

WSR 21-11-074

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed May 17, 2021, 3:19 p.m., effective August 1, 2021]

Effective Date of Rule: August 1, 2021.

Purpose: The purpose of these adopted rules is to update requirements that are obsolete or require clarification. The department worked with internal and external stakeholders to identify rules that have been in place for a number of years and that are ambiguous or difficult to implement or enforce. The department of social and health services (DSHS) adopted changes to clarify rules that could have multiple interpretations, to respond to new or updated technology, and to improve resident safety. Because some of the requirements in the sections outlining resident rights are closely related to the federal regulations under the home and community-based settings program, DSHS adapted the language to more closely align with those requirements. Similarly, adult family homes must meet the requirements of chapters 388-76 and 51-51 WAC, State building code adoption, and Amendment of the 2018 Edition of the International Residential Code. For easier use, some of the adopted changes in chapter 388-76 WAC incorporate parts of the International Residential Code as adopted by the Washington state building code council.

Citation of Rules Affected by this Order: New WAC 388-76-10616; repealing WAC 388-76-10520, 388-76-10555, 388-76-10565 and 388-76-10835; and amending WAC 388-76-10510, 388-76-10515, 388-76-10522, 388-76-10525, 388-76-10530, 388-76-10532, 388-76-10540, 388-76-10545, 388-76-10550, 388-76-10560, 388-76-10561, 388-76-10585, 388-76-10595, 388-76-10600, 388-76-10605, 388-76-10615, 388-76-10620, 388-76-10685, 388-76-10715, 388-76-10720, 388-76-10725, 388-76-10750, 388-76-10765, 388-76-10770, 388-76-10784, 388-76-10795, 388-76-10800, 388-76-10805, 388-76-10810, 388-76-10825, 388-76-10830, 388-76-10840, 388-76-10850, 388-76-10865, 388-76-10870, 388-76-10885, 388-76-10890, 388-76-10895, 388-76-10900, and 388-76-10905.

Statutory Authority for Adoption: RCW 70.128.040 and 70.128.060. Adopted under notice filed as WSR 20-22-102 on November 3, 2020. Changes Other than Editing from Proposed to Adopted Version:

Changes after CR-102 Filed as WSR 20-02-013:

WAC 388-76-10532(1): Changed "is required to" to "must."

WAC 388-76-10532 (2)(c): Changed "in each resident's record" to "that has been signed and dated by the resident in the resident's record."

WAC 388-76-10532 (2)(d): Subsection deleted.

WAC 388-76-10532(3): Added "rights and."

WAC 388-76-10540(8): Changed "any resident agreement" to "the notice of rights and services."

WAC 388-76-10550 (1)(d): Added "including which general care management decisions they will make and which will be made by the resident or their representative."

WAC 388-76-10550(4): Subsection deleted.

WAC 388-76-10620 (2)(b): Deleted "Be informed about community activities and ways to."

WAC 388-76-10685 (4) and (5): Changed to the following:

(4) When a bedroom will be shared by two residents, the home must:

(a) Document through the notice of rights and services that the resident's bedroom is a shared bedroom; and

(b) Allow residents to express their preference of roommate and allow residents who mutually consent to share a bedroom to live in a double occupancy bedroom together, unless this will pose a health or safety risk for any resident in the home;

(5) Provide each bedroom with a minimum usable floor space as required in WAC 388-76-10690.

WAC 388-76-10720 (3) and (4): Changed to the following:

(3) The home must notify all residents in writing of the video monitoring equipment. The home must:

(a) Identify in the written notification each person or organization with access to electronic monitoring; and

(b) Retain an acknowledgment that has been signed and dated by both the resident and the home that states in writing that the resident has received this notification.

(4) The presence of cameras must not alter the obligation of the home to provide appropriate in-person assistance and monitoring due to individual physical or cognitive limitations.

WAC 388-76-10725(4): Added "in their bedrooms."

WAC 388-76-10725(5): Deleted "Each person or organization with access to the electronic monitoring must be identified in the resident's negotiated care plan";

WAC 388-76-10750 (7) and (8): Changed to the following:

(7) Keep all toxic substances and hazardous materials in locked storage and in their original containers;

(8) Grant a resident access to and use of toxic substances and hazardous materials only with direct supervision, unless the resident has been assessed as safe to use the substance or material without direct supervision and if the use is documented in the negotiated care plan;

WAC 388-76-10805(3): Added the following:

Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

WAC 388-76-10825(3): Changed "accidental" to "any."

WAC 388-76-10885: Changed "ensure there is" to "develop."

WAC 388-76-10895(2): Changed "ensure" to "conduct."

WAC 388-76-10895 (2)(b) and (c): Changed to the following:

(b) A full emergency evacuation drill at least once each calendar year, with all residents participating in the drill together and at the same time; and

(c) Emergency evacuation drills even if there are no residents living in the home for the purpose of staff practice.

Changes after CR-102 Filed as WSR 20-11-055:

WAC 388-76-10805(2): Changed "detectors" to "alarms."

WAC 388-76-10866 (4)(a): Changed "WAC 51-51-0325" to "chapter 51-51 WAC."

Changes after CR-102 Filed as WSR 20-22-102:

WAC 388-76-10750(6): Added word "hot."

A final cost-benefit analysis is available by contacting Libby Wagner, P.O. Box 45600, Olympia, WA 98504, phone 360-464-0487, fax 360-725-3224, email libby.wagner@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 40, Repealed 4; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 40, Repealed 4.

Date Adopted: May 17, 2021.

Donald L. Clintsman
Acting Secretary

SHS-4779.9

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10510 Resident rights—Basic rights. The adult family home must ensure that each resident:

(1) Receives appropriate necessary services, as identified in the assessment and negotiated care plan;

(2) Is treated with courtesy, dignity, and respect;

(3) Continues to enjoy basic civil and legal rights;

(4) Has the ~~((chance))~~ opportunity to exercise ~~((reasonable))~~ control over life decisions, such as ((choice)) making the resident's own choices about daily life, participation in services or activities, care, and privacy;

(5) ~~((Is provided))~~ Has the opportunity to engage in religious, political, civic, recreational, and other social activities of their choice;

(6) Is cared for in a manner ~~((and in an environment))~~ that ~~((promotes maintenance or enhancement of each))~~ enhances or maintains the resident's quality of life ((including a));

(7) Is cared for in an environment that is safe, clean, comfortable, and homelike ((environment)); and

~~((7) Is allowed))~~ (8) Has the freedom to have and use ((his or her)) their personal belongings to the extent possible.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10510, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10515 Resident rights—Exercise of rights. The adult family home must:

(1) Protect each resident's right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the home;

(2) Protect and promote the rights of each resident and assist the resident to exercise ~~((his or her))~~ the rights ~~((as))~~ of a resident of the home ~~((, as a citizen or resident of the United States))~~ and the state of Washington.

