

DEPARTMENT OF LICENSES AND INSPECTIONS CODE BULLETIN OF INFORMATION No. B-0002 R1		CODE OF GENERAL ORDINANCES OF THE CITY OF PHILADELPHIA TITLE 4 — BUILDING CONSTRUCTION AND OCCUPANCY CODE
SUBJECT OF BULLETIN: CLASSIFICATION OF DWELLINGS INVOLVING LODGERS		REFERENCE CODE SECTION(S): B-310.1
ISSUED BY		ISSUE DATE July 26, 2000 Revised 9/22/04
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ISSUE

The previous edition of the Philadelphia Building Code limited the number of lodgers (roomers or boarders) allowed in one- and two-family dwellings without impact on the construction classification to no more than five. The 2004 Building Code and the 2004 Residential Code do not directly address the number of lodgers allowed.

Additionally, under the previous edition of the Building Code there had been some confusion regarding the proper code classification of dwellings when lodgers occupy a building or dwelling without a primary family or when the lodgers are independent of the family.

DISCUSSION

[Note that the Zoning Code definition of family and the resultant classification of zoning approved use are independent of the classification in the Building, Residential or Property Maintenance Codes and are not a part of this bulletin.]

Although the answer affects construction requirements, the question of the limit on the number of lodgers allowed in a one- or two-family dwelling arises most often as an issue of maintenance of an occupancy rather than construction. The Property Maintenance Code limits one- and two-family dwellings to no more than five lodgers per family or group of persons living as a family unit. It would not be logical to allow the building of a structure that would then not be allowed to continue, therefore, the Property Maintenance Code's limitation on the number of lodgers is, in fact, a limitation on the construction classification.

As to the question of lodgers where there is no primary family or group of persons living as a family unit, one must examine the definitions to evaluate the intent of the code.

The Property Maintenance Code definition of
a dwelling unit is:

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

a one-family dwelling is:

A building containing one dwelling unit with not more than five lodgers or boarders in addition to the primary family.

a two-family dwelling is:

A building containing two dwelling units with not more than five lodgers or boarders in addition to each primary family.

a rooming house is:

A building containing rooming units arranged or occupied for lodging, with or without meals, and not occupied as a one-family dwelling or a two-family dwelling.

The Building Code definition of a boarding house is:

A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

(Note: Underlining in the above definitions is added here.)

DIRECTION

Number of Lodgers Allowed

A Plans Examiner presented with an application for a one- or two-family dwelling indicating the applicant's intention to have more than five lodgers or boarders, will inform the applicant that the Property Maintenance Code will not allow this and therefore the applicant must reduce the number of lodgers or comply with the standards of the proper construction classification (R-1: boarders primarily transient, or R-2: boarders primarily intransient).

An Inspector observing a one- or two-family dwelling with more than five lodgers will instruct the Responsible Party in an appropriate manner to reduce the number of lodgers or comply with the standards of the proper construction classification.

Of course, the number of lodgers allowed in a specific dwelling unit may also be limited by the sleeping space requirements of the Property Maintenance Code.

Lodgers Absent a Primary Family

It is clear from the Property Maintenance Code definitions that lodgers in one- and two-family dwellings must be in addition to a primary family or group of persons living as a family unit.

From the Property Maintenance Code definition of a rooming house and the Building Code definition of a boarding house it is clear that, in the absence of a primary family or group of persons living as a family unit, an occupancy with boarders is to be classified as a rooming or boarding house and therefore an R-1 or R-2. (Note: we are assuming the occupancy is not a residential care/assisted living facility that may be an R-4 occupancy.)

When one follows through the logic of the definitions, the intent of the code can be more clearly understood. The Group R-3 classification in the Building Code (BC) and one- or two-family dwellings in the Residential Code (RC) are assigned to provide safety to a building that contains no more than two dwelling units. The dwelling unit contains all the elements necessary for living and is intended to be occupied by persons using those elements in common. The boarding house (rooming house), on the other hand, contains individual rooms that do not contain all of the living provisions of a dwelling unit.

We will use the above as guidance for plan review and inspection activities dependent on Group classification.

An occupancy will be classified as Group R-3 (BC) or a one- or two family dwelling (RC) where the following conditions exist:

- A dwelling unit is occupied by a primary family or group of persons living as a family unit plus not more than five other persons; and,
- The presence of the lodgers does not alter the physical arrangement of the dwelling unit; and,
- All persons share the non-sleeping spaces of the dwelling unit such as living room, dining room, kitchen, and other living spaces; and,
- Access to the lodgers' bedrooms is through the living space.

An occupancy will be classified as Group R-2 (non-transient, greater than 30 day stay) or R-1 (transient, less than 30 day stay) where the following conditions exist:

- The lodgers function independently of the primary family or group of persons living as a family unit, or in the absence of a primary family, they function independently of each other — that is, they do not share the non-sleeping spaces of the dwelling unit, or there is no living space outside of the lodgers rooms; or
- Access to the lodgers rooms is independent of, or separate from the non-sleeping spaces of the dwelling unit; or
- There are more than five lodgers or boarders in the dwelling unit.

EXAMPLES

1. A family in a one- or two-family dwelling lets one or more bedrooms in their dwelling unit to five or fewer persons to share the dwelling with them. This occupancy should be classified as R-3 (BC) or a one- or two family dwelling (RC).
2. A family in a one- or two-family dwelling lets several rooms in their dwelling unit to a total of 6 or more lodgers to occupy and share the dwelling with them. This occupancy is an R-1 or R-2.
3. One or more rooms in a building are let but no family or group of persons living as a family unit occupies the building as a dwelling. Without a family unit this occupancy is an R-1 or R-2.
4. A building entrance is to a corridor or stair enclosure that provides the access to the lodgers' rooms. Such occupancy should be classified as R-1 or R-2, regardless of the number of lodgers.