



**STATE OF FLORIDA  
BUILDING COMMISSION**

In the Matter of

CITY OF OCALA GROWTH  
MANAGEMENT

**DS 2019-007**

Petitioner.

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**DECLARATORY STATEMENT**

The foregoing proceeding came before the Florida Building Commission (Commission) by a Petition from Derek Wiechmann, for the City of Ocala Growth Management, Building Division, (Petitioner) that was received February 1, 2019. Based on the statements in the petition, the material subsequently submitted and the subsequent request by the Petitioner, the Commission states the following:

**Findings of Fact**

1. The petition is filed pursuant to, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. Petitioner's representative in this matter is Derek Wiechmann, 201 SE 34th Street, 2nd Floor, Ocala, FL 34471.
3. Petitioner's building department anticipates the submission of certain townhouse building plans for review. The proposed townhouse will have two floors above the bottom floor garage level, for a maximum of three stories above grade, with three or more units attached, all of which will be separated by two-hour firewalls
4. Petitioner seeks clarification of section 903.2.8, Florida Building Code, Building, 6th Edition (2017), as it pertains to requirements for fire sprinklers in structures.

5. Specifically, the Petitioner requests an answer to the following questions based upon the project described within the petition for declaratory statement:

1. Does section 903.2.8, Florida Building Code, Building, 6th Edition (2017), apply to the proposed townhouse building?

2. Are fire sprinklers required in the building?

### **Conclusions of Law**

6. The Commission has the specific statutory authority pursuant to Section 553.775(3)(a), Florida Statutes (2018) to interpret the provisions of the Florida Building Code by issuing a declaratory statement.

7. Section 101.2, Florida Building Code, Building, 6th Edition (2017), states:

#### **Scope.**

The provisions of this code shall apply to the construction, *alteration*, relocation, enlargement, replacement, *repair*, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

#### **Exceptions:**

1. Detached one- and two-family *dwelling*s and multiple single-family *dwelling*s (*townhouses*) not more than three *stories above grade plane* in height with a separate *means of egress*, and their accessory structures not more than three *stories above grade plane* in height, shall comply with the Florida Building Code, Residential.

8. Section 310.1, Florida Building Code, Building, 6th Edition (2017), specifies that “[r]esidential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the Florida Building Code, Residential.”

9. Section 903.2.8, Florida Building Code, Building, 6th Edition (2017), states that “[a]n *automatic sprinkler system* installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R *fire area*.”

10. Section 903.2.11.3, Florida Building Code, Building, 6th Edition (2017), states, in part:

**Buildings three stories or more in height.**

Any building which is of three stories or more in height shall be equipped with an approved automatic sprinkler system installed in accordance with Section 903.1.

**Exceptions:**

1. Single- and two-family dwellings.

11. Section R202, Florida Building Code, Residential, 6th Edition (2017), defines a townhouse as a “single-family *dwelling unit* not exceeding three stories in height constructed in a group of two or more attached units with property lines separating such units in which each unit extends from foundation to roof and with a *yard* or public way on not less than two sides.”

12. Section R302.2, Florida Building Code, Residential, 6th Edition (2017), states:

**Townhouses.**

Each townhouse shall be considered a separate building and shall be separated by separate fire resistance rated exterior wall assemblies meeting the requirements of zero clearance from property lines of Section R302.1 for exterior walls.

**Exception:** A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E119, UL 263, or in accordance with the Florida Building Code, Building Section 722 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall unless such materials and methods of penetration comply with Section R302.4. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

equipped with an approved automatic sprinkler system installed in accordance with Section 903.1.

13. Section R313, Florida Building Code, Residential, 6th Edition (2017), titled “Automatic Fire Sprinkler Systems,” is listed as “reserved” and presents no requirements.

14. Finally, section 553.73(17), Florida Statutes, states that:

A provision of the International Residential Code relating to mandated fire sprinklers may not be incorporated into the Florida Building Code as adopted by the Florida Building Commission and may not be adopted as a local amendment to the Florida Building Code. This subsection does not prohibit the application of cost-saving incentives for residential fire sprinklers that are authorized in the International Residential Code upon a mutual agreement between the builder and the code official. This subsection does not apply to a local government that has a lawfully adopted ordinance relating to fire sprinklers which has been in effect since January 1, 2010.

15. The answer to Petitioner’s first question is no. Pursuant to section 101.2, Florida Building Code, Building, 6th Edition (2017), the project in question falls within the scope of the residential sections of the Florida Building Code; therefore, section 903.2.8, Florida Building Code, Building, 6th Edition (2017), does not apply to the townhouse in question.

