

**DS 2018-051**

**FILED**

Department of Business and Professional Regulation  
Deputy Agency Clerk

CLERK Brandon Nichols  
Date 6/28/2018  
File #



Mo Madani  
Department of Community Affairs  
2555 Shumard Oaks Boulevard  
Tallahassee, FL 32399-2100

Via E-mail transmission: Mo.Madani@myfloridalicense.com

ARCHITECTURE

Subject: Petition for Declaratory Statement before the Florida Building Commission  
– Requirement for means of vertical accessibility

Dear Mr. Madani:

This letter is to request a declaratory statement from the Florida Building Commission for the future two-story Office building in Seminole County, Florida (see Appendix A). The statement is in regard to the requirement to use an elevator for vertical accessibility in lieu of a Limited-Use / Limited Application Elevator or Platform Lift to achieve vertical accessibility as required by FAC 201.1.1.

It is our opinion that the intent of the Florida Accessibility Code is to allow a Limited-Use / Limited Application Elevator installed per FAC 408 or a Platform Lift installed per FAC 410 in buildings where the ADA would not otherwise require vertical accessibility for the following reasons:

The ADA does not require two story buildings that are not a shopping center, shopping mall or the professional office of a medical provider to have vertical accessibility. FAC Advisory 201.1 Scope states, "Where the ADA Standards do not require an accessible route to each and every level, the Florida requirement may be waived down to the requirement of the ADA Standards." See Appendix B. Advisory 206.2.3 also suggests that the Florida requirements may be waived. "Note: the following advisories on the Exceptions to 206.2.3 are provided for consideration when waiving Florida Vertical Accessibility requirements down to ADA Standards". The advisories that follow reference the exceptions in 206.2.3 that are shown as "Reserved." See Appendix C.

In previous versions of the code, this issue was clear. The 2007 Florida Building Code 11-4.1.3 Exception #1 states "Elevators are not required in facilities that are less than three stories or that have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a healthcare provider, or another type of facility as determined by the U.S. Attorney General." See Appendix D.

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Please answer the following question:

Does the Florida Accessibility Code – Sections 201.1.1 and 206.2.3 allow Limited-Use / Limited Application Elevators or Platform Lifts installed per FAC 408 or 410 to meet the requirements for vertical accessibility in buildings where the ADA does not require vertical accessibility?

Please feel free to contact regarding this request. Thank you.

A handwritten signature in black ink, appearing to read 'Clark M. Stranahan'.

