Ohio Housing Finance Agency

4% LIHTC Affordable Assisted Living Guidelines

~~Final~~ First Draft

Office of Multifamily Housing | ~~November 20, 2024~~November 4~~October 1~~, 2026

Seeking to provide input? OHFA will be accepting comments on these draft guidelines beginning November 4, 2026, through November 18, 2026. Comments may be submitted via e-mail to **StateTaxCredits@ohiohome.org**

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A. Affordable Assisted Living and LIHTC

Ohio's Medicaid Assisted Living and MyCare Ohio Waivers ensure eligible recipients receive services that facilitate independent living and avoid institutionalization. However, because Medicaid coverage of Home and Community Based Services (HCBS) is federally prohibited from reimbursing the cost of room and board, many assisted living facilities remain unaffordable.

Developers and owners of assisted living facilities can pair Low-Income Housing Tax Credits (LIHTC) with affordable rental housing that serves recipients of Ohio's Medicaid Assisted Living and MyCare Ohio Waivers. This combination is known as Affordable Assisted Living (AAL). By pairing these resources, Ohio Assisted Living Waiver and MyCare Ohio recipients can benefit from restricted rents while AAL developers gain an important source of financing to construct assisted living facilities.

Owners and their agents must comply with LIHTC statute and regulations referenced in **26 U.S.C. §42** and **26 C.F.R. §§1.41-1.42**.Developers and owners seeking to participate in the Ohio Housing Finance Agency (OHFA) AAL program are expected to familiarize themselves with—and comply with—all federal and state requirements related to AAL developments.

Federal 4% LIHTC

Developers and owners participating in the AAL program may only seek 4% LIHTC. Due to limited resources with the following programs, developers and owners in the AAL program may not seek 9% LIHTC, 4% LIHTC with Bond Gap Financing (BGF), 4% LIHTC with Ohio LIHTC (OLIHTC), Housing Development Loan (HDL) and/or Multifamily Lending Program (MLP) resources. For information on 4% LIHTC and 26 U.S.C §142(d) tax-exempt residential rental private activity bonds, see the most recently published **4% LIHTC Qualified Allocation Plan (QAP)**.

Compliance with Other OHFA Policy Documents

Except as specifically waived or modified in these Guidelines, applications must comply with:

- The most recently published **4% LIHTC QAP**
- The most recently published **LIHTC Rental Underwriting Guidelines**
- The most recently published **Design and Architectural Standards (DAS)**

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B. Modification and Interpretation

OHFA's actions, determinations, decisions, or other rulings pursuant to these guidelines are not a representation or warranty by OHFA as to a development's compliance with applicable legal requirements, the feasibility or viability of any development, or of any other matter whatsoever. The AAL Guidelines are subject to modification pending developments in federal, state, and OHFA policy.

OHFA makes no representation that underwriting decisions from a prior year will be determinative in future application rounds. Identical year-over-year submissions may receive differing treatment, with or without notice

to an applicant, due to new insights gained during prior review periods, shifts in policy, the need for consistent in-year interpretation, increased applicant competition, or any other reason OHFA deems necessary.

OHFA will clarify and issue responses to commonly posed questions regarding the QAP through a Frequently Asked Questions (FAQ) document that will be posted on the OHFA website. The FAQ, as well as the LIHTC Rental Underwriting Guidelines, Design and Architectural Standards, and Affordable Housing Funding Application (AHFA) are specifically incorporated herein and binding on all applicants. Notwithstanding the foregoing, errors and omissions in the AHFA are not binding on OHFA and do not modify the AAL Guidelines.

The allocation of LIHTC is made at the sole discretion of OHFA. OHFA will resolve all conflicts, inconsistencies, or ambiguities, if any, in these AAL Guidelines or which may arise in administering, operating, or managing the reservation and allocation of LIHTC. This includes the interpretation of requirements and guidelines and the determination of a development meeting the intent of those requirements and guidelines. OHFA may modify or waive, on a case-by-case basis, any provision of these AAL Guidelines that are not required by law. All such modifications or waivers are subject to written approval by the OHFA Board, Executive Director, Senior Director of Housing Programs, or Director of Multifamily Housing. OHFA reserves the right to limit reservations and awards under these Guidelines based on the number of available AAL and MyCare waivers issued by the Ohio Department of Medicaid.

