



# Building Standards and Codes

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TB-2004-BCNYS

## TECHNICAL BULLETIN

**Code Effective Date:** October 31, 2017<sup>1</sup>

**Source Document:** 19NYCRR 1221—Building Construction  
19NYCRR 1225—Fire Prevention  
19NYCRR 1227—Existing Buildings<sup>2</sup>

**Topic:** Change of Use or Change of Occupancy Classification

This document provides clarification of the Uniform Code requirements applicable when an existing building undergoes a Change of Occupancy classification or a Change of Use, with or without an increase in occupant load.

The 2015 International Fire Code (2015 IFC), as modified by the 2017 Uniform Code Supplement (the Supplement), regulates “*all matters affecting or relating to structures, processes, premises and safeguards regarding ... the hazard of fire and explosion...*”

According to Section 101.2.6.2 of the Supplement the “*administrative, operational and maintenance provisions*” of the 2015 IFC apply to:

1. *Conditions and operations arising after the adoption of the 2015 IFC.*
2. *Existing conditions and operations.*

The 2015 International Existing Building Code (2015 IEBC) as modified by the Supplement, regulates “*repairs, alterations, change of [use and] occupancy, additions and relocation of existing buildings.*”

### **Calculating Occupant Load and Maintenance of Means of Egress**

When reviewing a building that undergoes a Change of Occupancy classification or a Change of Use, code users should pay particular attention to any changes to occupant load and the means of egress. Per Section 1001.1 of the 2015 IFC, “*Section 1031 [of the 2015 IFC] shall apply to existing buildings*” and should be considered a maintenance provision of the 2015 IFC. Section 1031 of the 2015 IFC, as modified by the Supplement provides that:

- “*every room or space that is an assembly occupancy shall have the occupant load of the room or space posted in a conspicuous place...*”
- the occupant load “*shall be calculated as provided in Section 1004.1*” of the 2015 IFC.
- “*the capacity of the means of egress shall be calculated as provided in Sections 1005 and 1006*” of the 2015 IFC.
- the occupant load “*shall not exceed the capacity of the means of egress.*”
- “*it shall be prohibited for buildings, or portions thereof, to be overcrowded.*”

<sup>1</sup> The “Code Effective Date” for this Technical Bulletin is October 31, 2017, which is the effective date of the current version of the New York State Uniform Fire Prevention and Building Code (the Uniform Code).

<sup>2</sup> The 2015 International Building Code (2015 IBC) is a publication incorporated by reference in 19 NYCRR part 1221, the 2015 International Fire Code (2015 IFC) is a publication incorporated by reference in 19 NYCRR Part 1225, and the 2015 International Existing Building Code (2015 IEBC) is a publication incorporated by reference 19 NYCRR Part 1227.

The 2017 Uniform Code Supplement is a publication incorporated by reference in 19 NYCRR Parts 1219 through 1228. The 2015 IBC, IFC and IEBC, as amended by the 2017 Uniform Code Supplement, are all part of the Uniform Code.

- means of egress “shall be continuously maintained free from obstructions or impediments.”<sup>3</sup>

A posted occupant load for assembly rooms and spaces is applicable specifically to the room or space it was calculated for, not the entire building. For example, if a building has several assembly spaces, each posted with an individual occupant load, it is not permissible to combine the posted loads of multiple rooms to permit more than the posted occupant load in an individual room. The capacity of the means of egress is calculated both individually for each room or space, and in aggregate (for the building as a whole) for shared egress components. Except that, per Section 1005.3.1 of the 2015 IFC, “where stairways serve more than one story, only the occupant load of each story considered individually shall be used in calculating the required capacity of the stairways serving that story.”