16. The answer to Petitioner’s second question is no. In accordance with section R313, Florida Building Code, Residential, 6th Edition (2017), the townhouse in question is not required to be sprinkled.

17. Note that these answers are predicated on the understanding that there is no lawfully adopted ordinance relating to fire sprinklers which has been in effect since January 1, 2010, and which has any bearing on this project

[SIGNATURE PAGE FOLLOWS]

DONE AND ORDERED this 17 day of APRIL, 2019, in St. Augustine, St.

Johns County, State of Florida.



JAMES R. SCHOCK

Acting Chairman, Florida Building Commission

NOTICE OF RIGHT TO APPEAL

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes (2018), and Florida Rules of Appellate Procedure 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with the Agency Clerk, Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399-2203 and with the appropriate District Court of Appeal not later than thirty (30) days after this Order is filed with the Clerk of the Department of Business and Professional Regulation. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by Section 35.22(3), Florida Statutes (2018).

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been filed with the undersigned and furnished by U. S. Mail to the persons listed below this 26<sup>th</sup> day of April, 2019.

*Brandon M. Nichols*

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Agency Clerk's Office  
Department of Business and Professional Regulation  
& Florida Building Commission  
2601 Blair Stone Road  
Tallahassee, Florida 32399-2203

**Via U.S. Mail**

City of Ocala  
Attn: Derek Wiechmann  
201 SE 34th Street, 2nd Floor  
Ocala, FL 34471

**Via Inter-Office or Email Delivery**

Mo Madani, Planning Manager  
Codes and Standards Section  
Department of Business and Professional  
Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399  
Mo.Madani@myfloridalicense.com

Marjorie Holladay  
Joint Administrative Procedures Committee  
Pepper Building, Room 680  
Tallahassee, Florida 32399-1300

**FILED**  
Department of Business and Professional Regulation  
Deputy Agency Clerk  
CLERK Brandon Nichols  
Date 2/1/2019  
File #

PETITION FOR DECLARATORY STATEMENT  
Before the Florida Building Commission

Petitioner:

Derek Wiechmann, PG, CBO  
Building Official  
City of Ocala Growth Management, Building Division  
201 SE 3RD Street, 2ND Floor  
Ocala, FL 34471  
Email: DWiechmann@Ocalafl.org  
Phone: (352) 629-8421

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Statute(s), Agency Rule(s), Agency Order(s) and/or Code Section(s) on which the Declaratory Statement is sought:

2017 Florida Building Code, Residential, Section R202 Definitions.  
2017 Florida Building Code, Residential, SECTION R302 FIRE-RESISTANT CONSTRUCTION, R302.2 Townhouses.  
2017 Florida Building Code, Building, SECTION 903 AUTOMATIC SPRINKLER SYSTEMS, [F] 903.2.8 Group R.

Background:

A contractor in Ocala is currently in the process of submitting townhouse building plans to our office, clarification on sections of the code are requested which may reduce the cost of future developments, and to ensure that the townhouse buildings are in compliance with the current Florida Building Code, Residential. The plans are designed per the 2017 Florida Building Code, Residential, SECTION R302 FIRE-RESISTANT CONSTRUCTION, R302.2 Townhouses. The townhouse building will have 2 floors above the bottom floor garage level for a maximum of 3 stories above grade, 3 or more units attached, all units separated by 2-hour fire walls, and meets CHAPTER 2 DEFINITIONS, SECTION R202 DEFINITIONS, [RB] TOWNHOUSE. A single-family dwelling unit not exceeding three stories in height constructed in a group of two or more attached units with property lines separating such units in which each unit extends from foundation to roof and with a yard or public way on not less than two sides.

Questions:

Does the 2017 Florida Building Code, Building, SECTION 903 AUTOMATIC SPRINKLER SYSTEMS, [F] 903.2.8 Group R, apply to this townhouse building?

Are fire sprinklers required?

Summary:

Petitioner believes that fire sprinklers are not required for townhouses meeting the exact definition per 2017 Florida Building Code, Residential, CHAPTER 2 DEFINITIONS, SECTION R202 DEFINITIONS, [RB] TOWNHOUSE, and the residential code applies not the commercial building code. Petitioner does not request a hearing; a written clarification will be sufficient.

Respectfully submitted this 31 day of January, 2019.

By: Derek Wiechmann  
Derek Wiechmann, Building Official