C. 4% LIHTC AAL Program Calendar

~~The 4% LIHTC QAP program calendar is modified for the purposes of these guidelines to allow for open program submission for the entire calendar year.~~

~~2024 Calendar Year~~	~~Action Item~~
~~September 25, 2024~~	~~Second Draft of AAL Guidelines posted for 30-day public comment period~~
~~TBD~~	~~AAL Guideline Public Hearing – receive additional public comment~~
~~October 25, 2024 at 5 PM EST~~	~~AAL Public Comment period closes~~
~~November 20, 2024~~	~~Final Draft of AAL Guidelines reviewed/approved by the OHFA Board~~
~~November 21, 2024~~	~~Application packages available no later than this date.~~
~~December 12, 2024 at 5 PM EST~~	~~Final day to submit AAL projects in 2024*.~~
~~2025 and After~~	
	~~Must follow the 4% LIHTC QAP Application Calendar~~

~~* This supersedes the 4% LIHTC QAP calendar and is only for AAL projects submitting in 2024.~~See the 4% LIHTC QAP for application calendar.

D. Fee Schedule

Non-refundable fees noted below must be submitted with the respective item.

Fee Type	When is it due?	Fee Amount
Affordable Assisted Living Application Fee	Final Application	$5,000
4% LIHTC Final Application Fee	Final Application	$3,500
Reservation Fee	With 42(m) issuance	6% of the annual LIHTC reservation
Compliance Monitoring Fee	With 8609 request	$2,400 per unit

Application fees must be paid using Automated Clearing House (ACH) by the Proposal Application or Final Application deadline, as applicable. OHFA will not accept checks. Please note, OHFA does not have an online ACH payment portal. Payments should be submitted via your bank. ACH/Wiring payment instructions are included on OHFA's File Transfer Site (FTS).

E. Threshold Requirements

New Construction Only

OHFA limits the development of AAL to new construction properties only.

Service Optionality

In accordance with **26 C.F.R. §1.42-11(b)(1)**, services cannot be a required condition of occupancy; otherwise, such services must be included in gross rent. If the owner also acts as the service provider, practical alternatives to such services must be offered to tenants. Additionally, **O.A.C. Rule 5160-44-01(B)(5)** requires individual choice regarding services and supports, and who provides them.

Continual or Frequent Services and Memory Care

In accordance with **26 C.F.R. §1.42-11(b)(2)**, continual or frequent nursing, medical, or psychiatric services are prohibited because the Internal Revenue Service (IRS) presumes such services are not optional. Therefore, memory care as defined in **O.A.C. Rule 173-39-02.16(A)(4)** is not allowable in AAL facilities. Developers and owners shall not assume memory care assisted living service rates or designate a memory care unit within an AAL Residential Care Facility.

In accordance with **O.A.C. Rule 3701-16-09.1**, AAL residents who require skilled nursing care may not receive such care beyond a part-time, intermittent basis for not more than 120 days in a 12-month period. If a resident's care requires more skilled nursing than is permitted, the AAL facility shall transfer or discharge the resident in accordance with **R.C. §3721.16** and **O.A.C. Chapter 3701-61**.

Commitment to Qualify as a Residential Care Facility

To receive the base assisted living rate, critical access assisted living rate or reimbursement from a MyCare Ohio managed care organization, a provider must maintain a current Residential Care Facility (RCF) license from the Ohio Department of Health (ODH). All AAL owners must commit to securing an **RCF license** upon the first building's non-acquisition placed-in-service date. At submission of IRS Form 8609, the provider must furnish the property's approved **RCF Licensure Application** in accordance with **O.A.C. Rule 3701-16-03** and **ODA Assisted Living Provider Certification** in accordance with **O.A.C. Chapter 173-39**. OHFA will collaborate with ODH to receive the annual survey regarding RCF compliance.

