



# Ohio Board of Building Standards

## OHIO BUILDING CODE – CARE FACILITIES FREQUENTLY ASKED QUESTIONS (FAQ)

**Definition of Care Facility (OBC Chapter 2)** – *A building or portion of a building that is held out to the public for and intended to provide all the following: (1) housing or accommodation; (2) personal, custodial, or medical care; and (3) a supervised environment. Care provided in a dwelling or dwelling unit that is the permanent residence of the care provider is not a care facility.*

**1**    **Question:** Why were changes made to the OBC Chapters 2 and 3 relating to care facilities?  
**Answer:** For many years, the BBS had started with the model code text and merged the many different Ohio licensing agency definitions and care recipient occupancy thresholds into Chapter 3. Over time, the OBC Chapter 3 had become a patchwork of confusing, incomplete requirements that had departed significantly from the model code. Additionally, the model code had been evolving over the years to reflect the more residential-like environment of care facilities. It was time for the BBS rules to address only building code issues, rather than licensing issues. As a result, we comprehensively reevaluated, simplified, and modified the model code language to help define and classify care facilities based upon the capability of the occupants and the associated risks.

**2**    **Question:** In the definition of “Care Facility”, what is meant by “held out to the public”?  
**Answer:** The phrase “held out the public” generally means to declare, to make known, to promote, to publicize, or to advertise that a particular building is used for housing and care. This phrase is used elsewhere in the Ohio Revised Code. For example, a particular building is operated as, known as, licensed as a group home for the developmentally disabled. Only persons that meet the definition of developmentally disabled are qualified and permitted to live in that building. A person who is not developmentally disabled would not qualify to live in the building. Therefore, the building would be “held out to the public” for and intended to provide housing, care, and supervision only for the developmentally disabled population.

**3**    **Question:** There is no definition of “supervised environment” as referenced in the definition of “Care Facility”. Developmentally disabled tenants are not so much “supervised” by their hired staff, but assisted by them. Would this type of housing with assistance qualify as a supervised environment?  
**Answer:** No. A supervised environment is one where someone is present to oversee and ensure the safety of the occupants. A supervised environment is also one in which a care provider is present for all times of the day when an occupant is likely to require “care”. All “care” is assistance. However, not all assistance is “care”. It is possible to provide a “supervised environment” without providing care.

**4**    **Question:** Would remote, electronic supervision/monitoring meet the definition of a “supervised environment”?  
**Answer:** No. A supervised environment is one in which someone is present to oversee and ensure the safety of the occupants.

**5**    **Question:** The last sentence in the definition of “Care Facility” states “Care provided in a dwelling or dwelling unit that is the permanent residence of the care provider is not a care facility.” Does that mean that if care is provided in a dwelling or dwelling unit by someone that does not live in that dwelling or dwelling unit that the facility is then a care facility?  
**Answer:** No. A dwelling is defined as a family and no more than 5 lodgers or boarders. The last sentence of the definition was intended to address a very specific circumstance – the common practice of caring for a family member in your own dwelling or dwelling unit would not classify your home as a care facility. A care provider could provide care for his or her family members and no more than 5 others and the building would not be considered a care facility. However, if these numbers are exceeded, then the building would be a care facility. When applying the definition, the focus should be whether the facility is being held out to the public for and intended to provide housing, care, and supervision.

6	<p><b>Question:</b> An individual with developmental disabilities lives in a single-family dwelling with his or her family. The individual uses a wheelchair, receives Medicaid waiver services, and is incapable of evacuating without assistance. Is this a care facility?</p>
	<p><b>Answer:</b> No. This facility does not meet the definition of a care facility because it is not held out to the public for and intended to provide housing, care, and supervision.</p>
7	<p><b>Question:</b> My family has provided care for my ill mother in our single-family dwelling for a few years. My mother is now bedridden and incapable of self-preservation. We have hired a nurse to visit the home daily to assist with care-giving. Is my home now considered a care facility?</p>
	<p><b>Answer:</b> No. This facility does not meet the definition of a care facility because it is not held out to the public for and intended to provide housing, care, and supervision. Moreover, it was originally intended to be and continues to be used as the primary residence for the family.</p>
8	<p><b>Question:</b> An individual who uses a wheelchair rents an apartment from a landlord. Medicaid pays for the installment of a ramp and accessibility modifications to the apartment. Personal care services are provided by an agency to the individual in his apartment. Is this a care facility?</p>
	<p><b>Answer:</b> No. This facility does not meet the definition of a care facility because the apartment is not held out to the public for and intended to provide housing, care and supervision and is available for rent by the general public.</p>
9	<p><b>Question:</b> An individual needing care moves into the home (dwelling) of another person or family that provides personal and/or custodial services to the individual. Is this a care facility?</p>
	<p><b>Answer:</b> No. This facility does not meet the definition of a care facility because it is not held out to the public for and intended to provide housing, care, and supervision. Moreover, it is the primary residence of the care provider.</p>
10	<p><b>Question:</b> A house is purchased and renovated by a non-profit organization that provides housing for individuals with disabilities to accommodate 1-4 persons with developmental disabilities. Is this a care facility?</p>
	<p><b>Answer:</b> Yes. If any type of care and supervision is provided, this facility is likely a care facility because this house was purchased with the intent of limiting its occupancy to persons with developmental disabilities, therefore is held out to the public for and intended to provide housing, care and supervision.</p>
11	<p><b>Question:</b> An apartment building owner advertises and offers a certain number of apartments that are available for rent to persons with developmental disabilities. The apartments are intended to be independent living units. The building owner does not advertise or provide care to the residents. The apartments that are available for the developmentally disabled are not designated (are 'floating'). Is this a care facility?</p>
	<p><b>Answer:</b> No. This facility does not meet the definition of a care facility even though some apartments are advertised and available for persons with developmental disabilities. The building is not held out to the public for and intended to provide housing, care and supervision.</p>
12	<p><b>Question:</b> An apartment building owner offers specific apartments that are identified to be used <u>only</u> for persons with developmental disabilities and arranges to provide care services within these specific apartments. The apartments intended for the developmentally disabled are designated and not 'floating'. Is this a care facility?</p>
	<p><b>Answer:</b> Yes. This facility is a care facility because specific apartments are identified (held out) to be used by persons with developmental disabilities <u>and</u> care (personal, custodial, or medical care) is intended to be provided. Only the portion of the building dedicated to care would meet the definition of a care facility.</p>
13	<p><b>Question:</b> If an individual dwelling unit within a three-family dwelling house is utilized as a care facility, is the building still within the scope of the Residential Code of Ohio?</p>
	<p><b>Answer:</b> No. Typically, dwellings constructed of one-, two-, or three-family dwellings are within the scope of the Residential Code of Ohio. However, if any one of the three dwelling units is used as a care facility, then the building is within the scope of the OBC as a mixed occupancy building. This is clarified in OBC Section 310.5.</p>

