

3. Guidelines for Issuance of LNOs for DCA submissions:

A building's CO should provide sufficient detail to establish the zoning resolution (ZR) Use Group and building code (BC) occupancy classification to determine the acceptability of a proposed DCA industry use. Often DOB receives requests for LNOs even when an existing CO is adequate to establish its use and satisfy DCA requirements.

For a CO issued prior to 1961, which does not explicitly reference a ZR Use Group or BC occupancy classification, such ZR Use Group and BC occupancy classification can be determined from the written description on the CO. For example, if only "stores" is listed on a building's existing CO, such a description can be understood to be ZR Use Group 6 and BC occupancy classification mercantile (M), which would also match a proposed use of "electronics store." However, each ZR Use Group may have more than one applicable BC occupancy classification. (See Section 5, Example 3b).

The following describes when the building's existing CO is sufficient to establish a premises' use. The following also describes when an LNO may be issued or when the CO must be amended:

- i. Existing CO use description is consistent with conforming ZR use and is a good match with DCA requirements: LNO will NOT be issued (See Section 5, Example 1)
- ii. Existing CO use description is incomplete or it is unclear whether the use is a good match with DCA requirements: LNO may be issued if the request is for a conforming use (See Section 5, Example 2)
- iii. Existing CO use description is not a good match with DCA requirements: LNO will NOT be issued – Existing CO must be amended per AC 28-118.3 (See Section 5, Examples 3a and 3b)
- iv. No Existing CO, but use is conforming under the Zoning Resolution : LNO will be issued (See Section 5, Example 4)
- v. No Existing CO and insufficient record of the use: LNO will NOT be issued (See Section 5, Example 5)

4. Department of Consumer Affairs Requirements:

Currently, prior to a DCA license being issued, DCA mandates specific language that must appear on a property's CO, temporary CO, or an LNO. The mandated language, available on the DCA website http://www.nyc.gov/html/dca/html/business/BT_apply.shtml, can be either:

1. A ZR Use Group and a specific description of the occupancy (e.g. for Amusement Arcade: DCA website indicates Use Group 15 and "Arcade" or "Amusement Arcade"), or
2. A list of acceptable ZR Use Groups with more general descriptions (e.g. for Scrap Metal Processor: DCA website indicates Use Group 18, "Auto Wrecking", "Junk Yard", or "Scrap Metal").

The following is a summary of required ZR Use Groups and common premises' descriptions of relevant DCA industry classifications:

| DCA Industry Classification | Zoning Use Group on Post-1961 CO's | Examples of Use Descriptions on Pre- & Post-1961 COs** |
|---|--|--|
| Amusement Arcade* | Use Groups 12, 13 (10,000 sf limit and 20' min to R-districts) or 15 | <ul style="list-style-type: none"> • Amusement Center / Park • Arcade |
| Cabaret* | Use Group 12 | <ul style="list-style-type: none"> • Eating and drinking establishment w/o restriction on entertainment |
| Catering Establishment* | Use Groups 9 or 10 (in a hotel) | <ul style="list-style-type: none"> • Banquet Hall • Catering |
| Commercial Lessor* | Use Group 6 | <ul style="list-style-type: none"> • Bingo • Meeting Hall |
| Gaming Café* | Use Groups 6, 8, 9, 10 (in a hotel), 12, or 15 | <ul style="list-style-type: none"> • Amusement Center / Park • Retail • Stores • Eating & Drinking Establishment |
| Laundry | Use Group 6 or 16 | <ul style="list-style-type: none"> • Retail • Store • Hand or Self-Service Laundry • Laundromat |
| Parking Garage, Parking Lot, Combo Parking Garage and Parking Lot | Use Groups 8 or 12 | <ul style="list-style-type: none"> • Parking • Parking Garage • Parking Lot |
| Parking Garage, Parking Lot, Combo Parking Garage and Parking Lot | Use Group 2 ² | <ul style="list-style-type: none"> • Accessory Residential Parking |
| Permanent Amusement Device | Use Group 15 | <ul style="list-style-type: none"> • Amusement Center • Amusement Park |
| Pool or Billiard Room* | Use Groups 8 or 12 | <ul style="list-style-type: none"> • Billiard Parlor • Pool Hall |
| Scrap Metal Processor | Use Group 18 | <ul style="list-style-type: none"> • Auto Wrecking • Junk Yard • Scrap Metal • Manufacture of Metal Products |
| Secondhand Dealer Auto | Use Groups 9 or 16 | <ul style="list-style-type: none"> • Repair Shop / Repair Garage • Automobile Showroom • Car Sales • Motor Vehicles Sales Lot • Sale of Used Cars |
| Storage Warehouse | Use Group 16 | <ul style="list-style-type: none"> • Storage • Warehouse • Vehicle Storage |

