

# CHANGE OF OCCUPANCY

A change of occupancy applies to the use of the building only. Any change of use of a structure must be allowable in the zoning district where located. Building occupancy classifications address the impact of the level of regulation required to provide a safe functional structure for the occupants of the building.

It is important to keep in mind that the legal use of the building may not be its most recent actual use. That means a change of occupancy permit may be required even if you don't plan to make any changes to the building or how the building is currently used.

## LIFE SAFETY/BUILDING CODE

The building code sorts the ways that buildings are used into separate "occupancy classifications." Every building is given an occupancy classification when it is built, and each occupancy classification has different levels of building code requirements dictated by the hazards identified by the specific use. The level of regulation reflects the type of hazard resulting from the use identified in the building code. For example, the requirements for a building to be used as a day care center will be different (and stricter) than the building code requirements for a new warehouse building. A building will remain "grandfathered" even when the code requirements for any occupancy classification change over time, so long as the occupancy remains the same.

A change of occupancy is when there is a change in the building's use that would change the way the building code classifies the building's occupancy. Some occupancy changes, such as a house to office use, may be obvious. A less obvious example of a change of occupancy is when a restaurant that has seating for less than 50 wants to increase the number of seats. A change of occupancy typically requires that the building meet most of the current building code requirements for a new building.

**103.3 Change of occupancy.** No change shall be permitted /made in the existing occupancy classification of any structure when the current USBC requires a greater degree of structural strength, fire protection, and means of egress, ventilation or sanitation. When such a greater degree is required, the owner or the owner's agent shall make written application (building permit applications) to the local building department for a new certificate of occupancy and shall obtain the new certificate of occupancy prior to the use of the structure under the new

occupancy classification. When impractical to achieve compliance with this code for the new occupancy classification, the building official shall consider modifications upon application and as provided for in Section 106.3.

**Section 108.1** of the Virginia Uniform Statewide Building Code requires the owner/agent or contractor to pull a Building permit to change the use. The law states that you can't change occupancy without a building permit. The permit required will be a permit to allow us to inspect for the change. The fee will be assessed at a minimum as defined by fee schedule. If remodeling is necessary to meet the code for the Use, the fee is assessed per the fee schedule at .28/sq. ft. of changed occupancy, and a change to the permit will be required, or a new permit obtained. After the permit has been purchased, the building official shall issue a certificate of occupancy.

**Section 108.1.2.** For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required under Section 103.3.

Montgomery County requires a complete set of stamped plans by a RDP licensed in the State of Virginia be submitted along with the building permit application. The plans must show the current state of the building and the proposed changes to the building as required by the current USBC. A document stamped by the RDP may be submitted in lieu of detailed plans along with the building permit application when very minor or no changes are required for the change of occupancy. Once the building official receives the permit application he may choose to do a site visit to confirm the submitted information is accurate prior to approval of the permit in accordance to section 113.2 of the USBC. Once the permit has been approved, the required changes or upgrades shall be completed and inspected in accordance to section 113.3 of the USBC. Any violations within the inspections process will be handled in accordance to 115.2 of the USBC.

Upon completion and approval of all necessary work to accommodate the minimum code requirements in accordance to the USBC, the Building Official shall issue the *change of occupancy* in the form as a new "Certificate of Occupancy," in accordance to section 116 of the USBC.

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