(3) Be free of interference, coercion, discrimination, and ~~((re-prisal))~~ retaliation from the home in exercising ~~((his or her))~~ the resident's rights; and

(4) Ensure the resident's right to choose a representative who may exercise the resident's rights to the extent provided by law.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10515, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10522 Resident rights—Notice—Policy on accepting medicaid as a payment source. The adult family home must fully disclose the home's policy on accepting medicaid ~~((payments))~~ or other public funds as a payment source. The policy must:

(1) Clearly state the circumstances under which the adult family home provides care for medicaid eligible residents and for residents who become eligible for medicaid after admission;

(2) Be provided both orally and in writing in a language ~~((that))~~ the resident understands;

(3) Be provided to all prospective residents, before ~~((they are admitted))~~ admission to the home;

(4) Be provided to any current residents who were admitted before this requirement took effect or who did not receive copies prior to admission;

(5) Be a written ~~((on a page))~~ document that is separate from other documents and ~~((be written in))~~ use a type font that is at least fourteen point; and

(6) Be signed and dated by the resident and ~~((be))~~ kept in the resident record after signature.

[Statutory Authority: RCW 70.128.040. WSR 10-03-064, § 388-76-10522, filed 1/15/10, effective 2/15/10.]

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10525 Resident rights—~~((Description))~~ Postings. The adult family home must ~~((give each resident a written description of resident's rights that includes a))~~ post the following in a common use area where they can be easily viewed by anyone in the home, including residents, resident representatives, the department, and visitors:

~~((Description of how the home will protect personal funds))~~ The name, address, and telephone number for the home's regional residential care services licensing office;

~~((Posting of names, addresses, and telephone numbers of the: (a) State survey and certification agency;~~

~~(b) State licensing office;~~
~~(c) State ombuds program; and~~
~~(d) Protection and advocacy systems.)~~ The department's poster that includes the complaint resolution unit hotline and the telephone number for the state ombuds program; and

~~(3) ((Statement informing the resident that he or she may file a complaint with the appropriate state licensing agency concerning alleged abandonment, abuse, neglect, or financial exploitation))~~ The poster from the agency designated as the protection and advocacy system for residents with disabilities.

[Statutory Authority: Chapter 70.128 RCW. WSR 15-03-037, § 388-76-10525, filed 1/12/15, effective 2/12/15. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10525, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10530 Resident rights—Notice of rights and services.

(1) The adult family home must provide each resident ((notice in writing)) written notice of the resident's rights and services provided in the home in a language the resident understands and before ((admission, and)) the resident is admitted to the home. The notice must be reviewed at least once every twenty-four months ((after admission of)) from the date of the resident's admission and must include the following:

((1)) (a) Information regarding resident rights, including rights under chapter 70.129 RCW;

(b) A complete description of the services, items, and activities customarily available in the home or arranged for by the home as permitted by the license;

((2)) (c) A complete description of the charges for those services, items, and activities, including charges for services, items, and activities not covered by the home's per diem rate or applicable public benefit programs; ((and

(3)) (d) The monthly or per diem rate charged to private pay residents to live in the home;

(e) Rules of the ((home's operations)) home, which must not violate resident rights in chapter 70.129 RCW;

(f) How the resident can file a complaint concerning alleged abandonment, abuse, neglect, or financial exploitation with the state hotline; and

(g) If the home will be managing the resident's funds, a description of how the home will protect the resident's funds.

(2) Upon receiving the notice of rights and services at admission and at least every twenty-four months, the home must ensure the resident and a representative of the home sign and date an acknowledgement stating that the resident has received the notice of rights and services as outlined in this section. The home must retain a signed and dated copy of both the notice of rights and services and the acknowledgement in the resident's record.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10530, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10532 Resident rights—~~Department standardized disclosure ((of services form)) forms.~~ (1) The adult family home ~~((is required to))~~ must complete the department's standardized disclosure of services form.

~~((1))~~ The home must:

(a) List on the form the scope of care and services available in the home;

(b) Send the completed form to the department when applying for a license; and

(c) Provide an updated form to the department thirty days prior to changing services, except in emergencies, when the scope of care and services is changing.

(2) The ~~((form does not:~~

~~(a) Replace the notice of services required when a resident is admitted to the adult family home as directed in chapter 388-76-10530 WAC.~~

~~(b) Replace any other form or policy as required in chapter 388-76 WAC))~~ adult family home must complete the disclosure of charges form as provided by the department. The home must:

(a) Provide a copy to each resident prior to or upon admission to the home;

(b) Provide a copy upon resident request; and

(c) Keep a copy that has been signed and dated by the resident in the resident's record.

(3) These forms do not replace the notice of rights and services required when a resident is admitted to the adult family home as directed in WAC 388-76-10530.

[Statutory Authority: Chapter 70.128 RCW. WSR 15-03-037, § 388-76-10532, filed 1/12/15, effective 2/12/15.]

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10540 Resident rights—~~Disclosure of ((fees and)) charges—Notice requirements—Deposits.~~ (1) ~~((The adult family home must complete the department's disclosure of charges form and provide a copy to each resident admitted to the home.~~

~~(2))~~ If the adult family home requires an admission fee, deposit, prepaid charges, or any other fees or charges, by or on behalf of a person seeking admission, the home must ~~((give the resident full))~~ include this information on the disclosure of charges form in writing in a language the resident understands prior to its receipt of any funds.

~~((3))~~ (2) The disclosure must include:

(a) A statement of the amount of any admissions fees, security deposits, prepaid charges, minimum stay fees, or any other fees or charges specifying what the funds are paid for and the basis for retaining any portion of the funds if the resident dies, is hospitalized, transferred, or discharged from the home;

(b) The home's advance notice or transfer requirements; and

(c) The amount of the security deposits, admission fees, prepaid charges, minimum stay fees, or any other fees or charges that the home will refund to the resident if the resident leaves the home.

~~((4))~~ The home must ensure that the resident and home sign and date an acknowledgement in writing stating that the resident has received a disclosure required under subsection (2) of this section. The home must retain a copy of the disclosure and acknowledgement.

~~((5))~~ (3) If the home does not provide the disclosures in subsection ~~((3))~~ (1) of this section to the resident, the home must not keep the resident's security deposits, admission fees, prepaid charges, minimum stay fees, or any other fees or charges.

~~((6))~~ (4) If a resident dies, is hospitalized, or is transferred to another facility for more appropriate care and does not return to the home, the adult family home:

(a) Must refund any deposit or charges paid by the resident less the home's per diem rate for the days the resident actually resided, reserved, or retained a bed in the home regardless of any minimum stay policy or discharge notice requirements;

(b) May keep an additional amount to cover its reasonable and actual expenses incurred as a result of a private-pay resident's move, not to exceed five days per diem charges, unless the resident has given advance notice in compliance with the home's admission agreement; and

(c) Must not require the resident to obtain a refund from a placement agency or person.