### **Increase in Occupant Load Only**

It is possible for the occupant load of a building or space to increase even when no work has taken place. For example, the tables could be removed in a restaurant to accommodate a speaking engagement where only chairs are used. When this takes place, the new occupant load is calculated per the values of Table 1004.1.2 of the 2015 IFC. However, the occupant load cannot be increased such that it would create or extend any nonconformity unless the provisions of the Uniform Code are adhered to. Only those uses “...lawfully in existence at the time of adoption of the Uniform Code shall be permitted to have their use continued, provided that the use is in accordance with the original design...” (See Section 101.2, Exception 1 of the 2017 Uniform Code Supplement).

Additionally, according to Section 1004.2 of the 2015 IFC, the occupant load may be increased beyond the values provided in Table 1004.1.2 “provided that all other requirements of the code are met based on such modified number and the occupant load does not exceed one occupant per 7 square feet.” (Emphasis added). These “other requirements” include the number and width of means of egress, fire protection systems, such as automatic sprinkler systems, and fire alarm systems, and others.

### **Change of Use vs Change of Occupancy Classification**

According to Exception 1 to Section 101.2 of the Supplement “Structures, systems and equipment lawfully in existence at the time of adoption of the Uniform Code shall be permitted to have their use continued, provided that the use is in accordance with the original design and no hazard to life, health or property is created by such structure, system or equipment and except when provisions of the 2015 IRC, 2015 IBC, 2015 IPC, 2015 IMC, 2015 IFGC, 2015 IFC, 2015 IPMC, and 2015 IEBC specifically apply to existing buildings.” (Emphasis added).

One important factor to consider is the assumption within the code that the existing use, prior to any change, was “lawfully in existence.” Meaning that, per the exception noted above, the existing use might not be fully in compliance with the code currently in effect, but is in compliance with, and has been maintained to the code in effect at the time of original construction or last Change in Occupancy. Any new work or changes to the building would be subject to the provisions of the code as noted in the exception.

A Change of Use and a Change of Occupancy classification in a lawfully existing building are both covered under the definition provided in the 2015 IEBC for *Change of Occupancy*. A Change of Use is a change from one use to another “within a [the same] group for a specific occupancy classification.” A Change of Occupancy classification is a “change from one [specific] group to another group within an occupancy classification” or a change in classification altogether.

For example, a Change of Use could be from A-2 restaurant to an A-2 nightclub. A Change of Occupancy classification would be from an A-3 billiard parlor to an A-2 bar or tavern, or from a Group B barber shop to a Group A-2 cafe.

Section 301.1 of the 2015 IEBC provides three compliance paths. Depending on the compliance path selected, the 2015 IEBC prescribes the code requirements applicable to the classification of work. The most common compliance path selected, and the focus of this document, is the “work area” method which utilizes Chapters 5 through 13 of the 2015 IEBC. Section 506.2 of the 2015 IEBC indicates that “changes of occupancy shall comply with the provisions of Chapter 10.” According to Section 101.2.8.1 of the Supplement, “projects that involve more than one classification of work must comply with the requirements of each appropriate chapter.”

### **Change of Use**

For a project consisting of only a Change of Use, where no other work is performed, and following the work area compliance path, Section 1001.2.1 indicates that, “a change in use that does not involve a change of occupancy classification ... shall conform to the applicable requirements ... of Sections 1002 through 1011” as discussed below.

According to Section 1002, buildings that constitute a “special use” and “underground buildings ... shall comply with the requirements of the International Building Code,” and, according to Section 1008, these buildings shall comply with NFPA 70; except that unsafe conditions may be corrected without requiring the entire electrical system to comply with NFPA 70.

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<sup>3</sup> For more information regarding the applicability of the administrative, operational and maintenance provisions of the 2015 IFC to existing buildings and facilities, see a related Historic [Code Interpretation](#) posted under Fire Code of New York State in the DBSC “Technical Information” webpage.

Section 1004, which addresses fire protection, is applicable where the new use involves “a different fire protection system threshold requirement in Chapter 9 of the International Building Code,” and the requirements of Section 1012 shall apply. Potentially, a fire sprinkler system could be required where it previously wasn’t. Similarly, Section 1007, which addresses structural loads, is applicable where the “change in the nature of occupancy results in higher uniform or concentrated loads based on Table 1607.1 of the International Building Code.”

