

**CHAPTER 69A-40**  
**UNIFORM FIRESAFETY 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 Firesafety 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 firesafety 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) This rule chapter applies 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 Rule Chapter 59A-36, F.A.C.

(2) This rule chapter is concerned with life safety during fires and similar emergencies. This rule chapter addresses 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, 10-27-19.*

**69A-40.027 Definitions.**

(1) “Administrator” shall mean an individual meeting the definition in Section 429.02(2), F.S.

(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 ALF is determined by the license as issued by the Agency for Health Care Administration.

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

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

(5) “Legacy facility” shall mean any ALF that has elected to comply with the option afforded in Section 429.41(1)(a)2.d., F.S.

(6) “NFPA” means the National Fire Protection Association.

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

*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, 11-13-19.*

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

Unless the ALF is a legacy facility as defined in subsection 69A-40.027(5), F.A.C., the uniform firesafety standards applicable to ALFs in Florida, including other buildings or structures located on the premises of said ALFs, are the standards of the National Fire Protection Association for life safety from fire, as they relate to ALFs, in the editions of the NFPA 101, Life Safety Code®, and NFPA 101A, Guide on Alternative Approaches to Life Safety, which are incorporated by reference in Rule 69A-3.012, F.A.C.

*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-40.028, Amended 10-27-19.*

#### **69A-40.029 Evacuation Capability Evaluation in Legacy Facilities.**

(1) The administrator of a legacy facility shall conduct an “Evacuation Capability Evaluation” and the local AHJ shall validate the evacuation capability evaluation as required in Section 429.41(1)(a), F.S. For purposes of this rule, “validate” shall mean that the evacuation capability evaluation forms are reviewed by the local AHJ to ensure completeness in accordance with Chapter 5, NFPA 101A, Guide on Alternative Approaches to Life Safety, 1995 edition, as provided in Section 429.41(1)(a), F.S.

(2) A licensed, sprinklered legacy facility is 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 AHJ over firesafety.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.41(1)(a), 633.206 FS. History—New 11-29-89, Amended 1-7-97, Formerly 4A-40.029, Amended 10-27-19.*

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

*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, Repealed 10-27-19.*

#### **69A-40.033 Cooking Operations in Legacy Facilities.**

In accordance with the applicable sections of Chapters 22 and 23, NFPA 101, Life Safety Code®, 1994 edition, small legacy facilities (16 or fewer residents) are not required to comply with NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. Large legacy facilities shall comply with NFPA 96 (1994 Edition), which is hereby incorporated by reference. NFPA 96 is copyrighted material that cannot be copied but may be: (i) viewed during regular business hours at the Division of State Fire Marshal, 325 John Knox Road, The Atrium, Third Floor, Tallahassee, Florida; (ii) viewed during regular business hours at the Florida Administrative Code and Register, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida; or (iii) purchased by contacting the NFPA at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471; Phone 1(800)344-3555, Website [www.nfpa.org](http://www.nfpa.org).

*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-40.033, Amended 11-13-19.*

#### **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 pursuant to Chapters 553 and/or 633, F.S.

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

(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 633.206 FS. History–New 11-29-89, Amended 1-7-97, Formerly 4A-40.035, Amended 10-27-19.*

**69A-40.036 Emergency Egress and Relocation Drills in Legacy Facilities.**

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

(2) A sprinklered legacy facility shall conduct at least six emergency egress and relocation drills per year, one every two months, with a minimum of two drills conducted during the night when residents are sleeping.

(3) Legacy facilities that are fully sprinklered and in compliance with other firesafety standards as determined by the AHJ are not required to conduct more than one of the two required nighttime emergency egress and relocation drills between the hours of 11:00 p.m. and 7:00 a.m. per year.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.41, 633.206 FS. History–New 1-7-97, Formerly 4A-40.036, Amended 11-13-19.*

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

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented, 429.41, 633.206 FS. History–New 1-15-07, Repealed 10-27-19.*

**69A-40.038 Emergency Egress and Relocation Drills in Non-Legacy Facilities.**

A non-legacy facility that does not elect to comply with the options afforded in Section 429.41(1)(a)2.d., F.S., must comply with the emergency egress and relocation drill requirements of the occupancy classification as designated by the local AHJ and mandated in NFPA 101, Life Safety Code®, and NFPA 101A, Guide on Alternative Approaches to Life Safety, which are incorporated by reference in Rule 69A-3.012, F.A.C.

*Rulemaking Authority 633.104, 633.206 FS. Law Implemented 429.41, 633.206 FS. History–New 4-15-20.*