~~((7))~~ (5) The adult family home must not retain funds for reasonable wear and tear by the resident or for any basis that would violate RCW 70.129.150.

~~((8))~~ (6) The adult family home must provide the resident with any and all refunds due ~~((to him or her))~~ within thirty days from the resident's date of discharge from the home.

~~((9))~~ (7) Nothing in this section applies to provisions in contracts negotiated between a home and a certified health plan, health or disability insurer, health maintenance organization, managed care organization, or similar entities.

~~((10))~~ (8) The home must ensure that ~~((any resident admission agreement))~~ the notice of rights and services is consistent with the requirements of this section, chapters 70.128, 70.129, and 74.34 RCW, and other applicable state and federal laws.

[Statutory Authority: Chapter 70.128 RCW. WSR 16-20-095, § 388-76-10540, filed 10/4/16, effective 11/4/16; WSR 15-03-037, § 388-76-10540, filed 1/12/15, effective 2/12/15; WSR 12-01-004, § 388-76-10540, filed 12/7/11, effective 1/7/12. Statutory Authority: RCW 70.128.040. WSR 10-03-064, § 388-76-10540, filed 1/15/10, effective 2/15/10. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10540, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10545 Resident rights—Admitting and keeping residents. The adult family home must:

- (1) Only admit or keep individuals whose needs the home can safely ~~((serve in the home))~~ meet:
 - (a) With ~~((appropriate))~~ qualified available staff; and
 - (b) Through the provision of reasonable accommodations required by state and federal law~~((-))~~;
- (2) Not admit an individual before obtaining ~~((a thorough))~~ a complete assessment of the ~~((resident's))~~ individual's needs and preferences, except in cases of a genuine emergency;
- (3) Ensure that the admission of the individual does not negatively affect the ability of the home to meet the needs of or endangers the safety of other residents; and
- (4) Comply with all applicable federal and state requirements regarding nondiscrimination.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10545, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 10-04-008, filed 1/22/10, effective 2/22/10)

WAC 388-76-10550 Resident rights—Adult family home staffing—Notification required. The adult family home must provide the following information in writing to prospective residents before admission and current residents who were admitted before this requirement took effect:

- (1) Information about the provider, entity representative, and resident manager, ~~((if there is a resident manager))~~ including:
 - (a) Availability in the home, including a general statement about how often ~~((he or she is))~~ they each are in the home;
 - (b) Education and training relevant to resident caregiving;
 - (c) Caregiving experience;
 - (d) ~~((His or her))~~ Primary responsibilities, including ~~((whether he or she makes daily))~~ which general care management decisions they will make and which will be made by the resident or their representative; and
 - (e) How to contact the provider, entity representative ~~((or))~~ and resident manager when ~~((he or she is))~~ not in the home.
- (2) Information about a licensed practical nurse or registered nurse, if there is one, who is in any way involved in the care of residents, including:
 - (a) Who the licensed practical nurse or registered nurse is employed by;
 - (b) The specific routine hours that the licensed practical nurse or registered nurse is on-site, if they are on-site routinely;
 - (c) ~~((His or her))~~ Primary responsibilities ~~((, including whether he or she makes daily general care management decisions))~~;
 - (d) The nonroutine times when the licensed practical nurse or registered nurse will be available, such as on-call; and

(e) A description of what the provider or entity representative will do to make ~~((available))~~ the services of a licensed nurse available in an emergency or change in a resident's condition.

(3) A statement indicating whether the provider, caregiver or staff is qualified or willing to become qualified to perform nurse delegation as allowed under state law.

[Statutory Authority: RCW 70.128.040. WSR 10-04-008, § 388-76-10550, filed 1/22/10, effective 2/22/10. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10550, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10560 Resident rights—Adult family home management of resident financial affairs. (1) Each resident has the right to manage their own financial affairs. The adult family home must not require any resident to deposit their personal funds with the home.

(2) If the adult family home agrees to manage a resident's personal funds, the home must ~~((do all of the following))~~:

~~((1) Hold, safeguard, manage, and account for the personal funds of the resident deposited with the home));~~

~~((2)) (a) Have a written authorization from the resident;~~

(b) Develop and maintain a system that assures a full, complete, and separate accounting of each resident's personal funds given to the home on the resident's behalf;

(c) Ensure the resident's funds are not mixed with the home's funds or with the funds of any person other than another resident. If funds are pooled accounts, there must be a separate accounting for each resident's share;

~~((3)) (d) Deposit a resident's personal funds in excess of one hundred dollars in an interest-bearing ~~((account or accounts))~~ account(s) separate from any of the home's operating accounts~~((r))~~ and that credits all interest earned on residents' funds to that account;~~

~~((4) If funds are pooled accounts, there must be a separate accounting for each resident's share; and)) (e) Ensure that the account or accounts are held in a financial institution as defined in RCW 30A.22.040, and notify each resident in writing of the name, address, and location of the depository.~~

~~((5)) (f) Keep a resident's personal funds that do not exceed one hundred dollars in a noninterest-bearing account, interest-bearing account, or petty cash fund; and~~

(g) Provide an individual financial record when requested by the resident or the resident's legal representative.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10560, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 12-01-004, filed 12/7/11, effective 1/7/12)

WAC 388-76-10561 Resident rights—Resident security deposit account. ~~((Any))~~ (1) Funds in excess of one hundred dollars that are paid to an adult family home as a security deposit or as prepayment for charges beyond the first month's residency ~~((+ (1)))~~ must be deposited by the adult family home in an interest bearing account that is separate from any of the home's operating accounts and that credits all interest earned on the resident's funds to that account.

(2) The adult family home must:

(a) ~~((Ensure that))~~ Provide a record of the account ~~((is available upon the request of))~~ when requested by the resident ~~((or their))~~, the resident's representative, or the department;

(b) ~~((Not commingle resident))~~ Ensure the resident's funds ~~((from these accounts))~~ are not mixed with the ~~((adult family))~~ home's funds or with the funds of any person other than another resident. If an account pools resident funds ~~((are commingled))~~, ~~((the home must provide each resident with))~~ there must be a separate accounting for ~~((their))~~ each resident's share;

(c) Ensure that the ~~((account or accounts))~~ account(s) are held, and remain until a resident refund occurs, in a financial institution as defined in ~~((RCW 30.22.041,))~~ RCW 30A.22.040; and

(d) Notify ~~((each))~~ the resident in writing of the name, address, and location of the depository.

[Statutory Authority: Chapter 70.128 RCW. WSR 12-01-004, § 388-76-10561, filed 12/7/11, effective 1/7/12.]

