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## CHANGE OF OCCUPANCY (USE) PER THE BUILDING CODE

The purpose of this document is to clarify requirements for Change of Occupancy (also referred to as Change of Use) per the Building Code, i.e., International Building Code (IBC), International Residential Code (IRC), and the International Existing Building Code (IEBC), along with State of Maryland and Prince George's County amendments.

**Note:** The Maryland–National Capital Park and Planning Commission (M–NCPPC) Zoning Change of Use per Subtitle 27 is NOT the same as the Building Code Change of Occupancy (Use), and a change of use per M–NCPPC may or may not qualify for a Change of Occupancy (Use) per the Building Code. The regulations and requirements for each department are independent.

A change of owner, tenant, occupancy, or use requires a “Certificate of Use and Occupancy” per Prince George's County Subtitle 4, Section 4-118. There are different case types to apply for to obtain a “Certificate of Use and Occupancy.” These can be Use and Occupancy (U&O), Commercial Use (examples: CU, CGU, CEU, CIEU) or Residential Use (examples: RU, RGU) case types.

### Section A — Applicable Building Codes to Determine the Change of Occupancy (Use)

Adopted Building (ICC) and National Fire Protection Association (NFPA) codes along with State of Maryland amendments and the Prince George's County Subtitles are applicable to all buildings. For a complete list of these codes, visit [DPIE's Building Codes & Bulletins web page](#). The following is a summary of the codes that must be utilized by the applicant given the property and scope of work.

#### 2018 International Residential Code (IRC) amended by [Prince George's County Code, Subtitle 4, Subdivision 4](#)

##### Scope of IRC:

- Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories above grade plane, in height with a separate means of egress, and their accessory structures not more than one-story above grade plane in height and less than three thousand (3,000) square feet in area.
- Where provided with a residential fire sprinkler system and limitations in the above bullet:
  1. Live/work units located in townhouses and complying with the requirements of Section 419 of the International Building Code
  2. Owner-occupied lodging houses with five (5) or fewer guestrooms (per Subtitle 4, Section 4-125 (8) b)
  3. A care facility with five (5) or fewer persons receiving custodial care within a dwelling unit
  4. A care facility with five (5) or fewer persons receiving medical care within a dwelling unit
  5. A care facility for five (5) or fewer persons receiving care that are within a single-family dwelling
  6. A Family Home Daycare for eight (8) or fewer number of children (per Subtitle 4, Section 4-123 Family Home Daycare)

#### 2018 International Existing Building Code (IEBC)

##### Scope of IEBC:

- All existing buildings except those constructed under IRC — See Classification of Work, Repairs, Alterations, Change of Use, Additions, Historic Buildings, Relocated or Moved Buildings, etc.

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## 2018 International Building Code (IBC) Amended by [Prince George's County Code, Subtitle 4, Subdivision 2](#)

### **Scope of IBC:**

- All buildings other than those covered by IEBC or IRC, unless referenced

In addition to the above codes, 2018 NFPA 101 and 2018 NFPA 1, State of Maryland amendments along with the Prince George's County Subtitles are applicable, and the most stringent shall apply when there is a conflict.

### **Commercial or Residential?**

The Building Code does NOT define the terms "commercial" or "residential." It is a common mistake to assume all residential buildings fall under IRC or all commercial buildings fall under IBC; however, this is incorrect. All plans submitted for review must clearly note which code (IBC, IRC, IEBC) is being utilized for design.

### **Definition of Change of Occupancy (Use) per the Building Code**

According to Chapter 2, Definitions of the IBC, IRC, and IEBC, Section 202:

CHANGE OF OCCUPANCY is *a change in the use of a building or a portion of a building which results in one of the following:*

- A change of occupancy classification;
- A change from one group to another group within an occupancy classification; or
- Any change in use within a group for which there is a change in the application of the requirements of this code.

To summarize, any change in purpose or level of activity where a greater degree of safety, accessibility, structural strength, fire protection, means of egress, ventilation, or sanitation is required by code compared to what is present (existing) in the building or structure will result in a Change of Occupancy.

[Chapter 3 of IBC](#) determines Occupancy Classification and Use.