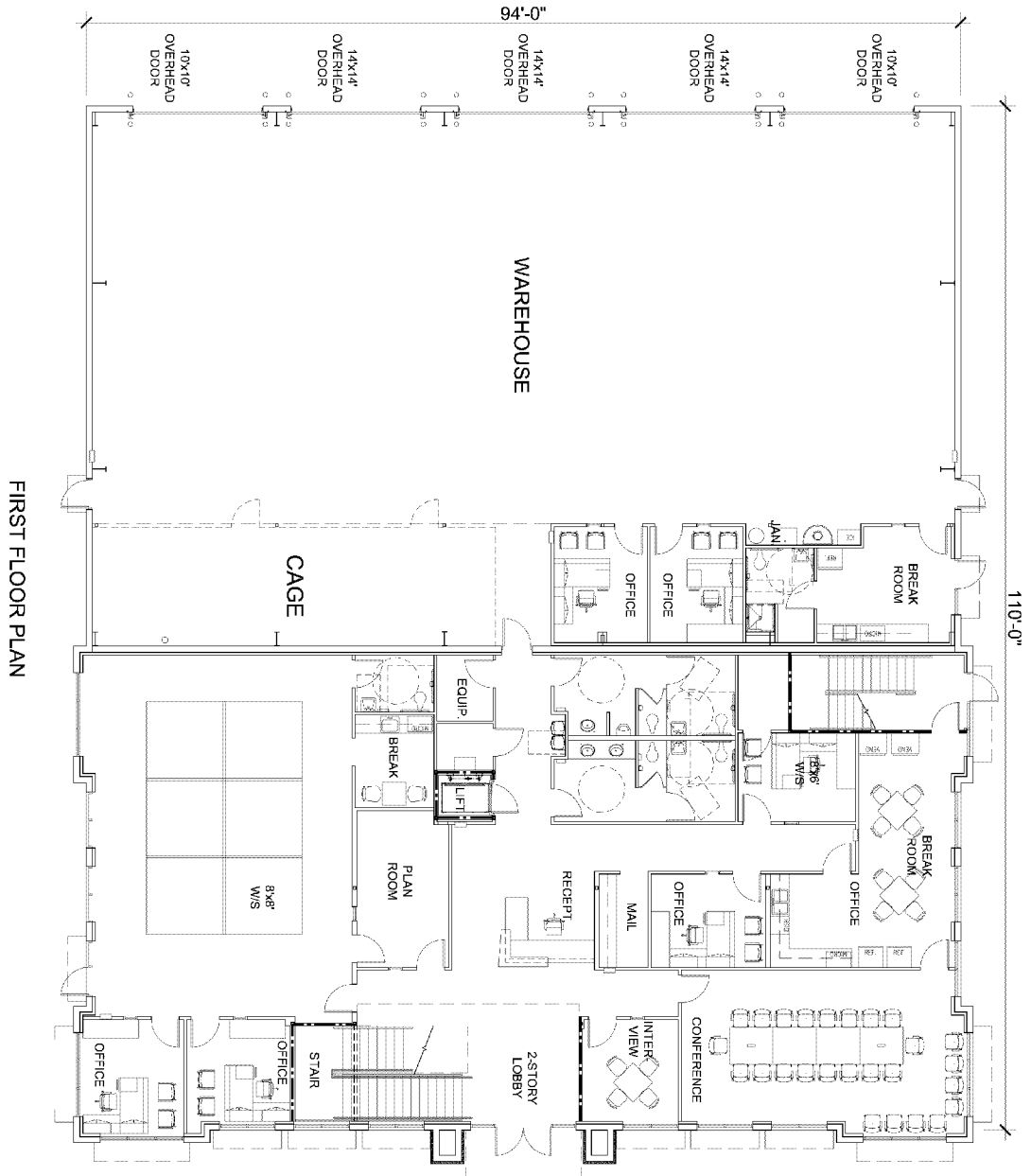
Clark M. Stranahan, NCARB  
Fl. License #AR91246

**RECEIVED**

**JUN 28 2018**

**DBPR Agency Clerk**

# Appendix A



FIRST FLOOR PLAN

## TWO-STORY OFFICE BUILDING

OFFICE BUILDING

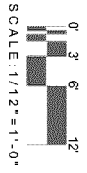
OVIEDO, FLORIDA

JUNE 28, 2018

17199



ARCHITECTURE





0' 3' 6' 12'  
SCALE: 1/12" = 1'-0"

