



LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS
PUBLIC SAFETY SERVICES

OFFICE OF STATE FIRE MARSHAL



H. "BUTCH" BROWNING, JR.
STATE FIRE MARSHAL

INTERPRETIVE MEMORANDUM 2021 – 01

To: Applied Behavior Analyst (ABA) Service Providers

From: Joe Delaune, Chief Architect/Plan Review, OSFM

Approved: Chief H. "Butch" Browning, State Fire Marshal *JB*

Date: May 20, 2021

RE: Life Safety Requirements for Buildings Occupied Prior to June 1, 2021 for Purposes of Providing Behavioral Analysis Services

Preface:

Building Plan reviews are conducted by this office prior to construction, renovations, repairs, or a change in occupancy classification of any structure, other than a one- or two-family dwelling, and an inspection of the structure is performed prior to occupancy (ref. LRS 40:1574 and LRS 40:1563). The adopted laws, rules and codes that are typically applicable to the plan review process include the NFPA 101 Life Safety Code (NFPA 101), the fire protection and egress provisions of the International Building Code (IBC), the Americans with Disabilities Act/Architectural Barriers Act - Accessibility Guidelines (ADA-ABA), the Commercial Energy Conservation Code, and various other referenced standards used for specific applications. These national consensus codes and standards establish classifications for each building based upon the intended use and proposed occupancy. Each occupancy classification outlines specific provisions that are required in a building to provide the minimum level of life safety needed for the intended occupants of that building. Requirements of the codes may differ between each type of occupancy and an incorrect classification may result in an inadequate level of life safety or an unnecessary investment in non-required features. Renovations that may be necessary to

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correct an incorrect classification after completed construction is burdensome; therefore, it is critical that the correct occupancy classification be determined prior to the initial plan review. It is incumbent upon the applicant to provide accurate and complete information with the plan review application for proper classification of the building.

Behavior Analyst Service Providers:

This office understands the importance of the services that your industry provides to your clients. We support you, we thank you, and we are here to help you succeed in the safest way possible. It is the mission of this office to protect life and property from the effects of fire or panic in buildings and to ensure the safety of our citizens in the constructed environment. Your clients and staff must have the expectation that a minimum level of safety exists when entering and remaining in your building.

This office has learned that some buildings used for the treatment of clients with **Autism Spectrum Disorder (ASD) or diagnosis**, or clients with similar conditions, may be occupied by children/adolescents, or older individuals who may not be capable of self-preservation without the assistance of staff or others, and who are present without a parent or legal guardian in close proximity at all times. The code defines “self-preservation” as the ability of a client to evacuate the building without direct intervention by a staff member (ref. NFPA 101:3.3.242). Once the parent or legal guardian of a child or a client leaves the property, that client is in the sole care of the staff and the occupancy classification and requirements for the building are affected.

Plans for some buildings may have unknowingly been submitted to this office for review without this critical information regarding the ages or evacuation capabilities of the intended occupants being documented, or without the correct occupancy classification indicated, or the business models may have changed to accept occupants of this nature later. Therefore, a re-evaluation of existing “structures” that are currently occupied by clients of this nature will be necessary.

State law, LRS 40:1578.6, allows for the provisions of the most recently adopted edition of the NFPA 101 Life Safety Code applicable to existing buildings to be utilized where a serious life safety hazard exists due to a particular condition. Further, state law, LRS 40:1574.K, grants the State Fire Marshal the authority to take into consideration practical difficulties and unreasonable economic hardships before applying the strict requirements of this Section (of law), and upon appeal, allow alternative arrangements provided a minimum acceptable level of life safety is achieved to the satisfaction of the State Fire Marshal. And, state law, LRS 40:1730.23.H, allows municipalities and parishes to accept determinations made by the State Fire Marshal as they pertain to life safety and fire protection provisions required by the Louisiana State Uniform Construction Code (LSUCC).

As such, re-evaluations by this office of existing buildings that are currently occupied to provide this service will be performed utilizing the provisions of Chapter 17 of the 2015 Edition of NFPA 101 Life Safety Code applicable to Existing Day-Care Occupancies.

