

Eating and Drinking Establishment



Photo: Samantha Modell

EATING AND DRINKING ESTABLISHMENT

Applications

An Eating and Drinking Establishment is any commercial use within which food or beverages are offered for purchase, and/ or are available to, or are consumed by customers or patrons. If said establishment is either 75 or more people gathering indoors, or on the roof, or 200 or more people gathering outdoors, then a Place of Assembly Certificate of Operation (PACO) will also be required (see [Place of Assembly](#)). Eating and Drinking Establishments include, but are not limited to restaurants and cabarets.

NYC Building Code + NYC Administrative Code

The NYC Building Code (BC) and the NYC Administrative Code (AC) regulate eating and drinking establishments. Among the safety issues they address: occupant load limits; exits and exit components; seating and furniture arrangements; fire alarms; sprinklers; and accessibility. Before legal operation, eating and drinking establishments must have a capacity sign and Certificate of Operation posted in a highly visible location within the space. If required by the number of occupants, approved PA plans should also be available at the site for yearly Fire Department inspection. See [Places of Assembly Code Notes](#) for additional requirements.

This publication is a general overview of the requirements for this type of work. There may be additional, applicable Zoning Resolution, Construction Code, Multiple Dwelling Law or Energy Code requirements.

EATING AND DRINKING ESTABLISHMENT

Applications

FIRST STEPS

- PW1 – verify job description
- Verify the Proposed use is permitted within the Zoning District. As a part of this, verify which use is proposed based on the number of occupants and whether there is entertainment. See [ZR 12-10](#) Definitions.

Definitions (ZR 12-10)

<u>Use Group</u>	<u>Description.</u>
6	All others
10	Without restrictions on entertainment or dancing but limited to location in hotels [PRC-D]
12	With entertainment and a capacity of more than 200 persons or establishments of any capacity with dancing [PRC-D]

- Provide site plan/ lot plan, indicating location and extent of work
- If the application is a new building (NB) provide all the required items (see below)
- Borough Commissioner Determinations (if applicable)

ADMINISTRATIVE

DOB Forms/ Technical Documents

New Building/ Alteration Applications

1. [PW1](#)- Plan Work approval
2. [Site Connection Proposal Form](#)
3. Asbestos abatement compliance (PW1 box 22), NYC DEP [ACP5, or ACP7](#) (filed at ATRU).
4. [ST1](#) for Street trees
5. [TR1](#), [TR4](#), [TR8](#), Etc.
6. Initial Survey
7. Energy Code Analysis

EATING AND DRINKING ESTABLISHMENT

Applications

8. Drawings outlining the entire scope of work, including lighting.

Place of Assembly (Certificate of Operations Application - when the number of occupants is 75 people or more)

1. [PA1](#)
2. Completed [TR1](#) for Emergency Lighting progress inspection.
3. Drawings indicating the seating and/ or equipment layouts, emergency lighting, accessibility, etc., including required clearances, egress calculations, exit requirements and changes in elevation.

Please note that separate filings will be required for the alternative fire suppression systems (if applicable) in the Kitchen, as well as the Fire Alarm, both of which will be reviewed by the Fire department.

Related Applications

Operations policy and procedure Notice (OPPN) [#1/00](#)

BIS Required Items

Check current Department memos and service notices

ZONING

- Zoning Use Groups for eating and drinking establishment must demonstrate compliance
- Article 1, Chapter 2 definition for “Adult eating and drinking establishment” (UG 12) as per [ZR32-01](#) and [ZR 42-01](#)
- Zoning Use Group for Eating and Drinking Establishment for other than UG 6 should state if it’s a cabaret or Adult eating and drinking establishment (UG 12)

MULTIPLE DWELLING LAW

- N/A

EATING AND DRINKING ESTABLISHMENT

Applications

FIRE PROTECTION

- [BC 903.2](#) for installation requirements
- [BC 901.9](#) special provisions for prior code buildings

BUILDING CODE

New buildings and alterations of a building built under the 2008 code shall comply with the most current NYC Building Code requirements. However, as outlined in AC 28-101.4.3, optional use of the 1968 Building Code (or 1938 code where allowed by the 1968 Code) with certain exceptions is allowed for work on prior code buildings.

Occupancy Group

- NYC Building Code: A2 – [BC 303.1](#)
- 1968 Code: F4 – BC 27-241 and Table 3-2
- 1938 Code: Commercial – [C26-235](#)

Occupancy Load

- NYC Building Code: [BC 1004](#) and Table 1004.1.1
- 1968 Code: [BC 27-358](#) (1) actual load or Table 6-2
- 1938 Code: C26-273

Number of Exits

- NYC Building Code: [BC 1021.1](#), Table 1021.1 and Table 1021.2
- 1968 Code: [BC 27-365](#), 27-366 and Table 6-3
- 1938 Code: [C26-273.0 \(b\)](#)

EATING AND DRINKING ESTABLISHMENT

Applications

Exit Capacity and Travel Distance

- NYC Building Code: [BC 1005](#) and Table 1005.1, [BC 1016 and Table 1016.1](#), [BC 1028.17](#)
- 1968 Code: [BC 27-359](#) and Table 6-1
- 1938 Code: [C26-273 \(d\)](#)

Place of Assembly application required for 75 or more occupants

- See Code Notes on [Place of Assembly](#)

Accessibility

- NYC Building Code: BC 1101.3 (special provisions for prior code buildings), [BC 1104](#) (accessible route), [BC 1109.2](#) (toilet facilities), [BC 1109.6](#) (elevators) and [BC1109.7](#) (lifts)

ENERGY CODE

- See [Code Notes on Energy Code](#)

APPLICABLE BULLETINS, DIRECTIVES, PPNS, MEMOS

- [Buildings Bulletin 2009-06](#) for Automatic sprinkler requirements
- [Buildings Bulletin 2009-07](#) for Fire Suppression requirements
- [Buildings Bulletin 2010-029](#) for sprinkler systems being altered
- [Buildings Bulletin 2009-025](#) the requirement for a new or amended Certification of Occupancy (please also review guidelines for the Letter of No Objection to establish procedure)
- [Directive 16 of 1969](#) for catering and banquet halls

EATING AND DRINKING ESTABLISHMENT

Applications

OTHER AGENCY APPROVALS

Incidentally approvals from other agencies may be required.

- NYC Fire Department: fire suppression and fire alarm approval
- NYC Department of Health and Mental Hygiene food service establishment permit prior to opening
- NYC Department of Consumer Affairs catering establishment license
- NYC Department of Environmental Protection may be needed for grease trap and backflow preventer, compliant with Sewer Use Regulations