JUNE 26, 2018

# TWO-STORY OFFICE BUILDING

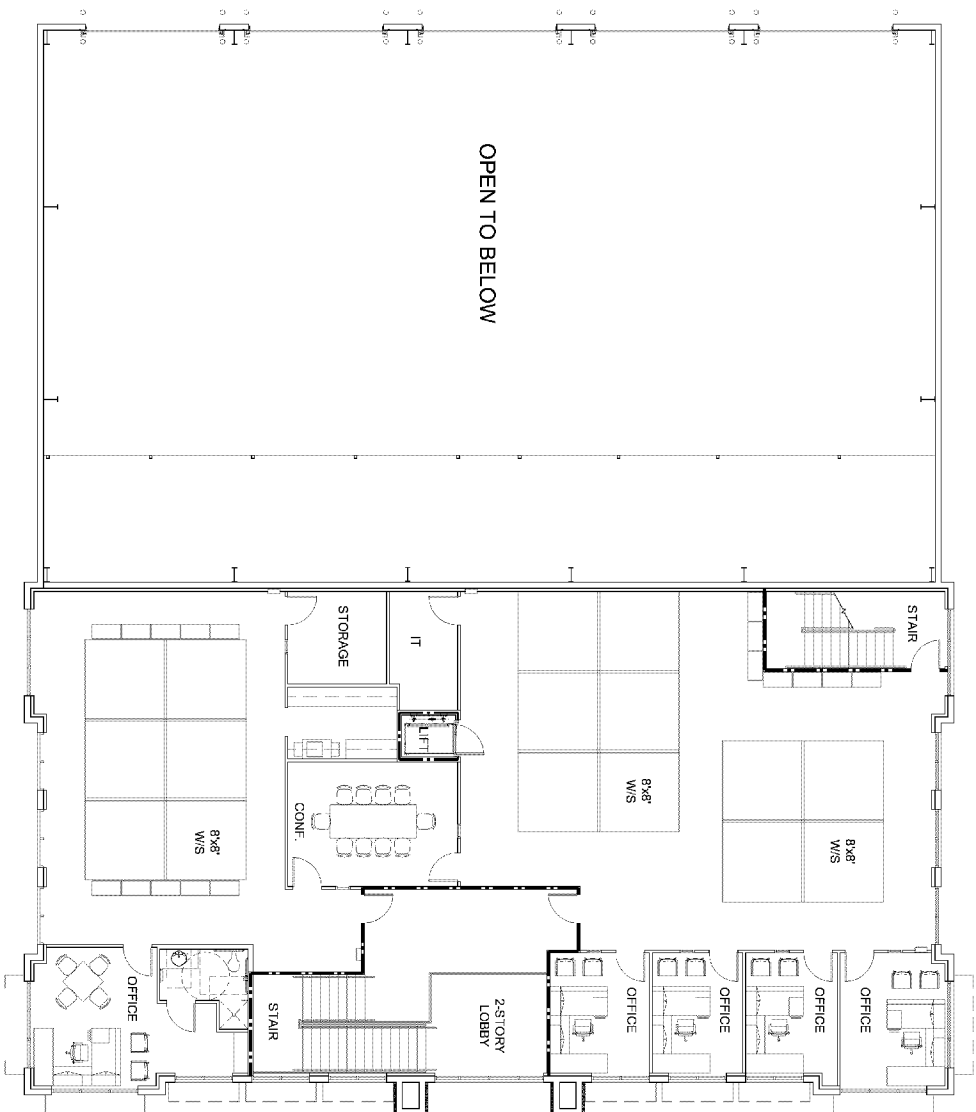
## OFFICE BUILDING

OVIDO, FLORIDA

17199



### 2ND FLOOR PLAN



## CHAPTER 2: SCOPING REQUIREMENTS

### 201 APPLICATION

**201.1 Scope.** This code establishes standards for accessibility to *places of public accommodation* and *commercial facilities* by individuals with disabilities. This code shall also apply: to state and local government *facilities* pursuant to Section 553.503, F.S.; to *private clubs* pursuant to Section 553.505, F.S.; and to residential *buildings* pursuant to Section 553.504(2), F.S., and the ADA Standards for Accessible Design. All new or altered *public buildings and facilities*, *private buildings and facilities*, *places of public accommodation* and *commercial facilities* subject to this code shall comply with this code.

This code applies to: All areas of newly designed and newly constructed *buildings* and *facilities* as determined by the ADA Standards for Accessible Design; portions of altered *buildings* and *facilities* as determined by the ADA Standards for Accessible Design; a *building* or *facility* that is being converted from residential to nonresidential or mixed use as defined by the Florida Building Code where such *building* or *facility* must, at a minimum, comply with s. 553.508, F.S., and the requirements for *alterations* as determined by the ADA Standards for Accessible Design; *buildings* and *facilities* where the original construction or any former *alteration* or renovation was carried out in violation of applicable permitting law.

**201.1.1 Vertical accessibility.** Sections 553.501-553.513, F.S., and the ADA Standards for Accessible Design do not relieve the owner of any *building*, structure or *facility* governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level regardless of whether the Standards require an elevator to be installed in such *building*, structure or *facility*, except for:

- (1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms.
- (2) Unoccupiable *spaces*, such as rooms, enclosed *spaces* and storage *spaces* that are not designed for human occupancy, for *public accommodations* or for work areas.
- (3) Occupiable *spaces* and rooms that are not open to the public and that house no more than five persons, including, but not limited to equipment control rooms and projection booths.
- (4) Theaters, concert halls, and stadiums, or other large *assembly areas* that have stadium-style seating or tiered seating if sections 221 and 802 are met.
- (5) All play and recreation areas if the requirements of chapter 10 are met.
- (6) All employee areas as exempted by 203.9.
- (7) *Facilities*, *sites* and *spaces* exempted by section 203.

*Buildings*, structures and *facilities* must, at a minimum, comply with the requirements of the ADA Standards for Accessible Design.

