BBS MEMO #406

Ohio Board of Building Standards **May 15, 2020** 6606 Tussing Road, P.O. Box 4009, Reynoldsburg, Ohio 43068-9009

Building Codes, Businesses and Dwelling Units

Ohio's building codes require that all spaces be identified by use so that the applicable codes and/or code provisions are used to determine compliance when designing, changing or constructing an accessible (if required), safe, sanitary and energy efficient building.

A home is a residential occupancy regulated under either the Residential Code of Ohio (RCO) or the Ohio Building Code (OBC). Buildings that are made *exclusively* of one-, two- or three-family dwelling units are regulated under the RCO. Buildings that have four or more dwellings units (Group R-2 or R-3), are occupied as transient dwelling/sleeping units (Group R-1), provide residence for six to sixteen persons as a care facility (Group R-4) or include spaces with a use other than a dwelling unit (mixed occupancy) are regulated under the OBC. The RCO does not address the risks present in a care facility, transiently occupied sleeping spaces, buildings with shared/common egress or mixed occupancy buildings; consequently, even a 1-, 2- or 3-family dwelling with similar commercial/business use(s) is regulated under the OBC.

The use of the space for the purpose of conducting/operating a business/enterprise is a non-residential occupancy regulated under the OBC. When such a space is a portion of a building that includes, but is separate from, dwelling units, it is a mixed occupancy building, and the owner must comply with all the applicable provisions in the OBC. When such a space is a portion of a dwelling unit, it is a live/work unit and its regulated under OBC § 419.

Compliance with OBC § 419 can greatly simplify requirements if the live/work unit fits the exceptions or limitations. The limitations in § 419.1.1 will differentiate the live/work unit as a Group R-2 occupancy with modified requirements per §§ 419.2 through 419.9 or a more traditional mixed occupancy space/building. The exception in § 419.1 may permit the dwelling unit to remain simply a dwelling unit and may not trigger mixed occupancy building requirements at all.

Although the use as a non-residential occupancy may present more risk to the occupants than the use as a dwelling or sleeping unit, many non-residential occupancies present less risk. As a result, the building official may need to evaluate each circumstance of live/work for level of risk increase, decrease or similarity to the use as simply a dwelling unit or sleeping unit. Allowable stories/height/area, fire-resistant construction, fire suppression, structural loading (dead, live and lateral), occupant load and egress thresholds are all valuable tests to compare risk(s) to occupants.

Occupant load is treated differently between the OBC and the RCO. While the RCO does not address the total number of occupants permitted in a dwelling other than a limit of five or fewer lodgers or boarders, every use in a non-residential building has an occupant load which triggers increasing provisions for safety and sanitation as the occupant load increases. A fairly common break in occupant load is the quantity of five or fewer (OBC § 419.1.1, Item #4 for live/work units) for providing relief from requirements meant for significantly larger and more complex buildings with the same OBC group classification. Another occupant load break in the OBC is for buildings or portions of buildings that require only one exit. This is important because a dwelling under the RCO requires only one exit.

In summary, when the live/work unit is a portion of a non-residential building regulated under the OBC, the owner must comply with all the applicable provisions in the OBC; however, if the non-residential (business) portion is an office and is limited to less than 10 percent of the dwelling unit, the dwelling unit remains regulated as simply a dwelling unit per the exception in OBC § 419. Consequently, if the live/work unit with a business office space serving an occupant load of five or fewer constitutes less than 10 percent of the dwelling unit and is part of a building with exclusively one-, two- or three dwelling units, the building remains a dwelling regulated under the RCO.

Finally, other agencies or authorities (zoning boards, homeowner associations, licensing boards, deed restrictions, etc.) may have an impact on the owner's or tenant's ability to use the space in a dwelling unit or land on which the building is located for the operation of a business. While these other authorities may prohibit activities, the building codes do not prohibit a use. The building codes do require the owner of the building to construct or modify the building based on the risks to occupants for the proposed use of the building or portion thereof. As a condition of approval by other authorities (as appropriate) for the owner to operate a business, the owner may be required to get an approval from the building department indicating the building, including any construction, change of occupancy or modification, is safe and sanitary for the intended use.

If you have further questions regarding the application of these requirements, please call the Board's office at 614-644-2613 or send an E-mail to bbs@com.state.oh.us.