The fire protection and egress provisions of the currently adopted International Building Code will not be applied by this office for this purpose and will be subject to the ruling of the municipal or parish building official in which the building resides (ref. LRS 40:1730.23.A. and LRS 40:1730.23.H.).

NOTE: Plans for newly constructed, renovated, or changes in occupancy classification of existing buildings that are submitted to this office for review are not addressed herein and will initially be evaluated as provided by LRS 40:1574 et seq. The Equivalency review process outlined in “Part C. Alternative Approach” below is available for these buildings.

Building Occupancy Classification:

NFPA 101:6.1.1.1, 2015 edition, states: “The occupancy of a building or structure, or portion of a building or structure, shall be classified in accordance with 6.1.2 through 6.1.13. Occupancy classification shall be subject to the ruling of the authority having jurisdiction where there is a question of proper classification in any individual case.” NFPA 101:4.6.1.3 states: “Where it is evident that a reasonable degree of safety is provided, any requirement shall be permitted to be modified if, in the judgment of the authority having jurisdiction, its application would be hazardous under normal occupancy conditions.”

The adopted NFPA 101 Life Safety Code classifies an occupancy in which four or more clients receive care, maintenance, and supervision, by other than their relatives or legal guardians, for less than 24 hours per day as a “Day-Care” occupancy (ref NFPA 101:6.1.4.1). The applicable life safety and fire protection provisions for existing buildings occupied by these clients are addressed in this code section. Section 101:6.1.14.3.2 establishes that, although most of these existing facilities may currently be compliant as “Business” occupancies, mixed occupancies are to comply with the most restrictive requirements of the occupancies involved. This office understands that the unique services provided by this industry may not benefit from the occupancy classification labels established by NFPA, and that a primary classification as a “Day-Care”, “Educational”, “Institutional” or other occupancy may conflict with the professional service provider classifications recognized by other entities. Therefore, the primary occupancy classification of the building may remain “Business”; HOWEVER, the secondary occupancy must identify the occupancy classification of “Day-Care” and the minimum life safety requirements of the adopted codes as outlined below must be applied for the safety of the building occupants.

Evaluation Criteria:

Evaluation of each existing building or facility will be based upon the following:

1. Buildings or facilities that meet the following criteria will be classified solely as a Business occupancy and will not require further evaluation (ref 101:17.6.1.1.4 and 101:38.1.2). **Both** of the following criteria must be met:
 - a. Each child/adolescent or other individual that is not capable of self-preservation without assistance shall have a parent or legal guardian in close proximity AT ALL TIMES while in the building. Close proximity is to be on the same property and may include lobbies, waiting areas and parking areas. **And**;
 - b. Egress from the building shall remain free and unimpeded at all times (no egress doors are to be locked).

Plans shall be submitted for further review if a change in occupancy occurs in the future that will exceed these limitations. Note that the "Business" occupancy classification is based upon the building being occupied by able bodied adults, or family members that are responsible for their own care, who are capable of evacuating the building without any assistance from staff.

2. Buildings or facilities that do not meet the above criteria for a Business occupancy classification, or that meet the following criteria, shall be resubmitted for further plan review and proper re-evaluation:

More than three (3) children/adolescents, or other individuals that are not capable of self-preservation without the assistance of staff, are present at the facility at any one time, and a parent or legal guardian does not remain in close proximity to each client AT ALL TIMES.

In cases where it is necessary to resubmit plans for re-evaluation, documentation and plans shall be submitted **Prior to JULY 1, 2021** through our online portal here:

<https://lasfm.louisiana.gov/>. Owners or managers of facilities where ABA services are provided shall send documentation with the plan review submittal, on letterhead of the facility, which contains the following information:

1. The maximum number of clients that will be present at the facility at any one time without their parent or legal guardian, and that may not be capable of self-preservation without the assistance of staff during an emergency.
2. The length of time per day the client is present at the facility without their parent or legal guardian.

3. Whether the parent or legal guardian remains on the property or leaves the property entirely.
4. The range in ages of these clients.
5. The staff to client ratio that is provided at all times.
6. Any security features that are in place within the facility that may affect egress, including door-locking arrangements.
7. The current occupancy classification that is assigned to the building.

