

Change of Use / Commercial Tenant

A **Change in Commercial Tenancy** occurs when the use remains the same but an owner/operator is changing. For example a tavern is changing from “Jim’s Bar” to “Janes Tavern”, Hours of operation may or may not change.

A **Change of Use** occurs when the use changes from one use to another, like an office changing to a tavern, or a two family house being converted to a one family.

A Building Permit is required for both a Change of Use or a Change of Commercial Tenant.

Uses are defined in the City Code. This definition will govern the specifics of your proposed new use, including hours of operations and where you can and cannot conduct the business. The State Building Code also has “occupancy classifications” which govern what activities may be performed in what kinds of structures. Both the City Code use definition and the State Building code occupancy classification must be considered when evaluating a proposed change of use at a property.

Below we’ve included the most commonly used City Code use definitions along with their State Building code occupancy classifications for your convenience. For a full listing of all the defined uses in the City Code see Section 375-6. For a full listing of the State Building Code occupancy classifications see Chapter 3 of the NYS Building Code. When a change of use is permitted, the permission will be tied to one of the definitions below.

- ⇒ ***If your operation expands or changes so that it no longer meets that definition, you may be subject to a “stop work” or “cease and desist” order.***
- ⇒ ***A sign permit is needed to erect or post signs...these must be filed separately***
- ⇒ ***After your permit is issued, it is the responsibility of the applicant to call for an inspection when the new use is ready. When this final inspection is passed, a certificate of occupancy will be issued confirming that the new use has been approved.***

Bar or Tavern: An establishment where alcoholic beverages are sold to be consumed on the premises, & where the any sale of food is secondary to the sale of alcoholic beverages. This definition includes but is not limited to a bar, grill, saloon, pub, public house, beer garden, brewpub, or similar establishment. Does not include a banquet facility. Occupancy Class: A-2.

Restaurant: Any establishment that prepares and serves meals for consumption on premises or to take away, and where any sale of alcohol permitted by the State of New York is secondary to the sale of food. This use includes a Banquet Facility. Occupancy Class: A-2.

Personal or Business Service: Any business that primarily performs a support service for an individual or business, including but not limited to a shoe repair shop, dry-cleaning establishment, laundromat, barber shop, beauty parlor, photocopying (either self-service or full-service), design, printing and binding of documents, presentations, desktop publishing, packaging, and/or mailing, makerspace, collaborative work space, and sign shop. This use does not include a . . . Methadone Dispensary. Accessory sales of goods may occupy no more than 25 percent of the gross floor area of the establishment. Occupancy Class: B (typically)

Convenience Retail: A retail store selling a limited selection of groceries, beverages, snacks, lottery tickets, newspapers, magazines, tobacco products, household products and personal items to be consumed primarily off the premises. This use designed to attract customers who purchase a relatively few items and depends upon a large volume of stop-and-go traffic. Occupancy Class: M

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General Retail: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption & rendering services incidental to the sale of such goods, including auction houses, that do not meet the definition of any other retail use, a restaurant use, or any other use listed in Table 375-3-1. Occupancy Class: M

Specialty Retail: A retailer concentrating on selling a limited or select merchandise line of goods and having a narrow but extensive selection in their specialty. Examples are bicycle shops, music stores, florists, bagel shops, photo supply stores and antique shops. Occupancy Class: M

Single Family Detached: A detached building, designated for or occupied exclusively by one household and containing not more than one primary dwelling unit. Occupancy Class: R-3

Two Family Detached: A detached or semidetached building with not more than two dwelling units that are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common hallway or cellar. Side-by-side or duplex dwellings are considered a "two-family dwelling" regardless of individual ownership of either half of its structure, provided that they are on the same zoned lot of record. Occupancy Class: R

Townhouse: A dwelling structure containing three or fewer dwelling units, constructed side-by-side with another dwelling structure, and either (1) connected by vertical walls that extend from grade level or below to the top of the structure, or (2) separated from a similar structure on an adjacent lot by no more than four feet between the two dwelling structure's sidewalls, each of which has entrances to its dwelling unit(s) from outside on the ground or first floor, whether located on a single lot or on individual lots. Occupancy Class: Depends

Multi-Family: A building containing three or more dwelling units located side-to-side, or above-and-below, and accessed by common hallways or walkways, that does not meet the definition of a Dwelling, Townhouse. Occupancy Class: R or I

Community Residential Facility: Any building, structure, home, facility or place operated by person(s) other than the residents themselves, in which persons reside for a period of more than 24 hours, and that is used or intended to be used for the purpose of letting rooms, providing meals and/or providing personal assistance, personal services, personal care and protective care to persons meeting the definition of a handicapped person or another person protected against housing discrimination under the federal Fair Housing Act and court decisions interpreting that Act. For purposes of this definition, the term handicapped does not include persons currently using or addicted to alcohol or controlled substances who are not in a recognized recovery program, nor shall it include half-way houses for individuals in the criminal justice system, or residential facilities to divert persons from the criminal justice system. Occupancy Class: R or I

Group Living, Other: A place of residence in which a group of persons who do not meet the definition of a family live together in rooms or areas that do not constitute individual dwelling units, and that does not meet the definition of a hotel, rooming house, dormitory, or community residential facility. This use includes but is not limited to fraternity and sorority houses, homeless shelters, domestic violence shelters, and halfway houses. Occupancy Class: R or

Rooming Houses: A building containing a single dwelling unit and rooms for the rooming and/or boarding of at least three persons by prearrangement for definite periods of not less than one week. This use also includes a building containing multiple single room dwelling units, with each unit for occupancy by no more than two individuals and with a maximum square footage of 450 square feet. Occupancy Class: R or I.

Community Center: A not-for-profit or publicly owned facility providing recreational programs and meeting rooms that are open to the public and designed to accommodate and serve significant segments of the community. Occupancy Class: A-3 (typically)

Cultural Facility: An establishment used for the purposes of preserving, exhibiting, demonstrating or interpreting art, history, culture or nature or scientific objects or ideas. Cultural facilities shall be interpreted to include, but not be limited to, museums, libraries, zoos, art galleries, aquariums, planetarium, botanical gardens and nature centers. Occupancy Class: A-3 (typically)

Club: A facility operated by a corporation, association or group of people for the social, educational or recreational intent of the dues-paying members and their guests, but not primarily for profit nor to render a service that customarily is carried on as a business. This definition includes lodges as defined herein. Occupancy Class: A-3 (often)

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