AMENDATORY SECTION (Amending WSR 10-14-058, filed 6/30/10, effective 7/31/10)

WAC 388-76-10585 Resident rights—Examination of inspection results. (1) The adult family home must place a copy of the following documents ~~((in a visible location))~~ in a common use area where they can be ~~((examined))~~ easily viewed by residents, resident representatives, the department, and anyone interested without having to ask for them ~~((-))~~ :

(a) ~~((A copy of))~~ The most recent inspection report, any related follow-up reports, and related cover ~~((letter))~~ letters; and

(b) ~~((A copy of))~~ All complaint investigation reports, any related follow-up reports, and any related cover letters received since the most recent inspection or ~~((not less than))~~ within the last twelve months, whichever is longer.

(2) The adult family home must post a notice that the following documents are available for review if requested by the residents, resident representatives, the department, and anyone interested ~~((-))~~ :

(a) A copy of each inspection report and related cover letter received during the past three years; and

(b) A copy of any complaint investigation reports and related cover letters received during the past three years.

[Statutory Authority: RCW 70.128.040. WSR 10-14-058, § 388-76-10585, filed 6/30/10, effective 7/31/10. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10585, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10595 Resident rights—Advocacy access and visitation rights. The adult family home must not interfere with each resident's right to have access to and from:

(1) Any representative of the state;
 (2) The resident's own physician;
 (3) The state long-term care ombuds (~~((program as established under chapter 43.190 RCW))~~) programs;

(4) The agency responsible for the protection and advocacy system for (~~((developmentally disabled individuals))~~) one or more of the following:

(a) Individuals with developmental disabilities as established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;

~~((5) The agency responsible for the protection and advocacy system for mentally ill individuals))~~ (b) Individuals with mental illness as established under the Protection and Advocacy for ((mentally ill)) Individuals with Mental Illness Act;

~~((6) Immediate family or other relatives of))~~ (c) Individuals with disabilities as established under section 509 of the Rehabilitation Act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law;

(5) Visitors who are visiting the resident ((and others who are visiting)) with the resident's consent ((of the resident, subject to reasonable limits)), which:

(a) The resident may withdraw at any time; and

(b) May only be limited when the limitation is to protect the rights or safety of the residents or others ((and to the resident's right to deny or withdraw consent at any time;

~~(7) The agency responsible for the protection and advocacy system for individuals with disabilities as established under section 509 of the Rehabilitation Act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law))~~ in the home and must be documented under WAC 388-76-10401; and

~~((8))~~ (6) The resident's representative or an entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

[Statutory Authority: Chapter 70.128 RCW. WSR 15-03-037, § 388-76-10595, filed 1/12/15, effective 2/12/15. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10595, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10600 Resident rights—Mail and telephone privacy.

The adult family home must ensure each resident's right to privacy in communications, including the right to:

- (1) Send and receive unopened mail without delay;
- (2) Have writing paper, postage, and pens or pencils available that have been paid for by the resident; and
- (3) ~~((Be able to use a telephone where calls can be made without being overheard))~~ Have twenty-four hour per day access to a telephone to make and receive confidential calls.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10600, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10605 Resident rights—Personal property and storage space. The adult family home must ensure each resident's right to keep and use personal possessions, including ~~((some))~~ furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10605, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10615 Resident rights—Transfer and discharge. (1)

The adult family home must allow each resident to stay in the home ~~((τ))~~ and not transfer or discharge the resident unless:

- (a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the home;
- (b) The safety or health of individuals in the home is or would otherwise be endangered;
- (c) The resident has failed to make the required payment for ~~((his or her))~~ their stay; or
- (d) The home ceases to operate.

(2) Before a home transfers or discharges a resident, the home must ~~((÷~~

- ~~(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;~~
- ~~(b) Notify the resident and representative and make a reasonable effort to notify, if known, an interested family member of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;~~
- ~~(c) Record the reasons in the resident's record; and~~
- ~~(d) Include in the notice the items described in subsection (5) of this section.~~

~~(3) Except as specified in (4) of this section, the home must give notice of the transfer or discharge at least thirty days before the resident is transferred or discharged.~~

~~(4) The home may make the notice as soon as practicable before transfer or discharge when:~~

~~(a) The safety and health of the individuals in the home would be endangered;~~

~~(b) An immediate transfer or discharge is required by the resident's urgent medical needs; or~~

~~(c) A resident has not resided in the home for thirty days.~~

~~(5) The home must include the following in the written notice specified in subsection (2) of this section:~~

~~(a) The reason for transfer or discharge;~~

~~(b) The effective date of transfer or discharge;~~

~~(c) The location where the resident is transferred or discharged;~~

~~(d) The name, address, and telephone number of the state long-term care ombuds;~~

~~(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals; and~~

~~(f) For residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals) first attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident.~~

~~((+6)) (3) The home must give residents enough preparation and orientation to ensure a safe and orderly transfer or discharge from the home.~~

~~((+7)) (4) If the home discharges a resident in violation of this section or WAC 388-76-10616, the home must readmit the resident to the home as soon as a gender-appropriate bed becomes available.~~

[Statutory Authority: Chapter 70.128 RCW. WSR 15-03-037, § 388-76-10615, filed 1/12/15, effective 2/12/15. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10615, filed 10/16/07, effective 1/1/08.]

NEW SECTION

WAC 388-76-10616 Resident rights—Transfer and discharge notice.

(1) Before a home transfers or discharges a resident, the home must give the resident and the resident's representative a written thirty day notification informing them of the transfer or discharge. The home must also make a reasonable effort to notify, if known, any interested family member. The written notification must be in a language and manner the resident understands and include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location where the resident is transferred or discharged if known at the time of the thirty-day discharge notice;

(d) The name, address, and telephone number of the state long-term care ombuds;

(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with a developmental disability; and

(f) For residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with mental illness.

(2) The home may make the notice as soon as practicable before transfer or discharge when:

(a) The safety and health of the individuals in the home would be endangered;

(b) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(c) The resident has been absent from the home for thirty or more days.

(3) A copy of the written notification must be in the resident's records.