14	<p><b>Question:</b> I have brought an unrelated developmentally disabled person into my home in a foster care setting. I provide help with daily tasks and I get compensated for caring for the individual. Is my home considered to be a care facility? What if I bring in two or three developmentally disabled foster persons into my home to care for them?</p>
	<p><b>Answer:</b> No. Your home is not a care facility. Your home is not held out to the public as a place that provides housing and care. Additionally, you are providing care in your permanent residence. A care provider could provide care for his or her family members and no more than 5 others and the building would not be considered a care facility.</p>
<p><b>Definition of Incapable of Self-Preservation (OBC Chapter 2) – <i>Persons who, because of age, physical limitations, mental limitations, chemical dependency or medical treatment, cannot respond as an individual to an emergency situation to complete building evacuation.</i></b></p>	
1	<p><b>Question:</b> If a person needs assistance transferring from a bed to a wheelchair, is that person considered incapable of self-preservation?</p>
	<p><b>Answer:</b> If the person in the wheelchair can operate their wheelchair to assist in their evacuation, then they are considered capable of self-preservation with assistance. If they are not capable of operating their wheelchair to assist with the evacuation, then they are considered to be incapable of self-preservation.</p>
2	<p><b>Question:</b> If a person needs verbal direction or physical guidance to get out of the building in an emergency, is that person considered incapable of self-preservation?</p>
	<p><b>Answer:</b> No. If the person is capable of assisting with the completion of their evacuation, even if it slows their evacuation time, they are still considered capable of self-preservation.</p>
<p><b>Existing Facilities</b></p>	
1	<p><b>Question:</b> What is a change of occupancy in an existing building?</p>
	<p><b>Answer:</b> Under the building code, a change of occupancy is a change in the purpose or the level of activity of a structure that involves a change in the application of the requirements of the code.</p>
2	<p><b>Question:</b> Now that the Ohio Building Code has a new definition of care facility, would an existing building that is not currently classified as a care facility have to be reclassified as a care facility?</p>
	<p><b>Answer:</b> No. The occupancy of an existing building is permitted to continue without change as long as there are no orders of the building official pending, no evidence of fraud, or no serious safety or sanitation hazards (see OBC Section 102.7). However, if a change of occupancy, an addition or an alteration occurs to an existing building after the effective date of the new code, then, after approval and inspection, a new certificate of occupancy must be issued which should reflect the current status as a care facility.</p>
3	<p><b>Question:</b> If the owner of an existing group home care facility sells the home to a new owner, would the new owner be required to do anything to comply with the care facility requirements in the building code?</p>
	<p><b>Answer:</b> No. The occupancy of an existing building is permitted to continue without change as long as there are no orders of the building official pending, no evidence of fraud, or no serious safety or sanitation hazards (see OBC Section 102.7). A change of ownership without performing any work requiring approval to the building does not trigger the new code. However, if the new home owner proposes a change of occupancy, an addition, or makes alterations to the home, the change could trigger additional code requirements.</p>
4	<p><b>Question:</b> With the new definition of care facility, would the residents of an existing group home, which houses a total of 4 persons receiving care within an existing single-family dwelling and is staffed at all times to provide personal care and supervision, be displaced from their home?</p>
	<p><b>Answer:</b> No. The occupancy of an existing building is permitted to continue without change as long as there are no orders of the building official pending, no evidence of fraud, or no serious safety or sanitation hazards (see OBC Section 102.7). The residents would not be required to be relocated simply because there is a change in the code. The rules are not permitted to be retroactively applied to existing buildings that are not being changed in any way.</p>