**Advisory 201.1 Scope.** These requirements are to be applied to all areas of a facility unless exempted, or where scoping limits the number of multiple elements required to be accessible. For example, not all medical care patient rooms are required to be accessible; those that are not required to be accessible are not required to comply with these requirements. However, common use and public use spaces such as recovery rooms, examination rooms, and cafeterias are not exempt from these requirements and must be accessible.

Florida vertical accessibility requires all levels in all new *buildings*, structures and *facilities* and all altered areas of existing *buildings*, structures and facilities to be accessible to persons with disabilities. All new and altered areas must comply with the ADA Standards for Accessible Design including requirements for accessible routes. Where the ADA Standards do not require an accessible route to each and every level, the Florida requirement may be waived down to the requirement of the ADA Standards.

**201.2 Application Based on Building or Facility Use.** Where a *site*, *building*, *facility*, room, or *space* contains more than one use, each portion shall comply with the applicable requirements for that use.

**201.2.1 Commercial facilities and places of public accommodation** located in private residences.

*cilities, accessible elements, and accessible spaces* if the only means of access between them is a *vehicular way* not providing pedestrian access.

**Advisory 206.2.2 Within a Site.** An accessible route is required to connect to the boundary of each area of sport activity. Examples of areas of sport activity include: soccer fields, basketball courts, baseball fields, running tracks, skating rinks, and the area surrounding a piece of gymnastic equipment. While the size of an area of sport activity may vary from sport to sport, each includes only the space needed to play. Where multiple sports fields or courts are provided, an accessible route is required to each field or area of sport activity.

**206.2.3 Multi-Story Buildings and Facilities.** At least one *accessible* route shall connect each *story* and *mezzanine* in multi-story buildings and facilities.

Notwithstanding the requirements and exceptions of this section, section 201.1.1 shall apply.

**EXCEPTIONS:**

1. Reserved.
2. Reserved.
3. Reserved.
4. Reserved.
5. Reserved.
6. Reserved.
7. Reserved.

**Advisory 206.2.3 Multi-Story Buildings and Facilities.** Spaces and elements located on a level not required to be served by an accessible route must fully comply with this code. While a mezzanine may be a change in level, it is not a story. If an accessible route is required to connect stories within a building or facility, the accessible route must serve all mezzanines.

**Advisory 206.2.3 Multi-Story Buildings and Facilities Exceptions.**

Exceptions 1 – 7 are preempted by Florida vertical accessibility requirements of s.553.509, F.S., as incorporated in section 201.1.1. Florida requirements may be waived down to the ADA Standards requirements.

**Note:** *The following Advisories on the Exceptions to 206.2.3 are provided for consideration when waiving Florida Vertical Accessibility requirements down to ADA Standards for Accessible Design.*

**Advisory 206.2.3 Multi-Story Buildings and Facilities Exception 1.** Note that Exception 1 as presented in the 2004 ADAAG must also comply with the elevator exemption criteria of 28 CFR 36.401(d). The elevator exemption is authorized by 28 CFR 36.401(d) and applies only to private entities governed by Title III but not to public entities governed by Title II and 28 CFR, Part 35. Note also that 28 CFR 36.401(d)(2) and (3) provide specific criteria expanding on the criteria of Exception 1 that must be considered in a waiver of Florida vertical accessibility.

**Advisory 206.2.3 Multi-Story Buildings and Facilities Exception 2.** Note that Exception 2 for a required accessible route applies to public entities, is not modified by 28 CFR, Part 35 and parallels the exception for vertical accessibility in s.553.509(1)(c), F.S., and 201.1.1(3).

**Advisory 206.2.3 Multi-Story Buildings and Facilities Exception 4.** Where common use areas are provided for the use of residents, it is presumed that all such common use areas "serve" accessible dwelling units unless use is restricted to residents occupying certain dwelling units. For example, if all residents are permitted to use all laundry rooms, then all laundry rooms "serve" accessible dwelling units. However, if the laundry room on the first floor is restricted to use by residents on the first floor, and the second floor laundry room is for use by occupants of the second floor, then first floor accessible units are "served" only by laundry rooms on the first floor. In this example, an accessible route is not required to the second floor provided that all accessible units and all common use areas serving them are on the first floor.