Acceptance of Ohio Medicaid Waivers

Developers and owners must commit to accepting Ohio Medicaid Assisted Living and MyCare Ohio Waiver recipients for all residential units, regardless if such units are LIHTC units for the purposes of the LIHTC applicable fraction referenced in **26 U.S.C. §42(c)(B)**. Occupancy must not be conditioned on the ability of a prospective tenant to privately pay for services until such tenant qualifies for an Ohio Assisted Living or MyCare Ohio waiver. Additionally, occupancy must not be conditioned on a prospective tenant's ineligibility for an Ohio Assisted Living or MyCare Ohio waiver.

Separate Lease and Services Agreement

Residents of AAL properties must be provided with a separate lease and services agreement. The lease shall only cover traditional residential services and the cost of such services whereas the services agreement shall outline the fees for assisted living services and clearly state such services are optional. Services agreements shall also include a resident acknowledgement that services are optional. A template lease with a **LIHTC Lease Addendum** and a template services agreement must be provided at Final Application.

Additional Market Study Requirements

In addition to meeting the requirements outlined in the most current Market Study Standards of the **LIHTC Rental Underwriting Guidelines**, market studies for AAL applications must include the following information:

- A description of the assisted living services that will be provided with associated costs
- Information on other assisted living Residential Care Facilities in the primary market area including the number of units for which Ohio Assisted Living waivers are accepted
- The number of prospective tenants in the primary market area who income qualify under the respective LIHTC income limits established in the proposed project's Affordable Housing Funding Application (AHFA) and qualify for an Ohio Assisted Living or MyCare Ohio waiver based on financial and need-based

requirements

Additional Public Notification Requirements

In addition to meeting the Public Notification requirements outlined in the most current **4% LIHTC QAP**, AAL applications must include a public notice to the applicable **Ohio Area Agency on Aging (AAA) Service Region** Director using the **OHFA Template for Public Notification Letters**.

F. AAL-Specific Underwriting Standards

In addition to meeting the requirements outlined in the most current **LIHTC Rental Underwriting Guidelines**, AAL applications must comply with the following standards:

- A vacancy rate of 10% must be applied to all residential and fee income for AAL properties.
- Service income must be underwritten at the most recently approved Ohio Medicaid Assisted Living waiver **Base Assisted Living Rate.** Critical access incentive payments as outlined in **R.C. 5165.23** will only be considered if the owner commits to achieving 50% resident enrollment in the Assisted Living Waiver and MyCare Ohio Waiver.
- All utilities must be owner-paid and incorporated into the operating budget.
- Due to the more robust staffing model required for AAL and the lack of OHFA-funded LIHTC comparables, owners must submit at least two years of audited financial statements for at least two other assisted living facilities in the organization's Real Estate Owned (REO) schedule which accept Ohio Medicaid Assisted Living, MyCare Ohio, or comparable out-of-state waivers. Owners may submit an exception request and propose a reasonable alternative if they do not have two years of audited financial statements for affordable assisted living facilities.
- The service coordination expense limitation for AAL properties is waived.
- A minimum two months of first stabilized year operating expenses, hard debt service, and replacement reserves or the amount required by the equity investor and lender, whichever is greater.

In the event of discrepancies between the LIHTC Rental Underwriting Guidelines and these Guidelines, these Guidelines will control for AAL properties.

G. Additional Experience and Capacity Standards

If entities met Experience and Capacity requirements as outlined in the 4% LIHTC QAP during the calendar year and received approval from OHFA staff, an additional 4% LIHTC QAP Experience and Capacity Review is not required for that calendar year. However, applicants must disclose changes to any entity between the experience and capacity review and application. OHFA may disqualify applications that do not maintain the core competency and experience necessary to successfully develop and manage a project.

In addition to meeting the Experience and Capacity requirements outlined in the most current 4% LIHTC Qualified Allocation Plan, AAL applications must comply with the following standards:

- Owners must have experience with at least two assisted living facilities in Ohio or another state as demonstrated by certification as a Residential Care Facility in Ohio or a comparable certification in another state.
- The management company must have LIHTC experience as evidenced by a current management agreement on at least two existing LIHTC projects.
- The Medicaid services provider must have experience providing all of the basic Assisted Living Services as defined in **O.A.C. Rule 173.39-02.16(A)(2).**

Entities must receive approval for Experience and Capacity review for the AAL standards for a calendar year. However, applicants must disclose changes to any entity between the experience and capacity review

and application. OHFA may disqualify applications that do not maintain the core competency and experience necessary to successfully develop and manage a project.