[]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10620 Resident rights—Quality of life—General. (1)

The adult family home must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(2) (~~Within reasonable~~) The home may design home rules (~~designed to~~) that protect the rights and quality of life of residents(~~r~~). Within these rules, the home must ensure the resident's right to:

(a) Choose activities, schedules, and health care consistent with (~~his or her~~) the resident's interests, assessments, and negotiated care plan;

(b) Interact with members of the community both inside and outside the home;

(c) Make choices about aspects of (~~his or her~~) life in the home that are significant to the resident;

(d) Wear (~~his or her~~) the resident's own clothing and decide (~~his or her~~) their own dress, hair style, or other personal effects according to individual preference;

(e) Unless adjudged incompetent or otherwise found to be legally incapacitated to:

(i) Be informed in advance about recommended care and services and of any recommended changes in the care and services;

(ii) Participate in planning care and treatment or changes in care and treatment;

(iii) Direct (~~his or her~~) the resident's own service plan and changes in the service plan, or

(iv) Refuse any particular service so long as such refusal is documented in the record of the resident.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10620, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 16-06-004, filed 2/17/16, effective 4/1/16)

WAC 388-76-10685 Bedrooms. The adult family home must meet all of the following requirements:

- (1) Ensure each resident's bedroom is an outside room ~~((, which))~~ that allows entrance of natural light ~~((,))~~.
- (2) Ensure window and door screens:
 - (a) Do not hinder emergency escape; and
 - (b) Prevent entrance of flies and other insects.
- (3) Ensure each resident, including those using mobility aids such as wheelchairs and walkers has direct, unrestricted, and free access from the bedroom through doors, hallways, and corridors to common use areas and other rooms used for care and services including bathrooms ~~((,))~~.
- (4) ~~((Make separate bedrooms available for each sex))~~ When a bedroom will be shared by two residents, the home must:
 - (a) Document through the notice of rights and services that the resident's bedroom is a shared bedroom; and
 - (b) Allow residents to express their preference of roommate and allow residents who mutually consent to share a bedroom to live in a double occupancy bedroom together, unless this will pose a health or safety risk for any resident in the home;
- (5) ~~((Make reasonable efforts to accommodate residents wanting to share the room;~~
- ~~((6))~~) Provide each bedroom with a minimum usable floor space as required in WAC 388-76-10690.
- ~~((7))~~) (6) Give each resident the opportunity to have a lock on their bedroom door if they ~~((choose))~~ choose to unless having a locked door would be unsafe for the resident and this is documented ~~((in the resident's negotiated care plan))~~ according to WAC 388-76-10401.
- ~~((8))~~) (7) Ensure each bedroom has a closet or a wardrobe, armoire, or reasonable ~~((facsimile thereof))~~ storage space for clothes accessible to residents. Neither the closet nor wardrobe/armoire floor space will be considered a part of the room's usable square footage. The home must not remove a closet in order to provide additional floor space.
- ~~((9))~~) (8) Ensure there are no more than two residents to a bedroom ~~((,))~~.
- ~~((10))~~) (9) Unless the resident chooses to provide their own furniture and bedding, the home must provide each resident a bed thirty-six inches or ~~((more wide))~~ wider with:
 - (a) A clean, comfortable mattress;
 - (b) A waterproof cover for use when needed or requested by the resident;
 - (c) Clean sheets and pillow cases;
 - (d) Adequate clean blankets to meet the needs of each resident;
 and
 - (e) Clean pillows.
- ~~((11))~~) (10) Do not use the upper bunk of double-deck beds for a resident's bed ~~((,))~~.
- ~~((12))~~) (11) Provide each resident a call bell ~~((or intercom system if)), or an alternative way of alerting staff in an emergency, that the resident can use, unless the ((provider, entity representative, resident manager or caregiver))~~ bedroom of an AFH staff member is ((not)) within hearing distance of ((each resident)) the resident's

bedroom (~~and the system is required by the department;~~) and a staff member will be within hearing distance at all times.

~~((13))~~ (12) Ensure that members of the household (~~, other than residents,~~) and staff do not share bedrooms with residents (~~;~~ and).

~~((14))~~ (13) Ensure a resident does not share a bedroom with a person under eighteen years of age, unless the person is the resident's own child.

[Statutory Authority: Chapter 70.128 RCW. WSR 16-06-004, § 388-76-10685, filed 2/17/16, effective 4/1/16. Statutory Authority: RCW 70.128.040. WSR 10-03-064, § 388-76-10685, filed 1/15/10, effective 2/15/10. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10685, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10715 Doors—Ability to open. The adult family home must ensure:

(1) Every bedroom and bathroom door opens from the inside and outside;

(2) Every closet door opens from the inside and outside; ~~(and)~~

(3) At least one door leading to the outside is designated as ~~(the primary egress and)~~ an emergency exit. In homes licensed after January 1, 2016, this door must have a lever door handle on both sides and hardware that allows residents to exit when the door is locked and ~~(reentry)~~ immediately reenter without a key, tool, or special knowledge or effort by residents ~~(-);~~ ;

(4) Other ~~(external exit)~~ doors leading to the outside that are not designated as ~~(the primary egress,~~) an emergency exit must open without any special skills or knowledge, and they must remain accessible to residents unless doing so poses a risk to the health or safety of at least one resident ~~(-);~~ ; and

(5) All internal and external doors comply with local jurisdictional requirements as well as the building code requirements in chapter 51-51 WAC.

[Statutory Authority: Chapter 70.128 RCW. WSR 16-20-095, § 388-76-10715, filed 10/4/16, effective 11/4/16; WSR 16-01-171, § 388-76-10715, filed 12/22/15, effective 1/22/16. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10715, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 09-03-029, filed 1/12/09, effective 2/12/09)

WAC 388-76-10720 Electronic monitoring equipment—Audio monitoring and video monitoring. (1) Except as provided in this section or in WAC 388-76-10725, the adult family home must not use the following in the home or on the premises:

(a) Audio monitoring equipment; or

- (b) Video monitoring equipment if it includes an audio component.
- (2) The home may video monitor and video record activities in the home, without an audio component, only in the following areas:
- (a) Entrances and exits if the cameras are:
- (i) Focused only on the entrance or exit doorways; and
- (ii) Not focused on areas where residents gather ~~((-))~~;
- (b) Outdoor areas accessible to both residents and the public, such as, but not limited to, driveways or walkways, provided that the purpose of such monitoring is to prevent theft, property damage, or other crime on the premises;
- (c) Outdoor areas not commonly used by residents; and
- ~~((-e))~~ (d) Designated smoking areas, subject to the following conditions:
- (i) Residents are assessed as needing supervision for smoking;
- (ii) A staff person watches the video monitor at any time the area is used by such residents;
- (iii) The video camera ~~((is))~~ must be clearly visible;
- (iv) The video monitor ~~((is))~~ must not be viewable by the general public; and
- ~~((-v))~~ (3) The home ~~((notifies))~~ must notify all residents in writing of the video monitoring equipment. The home must:
- (a) Identify in the written notification each person or organization with access to electronic monitoring; and
- (b) Retain an acknowledgment that has been signed and dated by both the resident and the home that states in writing that the resident has received this notification.
- (4) The presence of cameras must not alter the obligation of the home to provide appropriate in-person assistance and monitoring due to individual physical or cognitive limitations.