Plans must include, as a minimum, the following information:

1. A site plan drawn to scale showing the location of the building with distances to property lines and nearby buildings indicated, fences, parking areas, floor elevations with respect to grade, and any on-site hazardous features such as fuel storage or incinerators.
2. A floor plan(s) of the existing building drawn to scale showing walls and partitions, door and window openings, built-in features, changes in elevations such as ramps, stairs or steps. Show dimensions for the various rooms and items and provide room names/uses of each space. Include additional information as needed to clearly describes the use of the spaces.
3. Identify any fire protection systems or features that exist within the building such as a sprinkler system or a fire alarm system.
4. Provide details as required to explain construction and/or features not readily understood from other drawings such as door sizes and hardware, room finishes, fixed or operable windows, and fire resistant rated construction.

Specific Requirements:

The requirements listed below assume that the existing building currently complies with the law and code requirements established for an existing Business occupancy and address only the requirements that are over and above those for an existing business occupancy classification.

Part A. Twelve or Fewer Clients

Existing buildings and facilities that are currently occupied to provide this service where **more than three (3) but NOT more than twelve (12)** children and clients who may not be capable of self-preservation without the assistance of staff during an emergency are present at any one time without their parent or legal guardian shall comply with the requirements listed in this Part (ref. NFPA 101:17.6 and LRS 40:1574.K).

1. Clients who may not be capable of self-preservation without the assistance of staff during an emergency shall not occupy interior rooms or spaces greater than 250 square feet that do not have operable windows or doors opening directly to the outside as outlined below, UNLESS:
 - a. Their parent or legal guardian is present at all times, or;
 - b. A staff-to-client ratio of one staff member per one client is provided at all times, or;
 - c. The building is protected throughout by an automatic sprinkler system. Interior rooms or spaces shall not be used for sleeping or napping in non-sprinkled buildings (ref. LRS 40:1574.K, NFPA 101:17.6.1.7.2(2), 101:17.6.2.4.1, and 101:17.2.11.1).
2. Means of escape: Unless otherwise provided for above, rooms and spaces in non-sprinkled buildings that are greater than 250 square feet and that are normally occupied by clients shall have, in addition to interior egress door(s) access, an operable window or door that opens directly to the outside and that meets the following criteria:
 - a. It shall be operable from the inside without the use of tools, keys, or special effort.
 - b. Windows shall provide a clear opening of not less than 5.7 square feet. The width shall be not less than 20 inches, and the height shall be not less than 24 inches.
 - c. The bottom of the window shall be not more than 44 inches above the interior floor.
 - d. The window shall also meet one of the following requirements:
 - i. It is within 20 feet of the finished ground level outside, or;
 - ii. The window is directly accessible to fire department rescue apparatus, or;
 - iii. The window or door opens onto an exterior balcony.
3. Upper levels: In buildings that are NOT protected throughout by an automatic sprinkler system, no more than three (3) clients who may not be capable of self-preservation without the assistance of staff during an emergency shall be located on

any level above (or below) the level of exit discharge (first floor) without their parent or legal guardian present at all times, UNLESS:

- a. A staff-to-client ratio of one staff member per one client is provided at all times (ref. NFPA 101:17.6.1.7.2(2) and LRS 40:1574.K.), and;
- b. The story is not more than one level above the level of exit discharge (second floor), and;
- c. Corridors providing access to egress stairs are protected by minimum ½ hour fire rated construction and 20-minute door assemblies. Existing self-closing 1-3/4 inch thick solid-core wood doors may be permitted upon inspection, and;
- d. One of the following is provided:
 - i. A door opening directly to an outside stair that leads to finished ground level is provided, or;
 - ii. An interior stair that leads directly to the outside with access to finished ground level and is separated from other stories by a minimum 1/2-hour fire barrier (complying with NFPA 101 Section 8.3) is provided.

Upper levels shall not be used for sleeping or napping in non-sprinkled buildings.

