



**DEPARTMENT OF BUILDINGS**

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, N.Y. 10013-3394

GASTON SILVA, R.A., Commissioner

(212) 312-8100  
TTY (212) 312-8188

Richard C. Visconti, R.A.  
Deputy Commissioner  
(212) 312-8120  
FAX: (212) 312-8088


ISSUANCE #526

---

**TECHNICAL  
POLICY AND PROCEDURE NOTICE #2/97**

---

TO: Distribution

FROM: Richard C. Visconti, R.A.  
Deputy Commissioner 

DATE: October 17, 1997

SUBJECT: **Residential Adult Care Facilities**

---

**PURPOSE:** To establish the Building Code Occupancy Group and Zoning Use Group classification of residential adult care facilities.

**BACKGROUND:**

Various New York State Department of Social Services ("DOSS") and/or New York State Department of Health ("DOH") licensed residential adult care programs provide dependent, aged or disabled adults with different degrees of personal care and supervision according to their individual needs. These may be operated on a for-profit or non-profit basis.

If the residents arrange for their own home health services independently of the building owner/manager, then a residential adult care facility does not exist and only the agency providing the home health care attendant directly to the resident(s) must be licensed.

**DEFINITIONS:**

Pursuant to Title 18 of the New York Code of Rules and Regulations ("18 NYCRR") Part 485.2, Part 494.2, and Part 494.5 applicable to DOH, formerly DOSS ("State Regulations"), the different residential adult care facilities are defined as follows:

- 1) **Adult Home** shall mean an adult care facility established and operated for the purpose of providing long-term residential care, room, board, housekeeping, personal care and supervision to five or more adults unrelated to the operator.
- 2) **Enriched Housing Program** shall mean an adult care facility established and operated for the purpose of providing long-term residential care to five or more adults, primarily persons 65 years of age or older, in community integrated settings resembling independent housing units. Such program shall provide or arrange the provision of room, and provide board, housekeeping, personal care and supervision.
- 3) **Assisted Living Program** means an entity which is approved to operate pursuant to 18 NYCRR §485.6(n) of the State Regulations, and which is established and operated for the purpose of providing long-term residential care, room, board, housekeeping, personal care, supervision, case management, activities, and providing or arranging for home health services to five or more eligible adults unrelated to the operator. Home health services are home health aide services, personal emergency response services, nursing services, physical therapy, occupational therapy, speech therapy, medical supplies and equipment not requiring prior authorization, and adult day health care in a program approved by the New York State Commissioner of Health.

### **SPECIFICS:**

#### **General Requirements:**

- 1) The above defined programs provide only long-term residential care and therefore may not operate within buildings classified in Occupancy Group J-1.
- 2) The New York State DOH, formerly DOSS, does not license any of the above defined programs to operate in any building in which any part thereof is classified in Occupancy Group J-1.
- 3) The above defined programs all must have communal dining facilities.
- 4) The above defined programs may not admit persons who are bedfast or chairfast. However, assisted living programs may admit persons who must be assisted to transfer by not more than one person and without lifting equipment.
- 5) **The New York State DOH, formerly DOSS, requires buildings containing adult homes and/or assisted living programs to be fully sprinklered.**

#### **Adult Homes:**

- 1) 18 NYCRR Part 487.11(f)(19)(vii) of the State Regulations prohibit cooking appliances within the individual rooms of adult home residents.
- 2) 18 NYCRR Part 487.11 of the State Regulations requires adult homes to operate within buildings that have the following additional safeguards:

- a) A supervised smoke detection system in the following locations:
  - (i) every 40 ft. on centers in corridors,
  - (ii) at the top of all stairways, hoistways, elevator shafts and other unsealed shafts, and
  - (iii) for every 1,000 sq. ft. of unpartitioned space in attics, basements, and floor areas designed for public or resident use.
- b) An automatic supervised sprinkler system installed throughout all buildings.
- c) All doors to stairways connecting more than two stories must be smoke stop doors (as well as self-closing and fire rated).
- d) Stairs connecting two stories may have the smoke barrier either at the top or at the bottom of the stairs.
- e) Shaft openings must have smoke stops or be protected by smoke barriers.
- f) Elevator shafts must have elevator vestibules.
- g) Smoke stop doors must be maintained in the closed position, except that smoke stop doors not on stairways may close upon smoke detection.
- h) Smoke stops are required every 100 feet in corridors.
- i) All corridors, stairways, and public areas must have emergency lighting.
- j) Wall hung fire extinguishers must be placed at accessible locations on each floor and wing.
- k) Evacuation procedures shall be posted in a conspicuous place on each floor and wing.
- l) At least one staff member on duty during each shift must possess a Certificate of Fitness for the maintenance of interior fire alarm systems.
- m) All corridors and stairways shall have handrails on both sides.
- n) Grab bars shall be provided for toilets, bathtubs and showers.

Compliance with these standards will be determined by the DOH, formerly DOSS.

**Enriched Housing Programs:**

18 NYCRR Part 488.11(c)(2) of the State Regulations requires enriched housing programs to operate within buildings which must meet New York City Building Code requirements for Occupancy Group J-2.

**Assisted Living Programs:**

Assisted living programs must operate within adult homes or enriched housing programs and meet the applicable requirements.