[Statutory Authority: RCW 70.128.040. WSR 09-03-029, § 388-76-10720, filed 1/12/09, effective 2/12/09. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10720, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 09-03-029, filed 1/12/09, effective 2/12/09)

- WAC 388-76-10725 Electronic monitoring equipment—Resident requested use.** (1) ~~((The adult family home must not use))~~ Audio or video monitoring equipment ~~((to monitor any resident unless:~~
- ~~(a) The resident has requested the monitoring; and~~
- ~~(b) The monitoring is only used in the sleeping room of the resident who requested the monitoring.)~~ may not be installed in an adult family home to monitor any resident sleeping area unless the resident or the resident's representative has requested and consents to the monitoring;
- (2) Electronic monitoring equipment must be installed in a manner that is safe for residents;
- (3) An adult family home must not refuse to admit an individual, or discharge a resident, solely because of a request to conduct authorized electronic monitoring;
- (4) A resident may limit consent for use of electronic monitoring devices in their bedrooms to specific times or situations, pointing

the camera in a particular direction, or prohibiting the use of certain devices;

(5) The release of audio or video monitoring recordings by the facility is prohibited, except to authorized persons or as otherwise required by law;

(6) If the resident requests that the home conduct audio or video monitoring of their sleeping area, before any electronic monitoring occurs the home must ensure:

(a) That the electronic monitoring does not violate chapter 9.73 RCW;

(b) ~~((The resident has identified a threat to the resident's health, safety or personal property;~~

~~(c))~~ The resident's roommate has provided written consent to electronic monitoring, if the resident has a roommate; and

~~((d))~~ (c) The resident and the home have agreed upon a specific duration for the electronic monitoring and the agreement is documented in writing.

~~((3))~~ (7) The home must:

(a) Reevaluate the ~~((need for))~~ use of the electronic monitoring with the resident at least quarterly; and

(b) Have each reevaluation in writing signed and dated by the resident.

~~((4))~~ (8) The home must immediately stop electronic monitoring if the:

(a) Resident no longer wants electronic monitoring;

(b) Roommate objects or withdraws the consent to the electronic monitoring, or

(c) Resident becomes unable to give consent, unless consent has been provided by a resident's representative as described in this section.

~~((5))~~ (9) For the purposes of consenting to video electronic monitoring, without an audio component, the term "resident" includes the resident's ~~((decision-maker))~~ representative.

~~((6))~~ (10) For the purposes of consenting to audio electronic monitoring, the term "resident" includes only:

(a) The resident residing in the home; or

(b) The resident's court-appointed guardian or attorney-in-fact who has obtained a court order specifically authorizing the court-appointed guardian or attorney-in-fact to consent to audio electronic monitoring of the resident.

~~((7))~~ (11) If the resident's decision maker consents to audio electronic monitoring as specified in subsection ~~((6) above)~~ (10) of this section, the home must maintain a copy of the court order authorizing such consent in the resident's record.

(12) If the adult family home determines that a resident, resident's family, or other third party is electronically monitoring a resident's bedroom without complying with the requirements of this section, the home must disconnect or remove such equipment until the appropriate consent is obtained and notice given as required by this section.

(13) Nothing in this section prohibits or limits an adult family home from implementing electronic monitoring pursuant to a resident's negotiated care plan, including but not limited to motion sensor alerts, floor pressure sensors, or global positioning devices, where the monitoring does not entail the transmittal or recording of a human-viewable image, sound, or resident name.

[Statutory Authority: RCW 70.128.040. WSR 09-03-029, § 388-76-10725, filed 1/12/09, effective 2/12/09. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10725, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10750 Safety and maintenance. The adult family home must:

- (1) Keep the home both internally and externally in good repair and condition with a safe, comfortable, sanitary, and homelike environment that is free of hazards;
- (2) Ensure that there is existing outdoor space that is safe and usable for residents;
- (3) Provide clean, functioning, safe, adequate household items and furnishings to meet the needs of each resident;
- (4) Ensure items and furnishings brought into the home by the resident for their use are clean, functioning, and safe;
- (5) Provide safe and functioning systems for:
 - (a) Heating;
 - (b) Cooling, which may include air circulating fans;
 - (c) Hot and cold water;
 - (d) Electricity;
 - (e) Plumbing;
 - (f) Garbage disposal;
 - (g) Sewage;
 - (h) Cooking;
 - (i) Laundry;
 - (j) Artificial and natural light;
 - (k) Ventilation; and
 - (l) Any other feature of the home ~~((-))~~;
- ~~((5))~~ (6) Ensure hot water temperature is at least one hundred five degrees and does not exceed one hundred twenty degrees Fahrenheit at all fixtures used by or accessible to residents, such as:
 - (a) Tubs;
 - (b) Showers; and
 - (c) Sinks ~~((-))~~;
- ~~((6) Provide storage for))~~ (7) Keep all toxic substances ~~((, poi- sons,))~~ and ~~((other))~~ hazardous materials ~~((that is only accessible to residents under direct supervision, unless the resident is assessed for and the negotiated care plan indicates it is safe for the resident to use the materials unsupervised;))~~ in locked storage and in their original containers;
- (8) Grant a resident access to and use of toxic substances and hazardous materials only with direct supervision, unless the resident has been assessed as safe to use the substance or material without direct supervision and if the use is documented in the negotiated care plan;
- ~~((7))~~ (9) Provide rapid access for all staff to any bedroom, toilet room, shower room, closet, other room occupied by each resident;
- ~~((8))~~ (10) Keep all firearms locked and accessible only to authorized persons; and

- ~~((9))~~ (11) Keep the home free from:
 - (a) Rodents;
 - (b) Flies;
 - (c) Cockroaches ~~((r))~~; and
 - (d) Other vermin.

[Statutory Authority: RCW 70.128.040. WSR 10-03-064, § 388-76-10750, filed 1/15/10, effective 2/15/10. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10750, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10765 Storage. The adult family home must:

- (1) Supply each resident with adequate and reasonable storage space for:
 - (a) Clothing;
 - (b) Personal possessions; and
 - (c) Upon request, a lockable container or storage space for small items, unless ((the)):
 - (i) The resident has a ((private)) single occupancy room with a lockable door; and
 - (ii) Only the resident ((room can be locked by the resident)) and appropriate staff have a key to the door.
- ~~((2) Provide locked storage for all prescribed and over-the-counter medications as per WAC 388-76-10485.)~~

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10765, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10770 Telephones. The adult family home must ~~((pre-))~~vide):

- (1) Have at least one working ((nonpay)) telephone in the home that does not cost residents money to use; and
- (2) Allow residents privacy and reasonable access to the telephone(, and
- ~~(3) Privacy for the resident when making or receiving))~~ to make and receive calls.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10770, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 09-03-030, filed 1/12/09, effective 2/12/09)

WAC 388-76-10784 Water hazards—Fences, gates, and alarms. For any adult family home (~~newly~~) licensed after July 1, 2007 or any currently licensed adult family home that adds or modifies a new or existing water hazard after July 1, 2007 must ensure:

(1) (~~Comply with this section and~~) Pools, spas, and hot tubs are installed according to the requirements of the (~~(a)~~) International Residential Code (IRC) (~~(b)~~) as adopted by the Washington state (~~amendments to the International Residential Code (IRC)~~) building code council.