H. Placed in Service

For the purposes of section 42, the term "placed in service" is the date on which the building is ready and available for its specifically assigned function, i.e. the date on which the first unit in the building is certified as being suitable for occupancy in accordance with state or local law. Therefore, for AAL projects, OHFA will utilize the Residential Care Facility (RCF) license date for the property as the placed in service date.

~~H. AAL-Specific Architectural Standards~~

~~This section provides clarification and modifications to how the current **Design and Architectural Standards (DAS)** will apply to AAL properties. Any DAS requirements not specifically mentioned or modified by this section remain in full force and effect, including the provision for submitting exception requests. The below sections are identified based on the organization of the DAS. All numbering and lettering correspond to the DAS. AAL applications must comply with the current DAS as modified by the following standards:~~

~~Dedicated Program Space~~

~~Dedicated Program Space, combined with Common Area space, shall not exceed % of the total gross building square footage for AAL properties.~~

~~*Clarification to existing requirements:*~~

- ~~Dedicated Program Space is defined as a room or space outside the residential living unit designed exclusively for tenant use or benefit that has a fixed, program driven purpose. Dedicated Program Space includes but it not limited to:~~
  - ~~RCF community spaces as defined by the OAC for are considered dedicated program space.~~
  - ~~Commercial kitchens for preparing resident meals~~
  - ~~Wellness and health clinic areas~~
  - ~~Counseling space~~
  - ~~Staff-assisted bathing facility~~
  - ~~If provided, Power Mobility Device (PMD) parking and charging spaces~~
  - ~~Housekeeping areas used by staff will be program space such as laundry areas and housekeeping closets~~
- ~~Any additional spaces must be approved by OHFA through the Exception Request process.~~

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~~DAS Section C. Code Compliance~~

~~*Clarification to existing requirements:*~~

~~*All developments must conform to the below requirements*~~

- ~~The design requirements for Residential Care Facilities in O.A.C. Rules 3701-16, including but not limited to **O.A.C. Rules 3701-16-13, 3701-16-14,3701-16-15, and 3701-16-16**~~
- ~~Residents must be allowed access to enter and exit the facility at will.~~

~~DAS Section F. Adaptability & Accessibility~~

~~*Clarification to existing requirements:*~~

- ~~20% of the residential units must meet Section 504 Mobility standards~~
- ~~10% of the residential units must meet Section 504 Sensory standards~~
  - ~~Audio/visual notification systems (doorbell horn/chime/strobe) must be user adjustable.~~

~~DAS Section K. Site and Exterior~~

~~*Only subsections that have differences in requirements are identified.*~~

~~9. Outdoor Recreational Features~~

~~Trash enclosures, which are only accessible by staff, do not need to meet accessibility requirements.~~

~~DAS Section L. Interior Requirements~~

~~*Only subsections that have differences in requirements are identified.*~~

~~1. Durable Materials - Interior~~

- ~~All outside corners in common areas and units must have corner guards.~~
- ~~In common areas and Section 504 mobility units, baseboards shall be impact resistance and at least 7.25" high to accommodate impact from mobility devices.~~

~~2. Building Systems~~

- ~~An automatic sprinkler system is required in accordance with **OAC 1301:7-7-09** Fire protection systems (f) 903.2.6 Group I.~~
- ~~Residential unit appliances shall be 100% electric.~~
- ~~HVAC must be in a room or enclosure either locked or not readily accessible without tools or propose other HVAC units that would assist in regulatory compliance, including but not limited to OAC 3701-16-16.~~
- ~~Electrical panels must be locking type requiring key access.~~

~~*Clarification to existing requirements:*~~

- ~~Vertical Terminal Air Conditions (VTAC) are allowable in a locked utility closet.~~
- ~~AC condenser units may not be located outside bedroom windows and must be screened from resident view from any ground floor window.~~
- ~~Central boilers (domestic water and heat), commercial kitchens, and common area central air systems may be any energy source. Note: The choice of energy source could be impacted by the Green Standard selected under the DAS.~~