Sections 1009 and 1010 may be applicable where the conditions listed on those sections trigger compliance with the mechanical and plumbing codes, respectively. According to Section 1011, “light and ventilation shall comply with the requirements of the International Building Code for the new occupancy.”

Generally, Sections 1003, 1005, and 1006, which address building elements and materials, means of egress, and accessibility, are not applicable when only a Change of Use takes place (see next section on Change of Occupancy Classification).

The code requirements for a Change of Use, where no other work or change occurs, are limited in scope because typically there is no increase in the level of life or fire safety hazard for uses within the same occupancy group. Only when the change is coupled with an increase in hazard category, or “where there is a different fire protection system threshold requirement in Chapter 9 of the” 2015 IBC, are more stringent code requirements triggered, as discussed below.

### **Change of Occupancy Classification**

For a project consisting of only a Change of Occupancy classification, where no other work is performed, and following the work area compliance path, Section 1001.2.2 indicates that “where the occupancy classification of a building changes, the provisions of Sections 1002 through 1012 shall apply.” This means that a Change of Occupancy Classification is subject to the same requirements as a Change of Use, and additionally, to the requirements of Section 1012. Further, Sections 1003, 1005, and 1006, which generally do not apply to a Change of Use, fully apply to a Change of Occupancy. Section 1012 provides additional, more stringent requirements, where there is a potential for increased hazard category.

The increase hazard category, if any, is determined by using Tables 1012.4, 1012.5, and 1012.6. For example, according to the tables, typically, a Change of Occupancy from one assembly use group to another does not constitute an increased hazard, with one exception. Where a Change of Use is proposed from an A-5 occupancy, such as a stadium, to any other A-occupancy, additional requirements may apply if the allowed heights and areas of the A-5 occupancy exceed the allowed values of the new A-occupancy. Conversely, a Change of Occupancy from a U type building, may constitute a change to a higher hazard for nearly all uses except F-2 and S-2 (low-hazard factories and storage).

According to Section 1012.5.2, “when a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 1012.5, the height and area of the existing building shall be deemed acceptable.” (Emphasis added). However, according to Section 1012.5.1, “when a change of occupancy classification is made to a higher hazard category as shown in Table 1012.5, heights and areas of buildings and structures shall comply with the requirements of Chapter 5 of the International Building Code.” (Emphasis added).

Moreover, per Section 1012. 1, the provisions of Section 1012 apply “...where there is a different fire protection system threshold requirement...” Therefore, fire protection systems, including an automatic sprinkler system, may be required if the occupant load, as calculated per Table 1004.1.2 of the 2015 IBC, results in an increase. For example, when the tables and chairs are removed from an A-2 restaurant with a calculated occupant load of 60, the occupant load factor, per Table 1004.1.2 is reduced from 15 to 5 square feet net per occupant, resulting in an occupant load of 180. Section 903.2.1.2 of the 2015 IBC requires an automatic sprinkler system if “the fire area has an occupant load of 100 or more.”

An increase in the level of life or fire safety hazard could trigger additional requirements of the Uniform Code. For example, an increase in occupant load could trigger a requirement for an increased number for toilet fixtures. It could also involve an increased live load, thus triggering a structural evaluation.

### **Summary**

A Change of Use is different from a Change of Occupancy classification. The requirements for both, when utilizing the work area method of compliance, are found in Chapter 10 of the 2015 IEBC. Section 1012 of the 2015 IEBC is only applicable to Changes of Occupancy classification or when an increase in life and fire safety hazard, such as increased occupant load, occurs in conjunction with a Change of Use. Occupant loads, means of egress capacity, maintenance of the means of egress, and preventing overcrowding for all buildings shall be in compliance with the 2015 IFC.

The information contained in this bulletin is not intended to cover all the requirements pertaining to a Change of Use or a Change of Occupancy Classification. Other provisions of the Uniform Code apply.

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