

Issue: DS 2020-041: The petitioner Brian Ray, President of OFK LLC is seeking a declaratory statement on whether the project in question is eligible for design and construction according to the 2020 Florida Building Code Residential volume.

Petitioner seeks clarification of the following questions:

Question 1: Would the project in question be eligible for design and construction according to the 2020 Florida Building Code Residential?

Question 2: For the project in question does the 2020 Florida Building Code, Residential require fire sprinklers for townhouse dwellings?

Question 3: Is section 903.2.11.3 or section 903.2.11.3.1 of the 2020 Florida Building Code, Building applicable to the project in question?

Background:

According to the Petitioner, the project in question consists of 12 attached single family dwellings all 3 stories in height. The project meets the definition of "Townhouse" as described in section R202 of the 2020 Florida Building Code, Residential. In addition all dwellings will be separated from the adjacent dwelling with a 2-hr fire rated area separation wall in accordance with Section R302.2 of the 2020 Florida Building Code, Residential.

7th Edition (2020) Florida Building Code, Residential - Chapter 1

R101.2 Scope.

The provisions of the Florida Building Code, Residential shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, *equipment*, use and occupancy, location, removal and demolition of **detached one- and two-family dwellings and 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.**

Exceptions:

1. Live/work units located in *townhouses* and complying with the requirements of Section 419 of the Florida Building Code, Building shall be permitted to be constructed in accordance with the Florida Building Code, Residential. Fire suppression required by Section 419.5 of the Florida Building Code, Building where constructed under the Florida Building Code, Residential shall conform to Section P2904.
2. Owner-occupied lodging houses with five or fewer guestrooms shall be permitted to be constructed in accordance with the Florida Building Code, Residential where equipped with a fire sprinkler system in accordance with Section P2904.

- Existing buildings undergoing repair, alteration, additions or change of occupancy shall comply with the Florida Building Code, Existing Building.

7th Edition (2020) Florida Building Code, Residential - Chapter 2

[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.

7th Edition (2020) Florida Building Code, Residential Chapter 3

R302.2 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 Chapter 34. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

R302.2.1 Continuity.

The fire-resistance-rated wall or assembly separating *townhouses* shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed *accessory structures*.

SECTION R313 AUTOMATIC FIRE SPRINKLER SYSTEMS

RESERVED

7th Edition (2020) Florida Building Code, Building

[A] 101.1 Title. These regulations shall be known as the *Florida Building Code*, hereinafter referred to as “this code.”

[A] 101.2 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*.

2. Code requirements that address snow loads and earthquake protection are pervasive; they are left in place but shall not be utilized or enforced because Florida has no snow load or earthquake threat.

[F]903.2.11.3 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.
2. A stand-alone parking garage constructed with noncombustible materials, the design of which is such that all levels of the garage are uniformly open to the atmosphere on all sides with the percentages of openings equal to or greater than those specified in Section 406.3. Such garages shall be separated from any other structure by not less than 20 feet (6096 mm). A stand-alone parking garage is one that is solely for the parking of vehicles and does not have any other occupancy group in the building.
3. Telecommunication spaces located within telecommunication buildings, if the spaces are equipped to meet an equivalent fire prevention standard approved by both the Florida Building Commission and the State Fire Marshal.
4. Telecommunications spaces within telecommunication buildings, if the telecommunications space is equipped with:
 - 4.1. Air sampling smoke detection.
 - 4.2. Remote, proprietary or central station fire alarm monitoring.
 - 4.3. Automatic smoke exhaust system.
 - 4.4. One-hour fire-resistance wall separating the telecommunications space from the adjacent areas on the same floor.
 - 4.5. Two-hour floor/ceiling assembly separating the telecommunications space from adjacent floors.
 - 4.6. All other portions ancillary to the telecommunications equipment area shall be provided with fire sprinkler protection.
5. Sprinkler systems installed solely as a requirement of Section 903.2.11.3 may be a NFPA 13R or NFPA 13D system in accordance with their scopes.

903.2.11.3.1

NFPA 101 as adopted by Florida Fire Prevention Code, as regarding the requirements for fire protection sprinklers, is applicable to all multiple-family residential buildings,

whether designated as townhouses, condominiums, apartment houses, tenements, garden apartments or by any other name. The attorney general has determined that for the purpose of the fire protection sprinkler requirements in Section 553.895(2), Florida Statutes, townhouses that are three or more stories tall and consist of three or more units together are multiple-family dwellings. Therefore, these types of townhouses are not exempt from being considered for the requirements to provide fire protection sprinklers (even if there are any other definitions that define a townhouse as a single-family residence). When determining whether townhouses require fire protection sprinkler systems, the building official must consider in parallel: (a) the attorney general's opinion defining the statutory language for townhouses; (b) the building code requirements, including all life-safety chapters, that provide additional determining criteria, such as construction types, fire resistance, fire protection systems and egress; and (c) the NFPA 101 as adopted by Florida Fire Prevention Code, egress and protection determining criteria. The more restrictive criteria are then applied.

Florida Statutes

553.73 Florida Building Code.—

(17) 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.

Staff Analysis

Option #1/Petitioner:

Question 1: Would the project in question be eligible for design and construction according to the 2020 Florida Building Code Residential?

Question 2: For the project in question does the 2020 Florida Building Code, Residential require fire sprinklers for townhouse dwellings?

Question 3: Is section 903.2.11.3 or section 903.2.11.3.1 of the 2020 Florida Building Code, Building applicable to the project in question?

Answer to questions 1, 2 and 3:

It is the Petitioner's believe that the townhouse project in question should be eligible to be designed and constructed per the 2020 Florida Building

Code, Residential. Based on the Petitioner's understanding of the 2020 Florida Building Code, Residential, the Petitioner does not believe fire sprinklers are required for 3 story townhomes. The Petitioner also does not believe requirements from other codes, including the 2020 Florida Building Code are applicable. Given that the Petitioner does not believe Section 903.2.11.3 or Section 903.2.11.3.1 of the 2020 Florida Building Code are applicable or enforceable to the project in question. The Petitioner believes that his task is to design and construct his project exclusively per 2020 Florida Building Code, Residential.

Option #2/Staff:

Question 1: Would the project in question be eligible for design and construction according to the 2020 Florida Building Code Residential?

Answer: The answer to the Petitioner's question is yes. As per section R101.2 Scope and the definition of the term "Townhouse" of Chapter 2 Definition of the 7th Edition (2020) Florida Building Code, Residential, the project in question falls within the scope of the 7th Edition (2020) Florida Building, Residential.

Question 2: For the project in question does the 2020 Florida Building Code, Residential require fire sprinklers for townhouse dwellings?

Answer: The answer to the Petitioner's question is no. As per section R313 Automatic Fire Sprinkler Systems of the 7th Edition (2020) Florida Building Code, Residential, which marked "Reserved", fire sprinklers are not required for the project in question.

Question 3: Is section 903.2.11.3 or section 903.2.11.3.1 of the 2020 Florida Building Code, Building applicable to the project in question?

Answer: The answer to the Petitioner's question is no. As per section 102.1 Scope (Exception 1) of the 7th Edition (2020) Florida Building Code, Building, compliance with the 7th Edition (2020) Florida Building Code, Residential is a standalone compliance option to that of the 7th Edition (2020) Florida Building Code, Building, therefore, sections 903.2.11.3 and 903.2.11.3.1 of the 7th Edition (2020) Florida Building Code, Building do not apply to the project in question.