4. No dead-end corridor shall exceed 20 feet in non-sprinkled buildings. 50 feet is permitted in buildings protected throughout by an approved automatic sprinkler system.
5. The travel distance between any point in a room and an exit door shall not exceed 150 feet in non-sprinkled buildings. 200 feet is permitted in buildings protected throughout by an approved automatic sprinkler system.
6. Smoke Alarms: As a minimum, smoke alarms shall be provided that comply with NFPA 101:9.6.2.10 and NFPA 72. Smoke detectors shall be provided in all occupiable areas and in corridors.
 - a. Where located within a building with other tenants, a fire alarm system with corridor smoke detection shall be provided that complies with NFPA 101:9.6 and NFPA 72. (See Part B. below for additional information).
7. Door Locking Arrangements: Where elopement is of concern, egress doors may ONLY be locked in accordance with one of the special locking systems outlined on

- our website (http://lasfm.org/doc/interpmemos/im_2019-01.pdf) after satisfactory review and appropriate inspection. Otherwise locks on doors in means of escape or egress shall NOT require the use of a key, special device or special knowledge to open in the direction of egress. Any locking device that impedes or prohibits egress that cannot be easily disengaged is prohibited. NOTE: The "Life Safety and Property Protection Licensing Law" (LRS 40:1664 et seq.) requires locksmiths to be licensed by this office to install special locking systems. Additional requirements:
- a. Closet door latches shall be such that clients can open them from inside the space.
 - b. Bathroom door locks shall permit opening from the outside in an emergency. The opening device shall be readily accessible to the staff.
8. If provided, residential cooking equipment shall only be used for warming or limited cooking that produces no grease-laden vapors. Otherwise, cooking equipment shall be protected in accordance with NFPA 96 and submitted separately for further plan review.
9. Emergency Action Plan: An emergency action plan shall be developed and implemented. Emergency egress and relocation drills shall be practiced and all staff shall be properly trained and familiar with the plan. Staff shall also be properly trained on the use of the fire alarm system positive alarm sequence if used (ref. NFPA 101:16.7.1 & 101:4.8). As a minimum, the plan shall include the following:
- a. Procedures for reporting of emergencies.
 - b. Occupant and staff response to emergencies.
 - c. Evacuation, relocation, and shelter-in-place procedures appropriate to the building and its occupancy, emergencies, and hazards.
 - d. Appropriateness of the use of elevators.
 - e. Design and conduct of fire drills.
 - f. Type and coverage of building fire protection systems.
 - g. Other items required that are specific to the building or occupants.

Part B. More Than Twelve Clients

Existing buildings and facilities that are currently occupied to provide this service where **more than twelve (12)** children and clients who may not be capable of self-preservation without the assistance of staff during an emergency are present at any one time without their parent or legal guardian shall comply with the requirements listed in this part (ref. NFPA 101:17.1.1.1 and LRS 40:1574.K).

1. Upper levels: In buildings that are NOT protected throughout by an automatic sprinkler system, no more than three (3) clients who may not be capable of self-

preservation without the assistance of staff during an emergency shall be located on any level above (or below) the level of exit discharge (first floor) without their parent or legal guardian present at all times, UNLESS:

- a. Where a staff-to-client ratio of one staff member per one client is provided at all times, no more than twelve (12) clients will be permitted (ref. 101:7.1.6, 101:17.6.1.7.2(2) and LRS 40:1574.K), and;
- b. The story is not more than one level above the level of exit discharge (second floor), and;
- c. Corridors providing access to egress stairs are protected by minimum ½ hour fire rated construction and 20-minute door assemblies. Existing self-closing 1-3/4 inch thick solid-core wood doors may be permitted upon inspection, and;
- d. One of the following is provided:
 - i. A door opening directly to an outside stair that leads to finished ground level is provided, or;
 - ii. An interior stair that leads directly to the outside with access to finished ground level and is separated from other stories by a minimum 1/2-hour fire barrier (complying with NFPA 101 Section 8.3) is provided.

Upper levels shall not be used for sleeping or napping in non-sprinkled buildings.

