

THE CITY OF NEW YORK  
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: April 21, 1982

TO: Borough Superintendents  
FROM: Irwin Fruchman, P.E., Commissioner   
SUBJECT:

Motion Picture Theatres & Legitimate Theatres Accommodating  
More Than 300 People

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In order to provide uniformity in regard to periodic inspections and administrative procedures with respect to motion picture theatres and legitimate theatres accommodating more than 300 people (designated as special occupancy structures under the 1938 Building Code), the following procedures shall be adhered to hereafter with respect to such buildings and premises (including those built prior to 1938):

1. Place of Assembly applications and permits are not required under Article 8 of the current Building Code for existing special occupancy structures.
2. Existing motion picture theatres or legitimate theatres altered subsequent to 1968, but possessing certificates of occupancy under the 1938 Building Code or its predecessor (and having over 300 seats in each building section, if subdivided) are included in the above-mentioned exemption from Article 8, and neither a Place of Assembly application or permit, or emergency lighting system specified in C26-800.18 of the current Building Code would be necessary. Retroactive provisions of Local Law 41/78 pertaining to emergency lighting do not apply to existing F-1 structures built prior to 1968; and, C26-744.0 of the 1938 Building Code set forth the lighting controls for special occupancy structures.
3. Existing special occupancy structures which have been altered in conformance with the new Building Code, may be subsequently altered so as to be restored to the safety standards applicable to special occupancy structures under the 1938 Building Code, and be entitled to the above-mentioned exemptions.

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4. Where a theatre (motion picture theatre or legitimate theatre) has been built or altered subsequent to 1968 in conformance with the current Building Code, all of the provisions of Article 8 shall be applicable thereto, regardless of the number of persons accommodated. Likewise, any alteration to existing special occupancy structures which resulted in a building section accommodating less than 300 persons are to be presumed to be subject to all current provisions of the Building Code in all respects.

5. Where a P.A. application and permit is not required by the foregoing, a seating plan approved by this department is to be required for posting in such theatres under C26-737.0 of the "Old" (1938) Building Code". Such seating plan shall be required to contain all of the information now set forth in Section C26-801.4 of the Administrative Code (1968 code).

6. The Fire Department will make all public assembly inspections of existing motion picture theatres for more than 300 people in connection with license renewals in conformance with the authority vested in them by Section C26-750.0 of the Old (1938) Building Code, and C26-100.6 & C26-102.1 of the current Building Code. The Fire Department will advise the Department of Consumer Affairs in conformance with the foregoing, and no periodic Building Department inspection will be required of such premises unless objections or violations are noted by the Fire Department. Upon receipt of any referrals from the Fire Department for failure to conform to approved seating arrangements, aisles spaces and exits or failure to have a certificate of occupancy on the premises, or to conform with some, an inspection is to be made promptly, and appropriate violations issued.

7. In the case of legitimate theatres accommodating more than 300 people, licensing by the Department of Consumer Affairs is no longer necessary. However, the Fire Department will continue making inspections of existing legitimate theatres for more than 300 people in accordance with Section C26-750.0 of the Old Building Code and C26-100.6 and C26-102.1 of the current Building Code.

8. Additionally, the Fire Department customarily performs pre-opening inspections of legitimate theatres before new shows commence. Accordingly, for the handful of new legitimate theatres accommodating over 300 people, a place of assembly permit and annual inspection by this department is administrative redundant. Accordingly, where the legitimate theatre informs this department in writing that the Fire Department has been making the foregoing inspection, there is no necessity for this department to duplicate that effort.

This procedure shall take effect on April 1st, 1982. Any applications by said parties for approvals of seating plans and the like similar to that previously done as a consequence of then Director of Operations Minkin's memo of July 2, 1976 is to be performed in a similar manner where the Fire Department deems such approved plans necessary.

The above-mentioned memorandum issued on July 2, 1976 is superceded by this memorandum.



Irwin Fruchtman, P. E.  
Commissioner

IF:IEM:ap

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