

**PETITION FOR DECLARATORY STATEMENT  
BEFORE THE FLORIDA BUILDING COMMISSION**

Company: OFK Ocala LLC  
Address: 724 Lake Davis Drive Orlando FL 32806  
Name: Brian Ray  
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**DS 2021-041**

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

2020 Florida Building Code, RESIDENTIAL (Portions of Chapters 1, 2, 3)

2020 Florida Building Code (Portion of Chapter 9)

**Background:**

My name is Brian Ray and I'm the Owner of OFK Ocala LLC and the Developer for a future project called One Fort King. I hired Michelle Partin of Partin Architects who is the Architect of Record for the future project.

The purpose of this Petition for Declaratory Statement is to describe the project and to confirm that we are eligible to design/construct our project under the 2020 Florida Building Code, RESIDENTIAL and to confirm the fire sprinkler requirements based on the project type and applicable code.

Our project 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 as shown below. 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. Given the above we believe our project is eligible to be designed and constructed according to the 2020 Florida Building Code, RESIDENTIAL.

# 2020 Florida Building Code, RESIDENTIAL:

## Chapter 1

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

## Chapter 2

### Section R202 DEFINITIONS:

**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.*

## Chapter 3

### Section 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.*

# 2020 Florida Building Code:

## Chapter 9

### Section 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.

**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 applicable to the project in question?

## **Summary**

We believe our Townhouse project should be eligible to be designed and constructed per the 2020 Florida Building Code, RESIDENTIAL. Based on our understanding of the 2020 Florida Building Code, RESIDENTIAL we do not believe fire sprinklers are required for 3 story townhomes. We also do not believe requirements from other codes, including the 2020 Florida Building Code are applicable. Given that we do 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 our project. We believe our task is to design and construct our project exclusively per 2020 Florida Building Code, RESIDENTIAL. We are writing to confirm such.

Respectfully submitted,

OFK Ocala LLC

By: *Brian Ray*    *08.2.2021*

Brian Ray – President/Owner