1. Assembly: Group A-1, A-2, A-3, A-4, and A-5
2. Business: Group B
3. Educational: Group E
4. Factory and Industrial: Groups F-1 and F-2
5. High Hazard: Groups H-1, H-2, H-3, H-4, and H-5
6. Institutional: Groups I-1, I-2, I-3, and I-4
7. Mercantile: Group M
8. Residential: Groups R-1, R-2, R-3, and R-4
9. Storage: Groups S-1 and S-2
10. Utility and Miscellaneous: Group U
11. Public Utility Facilities: see [Subtitle 4, Section 4-125 \(11\) Group U-PU](#)

Determining the Occupancy Classification, group and, in certain cases, the condition (for example: Institutional Group I-2 Condition 1) for building(s) and portions thereof is one of the most important elements to establish in order to achieve compliance with the correct Building Code, including requirements for building/structural, mechanical, electrical, fire/life safety and health. Different classifications of occupancy and use represent varying levels of hazards and risks to building occupants and adjacent properties.

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## **Section B — Conditions Where a Plan Review Is NOT Required by the Building Plan Review Division (BPRD)**

A straight [Certificate of Use and Occupancy \(U&O\)](#) can be obtained where ALL of the following conditions exist:

- No construction
- No change in occupancy as defined above
- No change of use/function that results in a higher degree of hazard
- No increase in occupant load
- No increase in square footage (for example: merging separate tenant spaces)

*Note:* The above list does not exempt [M–NCPPC](#) planning review which is required for ALL U&O applications.

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## Section C — Building Plan Review Division (BPRD) Requirements for Change of Occupancy (Use)

For all other cases that do not fall under Section B, including an existing building, a plan review is required by DPPE BPRD. The applicant/architect/engineer must demonstrate compliance with the Building Code for the Change of Occupancy (Use) whether or not construction is occurring.

**The following must be submitted with all Change of Occupancy (Use) applications:**

- The scope of work
- The Building Code and edition (for example: 2018 IBC)
- All relevant codes and standards
- A code analysis that discusses the change of occupancy (use), identifies all the occupancies, use groups, and conditions
- The square footage of the space
- The occupant load
- The architectural or engineer floor plans that present how the space meets the minimum code requirements for building/structural, fire/life safety, mechanical, electrical and health
- The plans must be prepared by a Maryland Licensed Architect or Professional Engineer. For exceptions, see the following chart [“Building and Trade Permits Plan Review Submission for Architectural and Professional Engineer \(A/E\) Seal Requirements.”](#)

Where deemed acceptable by the Building Plan Review Division Chief in writing, an applicant may request for existing buildings/tenant spaces to provide an alternative approach which consists of a narrative letter prepared by a Maryland Licensed Architect or Professional Engineer which contains all the following:

- The scope of work
- The Building Code and edition (for example: 2018 IBC)
- All relevant codes and standards
- A code analysis that discusses the change of occupancy (use), identifies all the occupancies, use groups, and conditions
- The square footage of space
- The occupant load
- The number of exits
- A professional seal and signature as required by DLLR
- Attestation that the design professional surveyed the space and that the existing building elements in terms of building/structural, fire/life safety, mechanical and electrical systems are in compliance with the building code for the proposed Occupancy Classification (Use)
- Any additional information requested by BPRD staff

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## Section D — Common Examples of Change of Occupancy (Use)

Following are examples where a building permit application is required for change of use, submission of plans and review/approval by BPRD.

- Changing an existing house to a care facility with more than 5 persons. Although group classification is still R-3, this is a change of occupancy, and IBC is applicable instead of IRC.
- Changing an existing house to a live/work unit will be reviewed under IBC. A home office not open to public use that is less than 10% of the area of the dwelling unit can apply for a straight U&O.
- Changing an office to a restaurant.
- Changing a community hall from an exercise room by removing the equipment in order to turn the space into a meeting room with chairs.
- Changing a single family house to a church.
- Using a previous office space as an ambulatory care space by a new tenant. Although office use is classified as B and ambulatory care is classified as B, there are different code requirements (e.g., a wider corridor area is required for ambulatory care).
- Increasing the number of kids from 10 to 13 in an existing day-care home. This is considered a day-care occupancy instead of a day-care home.
- Installing a new racking system that is 12 feet high in an existing storage facility. Although the same owner will continue to use the tenant area as storage, the high-piled storage is considered more hazardous.

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If you have any questions regarding building plan review or the building code, email [dppebprd@co.pg.md.us](mailto:dppebprd@co.pg.md.us) or call 301-636-2070. For [M-NCPPC](#) questions, please call 301-952-3594.