~~3. Common Areas~~

- ~~All common area entry doors (entries, offices, craft rooms, library, social workers, etc.) shall have one of the following measures, at minimum, to allow residents using mobility devices passage through a door prior to the closing sequence:~~

~~1. Delay-action closers with five-second slow close.~~

~~2. Standard ADA-compliant overhead closers with automatic door operation hardware (push pad or electric motion sensor).~~

~~3. Standard ADA-compliant overhead closers with door hold-opens tied to the fire alarm system.~~

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- All common area doors shall have kick/ impact plates or be high-pressure laminate (HPL) doors.
- Common Area, combined with Designated Program Space, shall not exceed 50% of the total gross building square footage for AAL properties.

Clarification to existing requirements:

- Common area community kitchen, employee kitchens (i.e. employee lunchroom), etc. must meet Section 504 for 34" high sinks and countertops. Commercial kitchens for preparation of resident meals are considered Dedicated Program Space.

5. Interior Doors

- At minimum, all Section 504 unit entry doors shall have delay-action closers with five second slow close to allow residents using mobility devices passage through a door prior to the closing sequence.
- Unit entry doors shall have kick/ impact plates or be high-pressure laminate (HPL) doors.

6. Floor Covering

Clarification to existing requirements:

- Carpet may only be utilized in bedrooms and offices and must meet durability requirements in DAS 1.5.4. However, carpet is not recommended or required.

8. Unit Sizes

- 100% of residential units must be on an accessible level on an accessible path and must have an accessible path throughout the unit.
  - Open plan designs are recommended.

Clarification on existing requirements:

- Two bedroom and larger units are not permitted. Two-bedroom units may be allowed by Exception Request.
- No "Semi-Private" rooms will be permitted.

10. Bathrooms

- Wall hung sinks are not permitted in AAL residential units.
- If utilizing residential towel bars, proper in-wall blocking must be utilized to provide load-bearing capacity.

Clarification to existing requirement:

- 100% of resident bathrooms must meet mobility requirements as detailed in DAS 10.5 and Section 504.
- Resident bathrooms must have accessible storage within the bathroom.

11. Kitchen & Appliances

Clarification to existing requirements:

- 504 Mobility units must have removeable sink base cabinets in the kitchen if sink bases are provided.
- All appliances must have the 12"x15" Appliance Free Counter Space (AFCS) per DAS 11.4, 11.5, 11.6.

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- ~~Because RCF facilities must provide a common dining area and coordinate three meals per day for residents in accordance with **O.A.C. Rule 173-39-02.16**, the standalone range requirement is waived.~~
  - ~~Because a practical alternative for tenants to obtain meals must be provided in accordance with **26 C.F.R. §1.42-11(b)(1)**, a microwave (or other cooking appliance), prep area, sink, and refrigerator must be provided in all residential units.~~
- ~~All kitchen sinks and faucets must be sized compatibly to receive all water inside the sink regardless of faucet swivel. Faucets may not swivel beyond the edge of the sink.~~
- ~~Refrigerators must be seven cubic feet at minimum with all internal drawers and shelves in the accessible reach zone.~~
- ~~All units must have designated counter space for microwaves or other cooking appliances with AFCS per above.~~
  - ~~These cooking appliances must have a dedicated 20-amp outlet.~~
  - ~~Undercounter microwaves are prohibited.~~

~~Amends 11.8 requirements, Adaptable Cooking Options:~~

- ~~Install unit electrical subpanel within 12-15' of a future range location with a raceway (i.e. conduit) in which a range power cable can be installed with minimal disruption of existing infrastructure. Raceway (i.e. conduit) must include pull string for future electrical installation.~~
  - ~~The kitchen must have a dedicated 20-amp appliance circuit on the countertop in addition to the NEC required kitchen circuits and outlets.~~
  - ~~The kitchen must have a future location for a future 220v 30amp min range and 110v recirculation hood.~~
  - ~~Future Location must allow for the installation of a recirculating hood with suppression cans with modification to cabinets and counters that meet equivalent storage and usable counter area.~~
  - ~~When installed, 36" high ranges for all units, except Section 504 units must have range/drop-in stove (34" high with site casework base).~~
- ~~34" high counter and stove is only required in the Section 504 Mobily units.~~

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