimated United State population was 290,809,777
  - In 2002, among people 55 years and over, men were more likely than women to be married and living with their spouse (74 percent vs. 50 percent)
  
- Two new reports from the U.S Fire Administration show
  - 2,500 children (under age 14) and,
  - 2,300 seniors (over 65) were injured or killed in residential fires in the United States in 2002.
  - Smoking was the leading cause of residential fires (25%) that resulted in older adult fatalities.
  - Upholstered furniture and bedding were the primary items ignited in smoking fires with older adult fatalities.
  - Cooking was the leading cause of fires resulting in older adult fire injuries.
  - Thirty-nine percent of older adults killed in residential structure fires were asleep when the fire started; 32% of older adults were trying to escape when they died.
  - Over 80% of older adult fire casualties were between the ages of 65 and 84, tracking with the age distribution of the older population (87% of older adults are between 65 and 84).
  - Adults over 65 have 2.5 times the casualty death rate as compared to younger adults age 18-64.
  - Fifty-six percent of child fire casualty deaths were under the age of 5.
  
- The Center for Disease Control estimates that fire and burns were the third leading cause of unintentional fatal injuries to children age 14 or younger in 2002.
- In addition, the CDC provided the following facts:
  - Arson, open flame and heating were the leading caused of fire resulting in child deaths in 2002.

- Approximately 55% of children who were killed by fire in residential structures were asleep at the time of the fire. Twenty-six percent were killed while trying to escape.
  - Nine percent were classified as “too young to act” which implies that the child did not understand what was happening around him or her and probably did not take meaningful action to escape.
  - Similar to the trends seen for fires that cause adult fire casualties, peak months for fires that cause child casualties were in the winter months between December and February.
  - During the summer months, June through August, open flame and cooking were the leading causes of death to children.
- Information from the National Center for Injury Prevention and Control’s Web-based Injury Statistics Query and Reporting System (WISQARS) indicated that between 1999 and 2002, 1,137 fire related deaths were recorded for children 5 years old or less in comparison with 4,929 fire related deaths of adults 65 years old or older.
  - Requests were made to the National Fire Incident Reporting System via their website to get fire incident statistics on injuries and deaths reported from either:
    - Child Care Facilities
    - Group Homes
    - Assisted Care Facilities
    - Day Care Facilities

Currently no data is available; however, I have properly identified the correct “Property Use Codes” related to fire reporting. Data, once received will be made part of this report.

Here is a partial list of requested information relative to fire incidents and deaths recorded:

## **NATIONAL FIRE INCIDENT REPORTING SYSTEM**

<b>CODE REFERENCE</b>	<b>USE DESCRIPTION</b>
<b>254</b>	Day care in a commercial property
<b>255</b>	Day care in a residence, licensed
<b>256</b>	Day care in a residence, unlicensed
<b>311</b>	Nursing homes licensed by the state, providing 24-hour nursing care for four or more persons
<b>321</b>	Mental retardation/development disability facility that houses, on a 24-hour basis, four or more persons
<b>322</b>	Alcohol or substance abuse recovery center where four or more persons who are incapable of self preservation are housed on a 24-hour basis
<b>332</b>	Hospices, Includes facilities where the care and treatment of the terminally ill is provided on a 24-hour basis
<b>459</b>	Residential board and care, Includes long-term care facilities, halfway houses and assisted care housing facilities. Excludes nursing facilities
<b>460</b>	Dormitory-type residence
<b>462</b>	Sorority house/Fraternity house

- The American Association of Homes and Services for the Aging provided the following facts:
  - By 2030, the population of Americans age 65 and older is expected to double from 36 million to 71.5 million.
  - The 65+ population will grow from 12.4% of the population in 2000 to 20% of the population in 2030.
  - The 85+ population will grow from 4.6 million in 2002 to 9.6 million in 2030
  - During 2002, about seven million (7,000,000) Americans 65 and older will need long-term care.
  - The likelihood of needing nursing care increases with age. 43% of the population polled is expecting to be in a “nursing home” at some time before they die.
  - At the end of 2002, there were about 17,000 nursing homes in the United States. Fully 2/3 are “for-profit” facilities.
  - There are more than 36, 000 assisted living facilities in the US housing over 910,000 residents.
  - There are more than 3,500 adult day care centers that are currently operating in the US. These facilities provide care for over 150,000 Americans each day