(2) (~~Enclose~~) Water hazards over twenty-four inches deep (~~with~~) are:

(a) Enclosed by fences and gates at least forty-eight inches high; (~~and~~)

(b) Equipped with an audible (~~alarms~~) alarm that sounds when (~~doors, screens, and gates~~) any door, screen, or gate that directly (~~lead~~) leads to or (~~surround~~) surrounds the water hazard (~~, are~~) is opened; and

(c) Secured by locking any doors, screens, or gates that lead directly to or surround the water hazard.

[Statutory Authority: RCW 70.128.040. WSR 09-03-030, § 388-76-10784, filed 1/12/09, effective 2/12/09.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10795 Windows. (1) The adult family home must ensure at least one window in each resident bedroom meets the following requirements:

(a) The sill height (~~of the bedroom window is~~) must not be more than forty-four inches above the finished floor.

(~~(2)~~) For homes licensed after July 1, 2007, the department will not approve alternatives to the sill height requirement such as step(s), raised platform(s), or other devices placed by or under the window openings.

(~~(3)~~) (b) The (~~bedroom window must have the following:~~

(~~(a)~~) A minimum) opening area must be a minimum of 5.7 square feet, except (~~(a)~~) that the openings of windows in rooms at grade level (~~floor window openings~~) as defined by the International Residential Code may have a minimum clear opening of 5.0 square feet (~~(b)~~). The window must also have:

(~~(b)~~) (i) A minimum opening height of twenty-four inches; (~~and~~)

(~~(c)~~) (ii) A minimum opening width of twenty inches (~~(c)~~); and

(~~(4)~~) (c) The home must ensure the bedroom window can be opened from inside the room without keys (~~(d)~~), tools, or special knowledge or effort to open.

(~~(5)~~) (d) The window must be free from obstructions that might block or interfere with access for emergency escape or rescue.

(2) When resident bedroom windows are fitted with storm windows, the home must equip the storm windows with release mechanisms that:

- (a) Easily open from the inside; and
- (b) Do not require a key or special knowledge or effort to open.

~~((6))~~ (3) The home must ensure that each basement ~~((and each resident bedroom))~~ window ~~((, that meets the requirements of subsection (1), (2) and (3) of this section, are))~~ is kept free from obstructions that might block or interfere with access for emergency escape or rescue.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10795, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10800 Adult family home located outside of public fire protection. (1) If the adult family home is located in an area without public fire protection, the home must have written verification of adequate fire protection from the fire authority.

(2) If the local fire authority requires the home to have additional protective measures such as a fire extinguisher with a rating other than that required under WAC 388-76-10810(1), the home must meet this requirement.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10800, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10805 Automatic smoke ~~((detectors))~~ alarms. (1) The adult family home must ensure approved automatic smoke ~~((detectors))~~ alarms ~~are~~ installed and maintained according to manufacturer instructions;

~~((1) Installed,))~~ (2) At a minimum, smoke alarms must be located in the following ~~((locations))~~ areas:

- (a) Every resident bedroom ~~((used by a resident));~~

(b) In ~~((proximity to the area where the))~~ the immediate vicinity of resident ~~((or))~~ bedroom(s), and if applicable, the sleeping areas used by the adult family home staff ~~((sleeps));~~ and

- (c) On every level of a multilevel home.

~~((2) Installed in a manner so that))~~ (3) The home must ensure ~~((fire warning is heard))~~ smoke alarms in all parts of the home ~~((upon))~~ are active and interconnected in such a manner that the activation of ~~((a single detector; and))~~ one alarm will activate them all. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

~~((3))~~ (4) Each smoke alarm must be kept in working condition at all times.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10805, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 08-09-028, filed 4/8/08, effective 5/9/08)

WAC 388-76-10810 Fire extinguishers. (1) The adult family home must have an approved five pound 2A:10B-C rated fire extinguisher on each floor of the home.

(2) The home must ensure ~~((the))~~ fire extinguishers are:

(a) ~~((Installed according to manufacturer recommendations))~~ Mounted or securely fastened in a stationary position at a minimum of four inches from the floor and a maximum of sixty inches from the floor;

(b) Inspected and serviced annually;

(c) In proper working order; ~~((and))~~

(d) ~~((Readily available for use))~~ Accessible at all times~~((-~~

~~(3) If required by the local fire authority, the home must provide different fire extinguishers in place of the fire extinguishers required in subsection (1) of this section));~~ and

(e) Not located behind a locked door.

[Statutory Authority: RCW 70.128.040. WSR 08-09-028, § 388-76-10810, filed 4/8/08, effective 5/9/08. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10810, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10825 Space heaters, fireplaces, and stoves. (1) The adult family home must not use oil, gas, kerosene, or electric space heaters that ~~((do not))~~ have ~~((an underwriters laboratories (UL) rating))~~ not been certified by an organization listed as a nationally recognized testing laboratory.

(2) The adult family home must ensure that stoves and heaters do not block resident, staff, or household member escape routes.

(3) The adult family home must ensure that fireplaces ~~((and)),~~ stoves, or heaters that get hot to the touch when in use have a stable, flame-resistant barrier that ~~((prevents accidental resident contact. The adult family home is))~~ does not ~~((required to have a barrier if the fireplace and stove surfaces are not))~~ get hot to the touch ~~((when in use))~~ and that prevents any contact by residents or any flammable materials.

[Statutory Authority: Chapter 70.128 RCW. WSR 16-20-095, § 388-76-10825, filed 10/4/16, effective 11/4/16. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10825, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10830 Emergency and disaster plan—Required. The adult family home must have a written emergency and disaster plan

((and procedures)) to meet the needs of each resident during emergencies and disasters. The plan must include:

- (1) Responding to natural and man-made emergencies and disasters that may reasonably occur at the home;
- (2) Actions to be taken by staff and residents during and after an emergency or disaster; and
- (3) The fire drill plan for evacuation of the home.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10830, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10840 Emergency food supply. (1) The adult family home must have an on-site emergency food supply ((that can be stored with other food in the home and)) that:

- ((1)) (a) Will last for a minimum of seventy-two hours for each resident and each household member;
- ((2)) (b) Meets the dietary needs of each resident, including any specific dietary restrictions ((any resident)) they may have;
- (c) Can be stored with other food in the home; and
- ((3)) (d) Is sufficient, safe, sanitary, and uncontaminated.