The attached chart sets forth the applicable building profiles for the different residential adult care facilities.

**PERMIT AND CERTIFICATE OF OCCUPANCY GUIDELINES:**

**Class A Multiple Dwellings:**

A comment should appear on the Schedule A and Certificate of Occupancy stating that the communal dining facilities are accessory to a licensed adult home/enriched housing program on the premises, and that such accessory use shall terminate upon revocation, suspension, or surrender of such license. No final certificate of occupancy may be issued unless a copy of the letter from the DOH, formerly DOSS, is submitted indicating that the license/operating certificate has been issued.

**Adult Homes:**

Adult homes may be located in buildings and/or spaces classified in Occupancy Group J-2 or H-2 provided the requirements of the State Regulations have been met. A comment should appear on the Schedule A and Certificate of Occupancy stating that the requirements of the State Regulations have been met.

**Non-Profit Institutions with Sleeping Accommodations:**

Section 11-22 of the Zoning Resolution prohibits Non-Profit Residences for the Elderly from using this community facility use classification for any individual rooms of the residents not included within New York State licensed residential adult care programs.

Any rooms/spaces not so included shall be classified in Use Group 2 and shall be subject to the provisions of Section 24-17 of the Zoning Resolution, and shall not be permitted in Zoning Districts R1, R2, R2X, R3A, R3X, R3-1, R4A, R4-B and R4-1.

A comment should appear on the Schedule A and Certificate of Occupancy stating that the community facility use designation is pursuant to a licensed residential adult care facility on the premises, and such use designation shall terminate upon revocation, suspension or surrender of such license.

No permit may be issued unless a copy of the letter from the DOH, formerly DOSS, granting contingent approval to proceed with development and indicating the approved number of beds is submitted.

No final certificate of occupancy may be issued unless a copy of the letter from the DOH, formerly DOSS, is submitted indicating that the license/operating certificate has been issued.

**APPLICABILITY CHART FOR NEW YORK STATE PROGRAMS FOR ENRICHED HOUSING, ADULT HOMES & ASSISTED LIVING**

BUILDING PROFILE	BUILDING CODE OCCUPANCY GROUP	ZONING USE GROUP	OPERATING AUTHORIZATION/ LICENSE	PROFIT/NOT FOR PROFIT	COOKING FACILITIES (NOTE 9)	ENRICHED HOUSING (NOTES 1, 4, 8)	ADULT HOME (NOTES 1, 4, 8)	ASSISTED LIVING (NOTES 2, 3, 4, 8)	REMARKS
Nursing Home & H.R.F. Z.R. Section 22-13	H-2	3	NYSDOH	P/P	NP	-----	-----	-----	
Domiciliary Care Facility Z.R. Section 74-904	H-2	3	NYSDOH	P/P	NP	-----	SP	P	
Non-Profit Residence for the Elderly Z.R. Section 12-10 (NOTE 4)	J-2	2	-----	NP/P	Apartments, R (NOTE 6)	P	NP	P	Adult homes are permitted (with or without assisted living) if requirements of State Regulations are met, and no individual cooking facilities are provided. (NOTE 5)
					Rooming Units, P (NOTES 6, 7)	P	P	P	
Apartment Hotel Z.R. Section 12-10 (NOTE 4)	J-2	2	-----	P/P	Apartments, R (NOTE 6)	P	NP	P	Adult homes are permitted (with or without assisted living) if requirements of State Regulations are met, and no individual cooking facilities are provided. (NOTE 5)
					Rooming Units, P (NOTES 6, 7)	P	P	P	
Transient Hotel Z.R. Section 12-10 (NOTE 4)	J-1	5	-----	-----	-----	NP	NP	NP	
Class A Multiple Dwelling	J-2	2	-----	P/P	Apartments, R (NOTE 6)	P	NP	P	Adult homes are permitted (with or without assisted living) if requirements of State Regulations are met, and no individual cooking facilities are provided. (NOTE 5)
					Rooming Units, P (NOTES 6, 7)	P	P	P	
Non-Profit Institution with Sleeping Accommodations Z.R. Section 22-13 (NOTES 4, 10)	J-2	3	-----	NP/P	Apartments, R (NOTE 6)	P	NP	P	Adult homes are permitted (with or without assisted living) if requirements of State Regulations are met, and no individual cooking facilities are provided. (NOTE 5)
					Rooming Units, P (NOTES 6, 7)	P	P	P	

**NOTES:**

- 1 - NYSDOH License Required
- 2 - Two NYSDOH Licenses Required
- 3 - Must operate within enriched housing or adult homes
- 4 - Congregate dining facilities permitted.
- 5 - Comment to appear on Schedule A & Certificate of Occupancy that requirements of State Regulations have been met.
- 6 - As defined in Housing Maintenance Code.
- 7 - Local law 2/85 may require certain buildings to comply with Section 67 of M.D.L.
- 8 - Not permitted in buildings partly classified for transient living.
- 9 - Required in zoning districts R3, R4, R5 pursuant to 23-224ZR for Use Group 2.
- 10 - Refer to §11-22 and §24-17 Z.R., and to TPPN #2/97.

**Legend**

- P - Permitted
  - NP - Not Permitted
  - R - Required
  - SP - Special Permit
- October 8, 1997  
gre/adlt-cht.wpd