² In zoning districts R3-R10, the spaces may be rented for public parking for a period of one week and not more than one month, subject to the automatic termination of public use within 30 days of written request by the occupants to the landlord that the space is needed by the residential occupants as per ZR 25-412.

| | | |
|-------------------|--------------|--|
| Tow Truck Company | Use Group 16 | <ul style="list-style-type: none"> • Auto Wrecking • Storage Garage • Dead Vehicle Storage • Vehicle Laundry / Car Wash • Vehicle Service • Vehicle Repair |
|-------------------|--------------|--|

*Must submit a copy of the DOB issued “Certificate of Operation” if 75 or more persons.

**Applicants are responsible for researching and understanding relevant Zoning Resolution requirements. Reference ZR, including but not limited to, sections 32-15 through 32-25, 42-14 through 42-15, and Appendix A for a more in-depth discussion of allowable uses within the above DCA-referenced ZR Use Groups.

5. Examples of LNO Requests to DOB from DCA license applicants:

The following examples are provided as **Guidelines**³:

a. Buildings with a Certificate of Occupancy:

Example 1 – LNO is NOT Required:

The building has a CO and the applicant is applying for a DCA license to operate a Laundry, Use Group 6. The building’s CO indicates ZR Use Group 6 and the Building Code occupancy classification is F-2 (factory, low-hazard), adequate to match the DCA requirements.

Example 2 – LNO will be issued & No New CO is Needed:

The building has a CO and the applicant is applying for a DCA license to operate a Cabaret, Use Group 12. The building’s CO indicates ZR Use Group 12, but the written use description is “Pool Hall.” While the ZR Use Group agrees with DCA requirements, an LNO is needed because the written use description does not match DCA requirements.

Example 3a – LNO will NOT be Issued & an Amended CO is Needed:

The applicant is applying to DCA for a license to operate a cabaret, Use Group 12. However, the building’s CO indicates “Banquet Hall”, ZR Use Group 9. This is a change in ZR Use Group from 9 to 12, and requires an amended CO.

Example 3b – LNO will NOT be Issued & an Amended CO is Needed:

The 3-story building has a CO for ZR Use Group 9, a business school, but plans to operate entire building as a catering establishment, also ZR Use Group 9. Even though ZR Use Group 9 remains the same, the Building Code occupancy classification will change from B (educational above 12th grade) to M (mercantile), as defined in BC 302.1. In this case, an amended CO will be required. Additionally, if the catering establishment has an occupant load of 75 or more persons, the occupancy shall be A-2 (assembly) as per BC 303.1, and the occupant load shall be listed on a Certificate of Operation as per BC 303.2.

b. Buildings without a Certificate of Occupancy:

Example 4: LNO will be Issued & No New CO is Needed:

³ The examples listed here are intended to serve as guidelines for the disposition of requests for LNO and are not meant to be exclusive or exhaustive.

The building has no CO but there are Sanborn maps, historic photos, and utility bills (as proof of prior legal operation) which indicate “[Business Name] Laundry.” The applicant is applying for a DCA license to operate a Laundry, Use Group 6, which is an allowed use in this zoning district. Therefore, an LNO will be issued to confirm a Laundry, Zoning Use Group 6 and Building Code occupancy classification F-2 for a laundromat establishment at subject premises.

Example 5: LNO will NOT be Issued and a New CO is Needed:

The building has no CO, and records indicate the building’s current use is an office, ZR Use Group 6 and BC occupancy classification B. The applicant is applying for a DCA license to operate a cabaret (with occupancy of 75 or more persons), ZR Use Group 12 and BC occupancy classification A-2. A new CO will be required.