[Statutory Authority: RCW 70.128.040. WSR 10-03-064, § 388-76-10840, filed 1/15/10, effective 2/15/10; WSR 09-03-029, § 388-76-10840, filed 1/12/09, effective 2/12/09. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10840, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10850 Emergency medical supplies. The adult family home must ((have emergency medical supplies that include)):

- (1) ((First-aid)) Have emergency medical supplies on-hand for the application of basic first aid during an emergency or disaster in a sufficient amount for the number of residents living in the home;
 - (2) Replenish the emergency medical supplies as they are used;
- and
- ((2) A first-aid)) (3) Have a first aid manual.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10850, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10865 Resident evacuation from adult family home.

- (1) The adult family home must be able to evacuate all residents from the home to a safe location outside the home in five minutes or less.

(2) The home must ensure that residents (~~(who require assistance)~~) are able to evacuate the home as follows:

(a) Through (~~(the primary egress)~~) a door designated as an emergency exit;

(b) Via a path from the resident's bedroom that does not go through other bedrooms; and

(c) Without the resident having to use any of the following:

(i) (~~(Stairs;~~

~~(ii))~~) Elevators;

(~~(iii) Chairlift)~~) (ii) Chairlifts; or

(~~(iv))~~) (iii) Platform (lift) lifts.

(3) Residents who require assistance with evacuation must have a path via an emergency exit to the designated safe location that does not require the use of stairs.

(4) Ramps for residents to enter, exit, or evacuate on homes licensed after November 1, 2016 must:

(a) Comply with (~~(WAC 51-51-0325)~~) chapter 51-51 WAC;

(b) Have a slope measuring no greater than eight and three-tenths percent in the direction of travel; and

(c) Have required landings at the top, bottom, and at any change of direction, with a slope measuring no greater than two percent in the direction of travel.

(~~(4))~~) (5) Homes that serve residents who are not able to hear the fire alarm warning must install visual fire alarms.

[Statutory Authority: Chapter 70.128 RCW. WSR 16-20-095, § 388-76-10865, filed 10/4/16, effective 11/4/16. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10865, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10870 Resident evacuation capability levels—Identification required. The adult family home must ensure that each resident's assessment, preliminary service plan, and negotiated care plan identifies (~~(, and each resident's preliminary care plan and negotiated care plan)~~) and describes the resident's ability to evacuate the home according to the following descriptions:

(1) Independent: Resident is physically and mentally capable of (~~(safely getting out of)~~) independently evacuating the home without the assistance of another individual or the use of mobility aids. The department will consider a resident independent if capable of getting out of the home after one (~~(verbal)~~) cue(✓).

(2) Assistance required: Resident is not physically or mentally capable of (~~(getting out of)~~) evacuating the (~~(house)~~) home without assistance from another individual (~~(or)~~), mobility aids, or multiple cues.

[Statutory Authority: RCW 70.128.040. WSR 10-03-064, § 388-76-10870, filed 1/15/10, effective 2/15/10; WSR 09-03-029, § 388-76-10870, filed 1/12/09, effective 2/12/09. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10870, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10885 Elements of emergency evacuation floor plan.

The adult family home must ~~((ensure the))~~ develop an emergency evacuation floor plan ((has)) for each level of the home that:

(1) ~~((An accurate floor plan of the home, including))~~ Is accurate and includes all rooms, hallways, and exits (such as doorways and windows) to the outside of the home;

(2) ~~Illustrates the emergency evacuation ((routes showing the paths to take))~~ route(s) to exit the home, with the route to the emergency exit door being easily identifiable; and

(3) Identifies the designated safe location for the residents to meet outside the home.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10885, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10890 Posting the emergency evacuation floor plan—Required. The adult family home must display an emergency evacuation floor plan on each floor of the home ~~((in))~~ and the plan must:

(1) Be posted in a visible location ((in the home)) commonly used by residents, staff, and visitors alike; and

(2) ~~((Common areas normally used by residents, staff and visitors))~~ Illustrate the evacuation route from the rooms on that floor to the designated safe location outside the home.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10890, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 16-20-095, filed 10/4/16, effective 11/4/16)

WAC 388-76-10895 Emergency evacuation drills—Frequency and participation. (1) There are two types of emergency evacuation drills:

(a) A full evacuation is evacuation from the home to the designated safe location; and

(b) A partial evacuation is evacuation to the designated emergency exit.

(2) The adult family home must ~~((ensure))~~ conduct:

~~((1))~~ (a) Partial emergency evacuation drills which occur during random staffing shifts at least every ((two months)) sixty days, with each resident participating in at least one each calendar year; ((and

~~(2) All residents take part in))~~ (b) A full emergency evacuation drill at least once each calendar year, with all residents participating in the drill together and at the same time ((at least one emergency evacuation drill each calendar year that includes full evacuation from the home to a safe location)); and

(c) Emergency evacuation drills even if there are no residents living in the home for the purpose of staff practice.

(3) The home must respect the resident's right to refuse to participate in emergency evacuation drills. However, the home must still demonstrate the ability to safely evacuate all residents doing the following:

(a) Documenting the resident's wish to refuse to participate in the negotiated care plan;

(b) Providing an estimate of the amount of time it would take to evacuate the resident and how they calculated this estimate in the negotiated care plan;

(c) Adding the estimated time to the time recorded on the emergency evacuation drill log after each drill to ensure the length of time to evacuate does not exceed five minutes; and

(d) Continuing to offer the resident a chance to participate in every evacuation drill.

[Statutory Authority: Chapter 70.128 RCW. WSR 16-20-095, § 388-76-10895, filed 10/4/16, effective 11/4/16. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10895, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10900 Documentation of emergency evacuation drills—Required. The adult family home must document ~~((in writing))~~ the following for all emergency evacuation drills ~~((which must include))~~:

- (1) Names of each resident and staff involved in the drill;
- (2) Name of the person conducting the drill;
- (3) Date and time of the drill;
- (4) Whether the drill was a full or partial emergency evacuation;

and

~~((4))~~ (5) The length of time it took to ((evacuate all residents)) complete the evacuation.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10900, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10905 Emergency evacuation—Notification of department required. The adult family home must ~~((immediately call))~~ notify the department's complaint ((toll free complaint telephone number of)) resolution unit as soon as possible after resident safety is secure when:

- (1) The home is on emergent stand-by for evacuation;
- (2) There is any fire; or

~~((2) Emergency evacuation))~~ (3) Residents were evacuated from the home.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34
RCW. WSR 07-21-080, § 388-76-10905, filed 10/16/07, effective 1/1/08.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|----------------------------------------------------------------------------------------|
| WAC 388-76-10520 | Resident rights—General notice. |
| WAC 388-76-10555 | Resident rights—Financial affairs. |
| WAC 388-76-10565 | Resident rights—Adult family home system for management of resident financial affairs. |
| WAC 388-76-10835 | Elements of an emergency and disaster plan. |