2. Door Locking Arrangements: Where elopement is of concern, egress doors may ONLY be locked in accordance with one of the special locking systems outlined on our website (http://lasfm.org/doc/interpmmemos/im_2019-01.pdf) after satisfactory review and appropriate inspection. Otherwise locks on doors in means of escape or egress shall NOT require the use of a key, special device or special knowledge to open in the direction of egress. Any locking device that impedes or prohibits egress that cannot be easily disengaged is prohibited. NOTE: The "Life Safety and Property Protection Licensing Law" (LRS 40:1664 et seq.) requires locksmiths to be licensed by this office to install special locking systems. Additional requirements:
 - a. Closet door latches shall be such that clients can open them from inside the space.
 - b. Bathroom door locks shall permit opening from the outside in an emergency. The opening device shall be readily accessible to the staff
3. Means of Egress: Not less than two separate exits shall be provided on every story and shall be accessible from every part of every story.

- a. No dead-end corridor shall exceed 20 feet in non-sprinkled buildings. 50 feet is permitted in buildings protected throughout by an approved automatic sprinkler system.
 - b. A common path of travel shall not exceed 75 feet in non-sprinkled buildings. 100 feet is permitted in buildings protected throughout by an approved automatic sprinkler system.
 - c. The travel distance between any point in a room and an exit door shall not exceed 150 feet in non-sprinkled buildings. 200 feet is permitted in buildings protected throughout by an approved automatic sprinkler system.
4. Clients who may not be capable of self-preservation without the assistance of staff during an emergency shall not occupy interior rooms or spaces greater than 250 square feet that do not have operable windows or doors opening directly to the outside as outlined below, UNLESS:
 - a. Their parent or legal guardian is present at all times, or;
 - b. A staff-to-client ratio of one staff member per one client is provided at all times, or;
 - c. The building is protected throughout by an automatic sprinkler system.
- a. Interior rooms or spaces shall not be used for sleeping or napping in non-sprinkled buildings (ref. NFPA 101:4.6.1.3 and NFPA 101:17.2.11.1).
5. Means of escape: Unless otherwise provided for above, rooms and spaces in non-sprinkled buildings that are greater than 250 square feet and that are normally occupied by clients shall have, in addition to interior egress door(s) access, an operable window or door that opens directly to the outside and that meets the following criteria:
 - d. It shall be operable from the inside without the use of tools, keys, or special effort.
 - e. Windows shall provide a clear opening of not less than 5.7 square feet. The width shall be not less than 20 inches, and the height shall be not less than 24 inches.
 - f. The bottom of the window shall be not more than 44 inches above the interior floor.
 - g. The window shall also meet one of the following requirements:
 - i. It is within 20 feet of the finished ground level outside, or;
 - ii. The window is directly accessible to fire department rescue apparatus, or;
 - iii. The window or door opens onto an exterior balcony.
6. Emergency lighting shall be provided in interior stairs and corridors, spaces with more than 50 people, flexible and open plan areas, and other interior or limited access portions of buildings.

7. Protection from Hazards: In buildings that are NOT protected throughout by an automatic sprinkler system, separate storage rooms that are greater than 100 square feet, rooms containing fuel-fired water heaters or heater equipment, and janitor closets from other parts of the building by 1-hour fire resistance rated construction with self-closing 45 minute labeled door/frame assemblies.
8. If provided, residential cooking equipment shall only be used for warming or limited cooking that produces no grease-laden vapors. Otherwise, cooking equipment shall be protected in accordance with NFPA 96 and submitted separately for further plan review.
9. Interior wall and ceiling finish materials shall be Class A or Class B having a flame spread index of less than 75 throughout the building (ref. NFPA 101 10.2 and ASTM E 84).
10. Fire Alarm: A fire alarm system with smoke detection shall be provided that complies with NFPA 101:9.6. All work and inspections of the fire alarm system shall be performed by a State of Louisiana certified agent (ref. NFPA 101:9.6 and NFPA 101:17.3.4, IBC 907 and LRS 40:1664.4).

