



Florida Building Code Binding Interpretation Report Number 179

Date: March 3, 2020

Report: 179

Code Edition: 6th Edition (2017)

Section: 310.1 – Use and Occupancy Classification: Residential Group R

Text of code provisions:

RESIDENTIAL GROUP R

310.1 Residential Group R. Residential 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*.

310.2 Definitions. The following terms are defined in Chapter 2:

BOARDING HOUSE.

CONGREGATE LIVING FACILITIES.

DORMITORY.

GROUP HOME.

GUEST ROOM.

LODGING HOUSE.

PERSONAL CARE SERVICE.

TRANSIENT.

310.3 Residential Group R-1. Residential Group R-1 occupancies containing *sleeping units* where the occupants are primarily *transient* in nature, including:

Boarding houses (transient) with more than 10 occupants

Congregate living facilities (transient) with more than 10 occupants

Hotels (*transient*)

Motels (*transient*)

310.4 Residential Group R-2. Residential Group R-2 occupancies containing *sleeping units* or more than two *dwelling units* where the occupants are primarily permanent in nature, including:

Apartment houses

Boarding houses (nontransient) with more than 16 occupants

Congregate living facilities (nontransient) with more than 16 occupants

Convents

Dormitories
Fraternities and sororities
Hotels (nontransient)
Live/work units
Monasteries
Motels (nontransient)
Vacation timeshare properties

310.5 Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

Buildings that do not contain more than two *dwelling units*
Boarding houses (nontransient) with 16 or fewer occupants
Boarding houses (transient) with 10 or fewer occupants
Care facilities that provide accommodations for five or fewer persons receiving care
Congregate living facilities (nontransient) with 16 or fewer occupants
Congregate living facilities (transient) with 10 or fewer occupants
Lodging houses with five or fewer *guest rooms*

310.5.1 Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *Florida Building Code, Residential* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or Section P2904 of the *Florida Building Code, Residential*.

310.5.2 Lodging houses. Owner-occupied *lodging houses* with five or fewer *guest rooms* shall be permitted to be constructed in accordance with the *Florida Building Code, Residential*.

310.6 Residential Group R-4. Residential Group R-4 occupancy shall include buildings, structures or portions thereof For more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive *custodial care*. Buildings of Group R-4 shall be classified as one of the occupancy conditions specified in Section 310.6.1 or 310.6.2. This group shall include, but not be limited to, the following:

Alcohol and drug centers
Assisted living facilities
Congregate care facilities
Group homes
Halfway houses
Residential board and *custodial care* facilities
Social rehabilitation facilities

Appeal questions requesting a response:

- 1) Does utilizing one unit within a thirteen unit existing condominium building currently classified as R-2 per the certificate of occupancy (attached) as a vacation rental by owner, either transient or non-transient per the FBC, as outlined in Florida Statute Chapter 509 change the use of the unit to "Boarding house(s) transient with 10 or fewer occupants" pursuant to the Florida Building Code Section 310.5, 6th edition?

Answer: No

Comment: Consideration should be given to the term "primarily" used occupancy classification within the Florida Building Code and consider the FS 509.242 language in determining when a change of occupancy occurs.

- 2) 2) Does utilizing one unit within a thirteen unit existing condominium building currently classified as R-2 per the certificate of occupancy (attached) as a vacation rental by owner, either transient or non-transient per the FBC, as outlined in Florida Statute Chapter 509 trigger the requirement to legally change the use and occupancy classification of this dwelling unit from R-2 to R-3 Use and Occupancy Classification per the Florida Building Code, 6th edition?

Answer: No

Comment: Consideration should be given to the term “primarily” used occupancy classification within the Florida Building Code and consider the FS 509.242 language in determining when a change of occupancy occurs.

- 3) 3) Does utilizing one unit within a thirteen unit existing condominium building currently classified as R-2 per the certificate of occupancy (attached) as a vacation rental by owner, either transient or non-transient per the FBC, as outlined in Florida Statute Chapter 509 trigger the requirement to legally change the use and occupancy classification of this dwelling unit from R-2 to R-3 Use and Occupancy Classification per the Florida Building Code - Existing Building Code, 6th edition?

Answer: No

Comment: Consideration should be given to the term “primarily” used occupancy classification within the Florida Building Code and consider the FS 509.242 language in determining when a change of occupancy occurs.

NOTICE:

The Building Officials Association of Florida, in cooperation with the Florida Building Commission, and the Florida Department of Business & Professional Regulation, provides this interpretation of the Florida Building Code in the interest of consistency and application of the Building Code statewide. This interpretation is binding and not subject to acceptance and approval by the local building official.