



Florida Building Code Binding Interpretation

Report Number 317

Date: January 29, 2026

Report: 317

Code Edition: 8th Edition (2023)

Sections:

FBC, Building - Section 310.3

FBC, Accessibility - Sections 106.5, 202.1.1, and 224

8th Edition (2023) Florida Building Code, Building

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)

8th Edition (2023) Florida Building Code, Accessibility

106 DEFINITIONS

106.5 Defined Terms.

Place of Public Accommodation. A facility, operated by a private entity, whose operations affect commerce and fall within at least one of the following categories:

(1) Places of lodging. Except for an establishment located within a facility that contains not more than five rooms for rent or hire and that actually is occupied by the proprietor of the establishment as the residence of the proprietor. For purposes of this part, a facility is a “place of lodging” if it is—

(i) An inn, hotel, or motel; or

(ii) A facility that—

(A) Provides guest rooms for sleeping for stays that primarily are short-term in nature (generally 30 days or less) where the occupant does not have the right to return to a specific room or unit after the conclusion of his or her stay; and

(B) Provides guest rooms under conditions and with amenities similar to a hotel, motel, or inn, including the following—

- (1) On- or off-site management and reservations service;
- (2) Rooms available on a walk-up or call-in basis;
- (3) Availability of housekeeping or linen service; and
- (4) Acceptance of reservations for a guest room type without guaranteeing a particular unit or room until check-in, and without a prior lease or security deposit.

Resort condominiums are considered to be public lodging establishments pursuant to Section 509.242, F.S.;

Resort Condominium. (Section 509.242, F.S.). A resort condominium is any unit or group of units in a condominium, cooperative, or time-share plan which is rented more than three times a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented for periods of less than 30 days or one calendar month, whichever is less (see also, Places of Lodging).

[Note: This definition no longer exists in section 509.242, F.S.; it was removed in 2011.]

Transient Lodging. A building or facility containing one or more guest room(s) for sleeping that provides accommodations that are primarily short-term in nature. Transient lodging does not include residential dwelling units intended to be used as a residence, inpatient medical care facilities, licensed long-term care facilities, detention or correctional facilities, or private buildings or facilities that contain not more than five rooms for rent or hire and that are actually occupied by the proprietor as the residence of such proprietor.

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.

224 TRANSIENT LODGING GUEST ROOMS 224.1 General. Transient lodging facilities shall provide guest rooms in accordance with 224.

Appeal question requesting a response:

Question:

Whether the Sanibel Building Official erred by determining that the Whitecaps South condominium units are “places of lodging” based on the definition of that term in the Florida Building Code Section 106.5, rather than applying the definition of a “place of lodging” in the federal standards, as adopted in 28 CFR 36.104.

Answer:

Notwithstanding the reference to a “resort condominium” in the definition of a “place of public accommodation” in Section 106.5 of the Florida Building Code (FBC), Accessibility, 8th Edition, a privately owned, non-owner-occupied property containing dwelling units that are rented to the public for periods of less than 30 days is generally classified as transient lodging. Accordingly, the projects in question are subject to the requirements of Sections 201.1.1 and 224 of the FBC, Accessibility.

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.