Special consideration for clients with Autism Spectrum Disorder (ASD) or similar condition:

- a. Where clients may be negatively affected by horns, bells or flashing lights, a "Positive Alarm Sequence" (delayed notification) will be permitted as a feature of the fire alarm system in accordance with NFPA 72:23.8.1.3.1 as follows:
 - i. To initiate the positive alarm sequence operation, the signal from an automatic fire detection device selected for positive alarm sequence operation shall be acknowledged at the fire alarm control unit by trained personnel within 15 seconds of annunciation.
 - ii. If the signal is not acknowledged within 15 seconds, notification signals in accordance with the building evacuation or relocation plan and remote signals shall be automatically and immediately activated.
 - iii. If the positive alarm sequence operation is initiated in accordance with NFPA 72:23.8.1.3.1.1(1), trained personnel shall have an alarm investigation phase of up to 180 seconds to evaluate the fire condition and reset the system.
 - iv. If the system is not reset during the alarm investigation phase, notification signals in accordance with the building evacuation or relocation plan and remote signals shall be automatically and immediately activated.
 - v. If a second automatic fire detector selected for positive alarm sequence is actuated during the alarm investigation phase,

notification signals in accordance with the building evacuation or relocation plan and remote signals shall be automatically and immediately activated.

- vi. If any other fire alarm initiating device is actuated, notification signals in accordance with the building evacuation or relocation plan and remote signals shall be automatically and immediately activated.

11. Corridors: In buildings that are NOT protected throughout by an automatic sprinkler system, every interior corridor shall be constructed of walls having a minimum one-half hour fire resistance rating unless otherwise permitted by any of the following:

- a. Corridor protection shall not be required where all spaces normally subject to client occupancy have a door opening directly to the outside.
- b. In buildings that are protected throughout by an approved automatic sprinkler system, corridor walls shall form smoke partitions.
- c. Corridor walls may terminate at the ceiling only where the ceiling assembly has a one-half hour fire resistance rating as well.
- d. Toilet rooms may open onto the corridor without separation only where the toilet rooms are separated from all other spaces by walls having a one-half hour rating.

12. Special protective covers for all electrical receptacles shall be installed in all areas occupied by clients (ref. NFPA 101:17.5.1.2).

13. Emergency Action Plan: An emergency action plan shall be developed and implemented. Emergency egress and relocation drills shall be practiced and all staff shall be properly trained and familiar with the plan. Staff shall also be properly trained on the use of the fire alarm system positive alarm sequence if used (ref. NFPA 101:17.7.1 & 101:4.8). As a minimum, the plan shall include the following:

- a. Procedures for reporting of emergencies.
- b. Occupant and staff response to emergencies.
- c. Evacuation, relocation, and shelter-in-place procedures appropriate to the building and its occupancy, emergencies, and hazards.
- d. Appropriateness of the use of elevators.
- e. Design and conduct of fire drills.
- f. Type and coverage of building fire protection systems.
- g. Other items required that are specific to the building or occupants.

Part C. Alternative Approach

This office understands that each building and facility is unique. Further consideration may be given for specific requirements on a case-by-case basis through the “Equivalency” review process established for this purpose. After the initial review as outlined above has been completed, and the requirements have been determined, the equivalency review may be requested through our online portal here: <https://lasfm.louisiana.gov/>. Equivalent

alternative methods of safety may be proposed for consideration; however, in no case will life safety requirements be waived or diminished. This option is available for both existing and new occupancies.

Plan for Corrections:

Corrections for existing deficiencies shall be completed no later than July 1, 2022 and an inspection shall be conducted after the corrections are complete. Inspections may be requested through our online portal here: <https://lasfm.louisiana.gov/>. Buildings may continue to be occupied while corrections are being made, provided that a “fire watch” is performed during all hours that the building is occupied by three (3) or more clients without their parent or legal guardian, and who may not be capable of self-preservation without the assistance of staff during an emergency. All staff shall be instructed to perform the fire watch procedures which shall include:

1. Constant awareness of any hazardous conditions throughout all areas of the building.
2. Ready access to fire extinguishers.
3. Knowledge of the location of areas of refuge outside of the building in the event evacuation is necessary (a minimum of 50 feet away from the building).
4. Ability to quickly notify the fire department after the building is evacuated.
5. Maintain egress and exit routes free and clear of obstructions at all times.

Notify the local fire department that the facility is on fire watch in accordance with this memo. A directory of names, telephone numbers, and other information to assist in making emergency calls shall be kept at the facilities administrative office. This directory shall include the contact information for key facility personnel to be notified in an emergency, fire, police and emergency medical service departments, and other outside agencies needed in an emergency.