

1. If a community facility space and a retail space are occupied by the same tenant, on the same floor, does the community facility space still need to maintain an independent means of egress to the street or can it utilize the retail means of egress?

There are two tenant spaces with two different occupancies even though same owner. One tenant can't pass through another tenant's space for egress purposes. Different tenants may share egress components (common lobby, stairs) but most restrictive one shall be applicable.

BC 1014.2.1 Multiple tenants. Where more than one tenant occupies any one floor of a building or structure, each tenant space dwelling unit and sleeping unit shall be provided with access to the required exits without passing through adjacent tenant spaces, dwelling units and sleeping units.

Exception: The means of egress from a smaller tenant space shall not be prohibited from passing through a larger adjoining tenant space where the following conditions are met:

1. Such rooms or spaces of the smaller tenant occupy less than 10 percent of the area of the larger tenant space through which they pass;
2. The larger tenant is a Group M occupancy and the smaller tenant space is of the same or similar occupancy group;
3. A discernable path of egress travel is provided from the smaller tenant space to an exit;
4. The means of egress into the adjoining space is not subject to locking from the egress side of the smaller tenant space;
5. The smaller tenant space serves the same occupants, customers, or patrons as the larger tenant space.

MDL#52(5)(b). When the first floor or a part thereof, in a fireproof multiple dwelling, is used for business purposes, a stair leading to a cellar or basement from such business space shall be enclosed in fireproof walls having a fire-resistive rating of at least three hours and be provided with a fireproof door and assembly at the bottom, with the door self-closing. No opening shall be permitted between such business space and the remainder of the dwelling.

BC1968: BC27-275(i)(5): When dwelling units are located over a space classified in occupancy group C or E on the street floor, they shall be provided with a separate enclosed interior stair, or with an exterior stair.

BC1938: C26-273(b)(5): No opening permitted from first floor commercial use area to lobby or stair use by residential portion of the building.

2. I'm working on a project that is a renovation of a 3-family (multi family) house. There is currently one unit per floor, there are three floors in total. We would like to reconfigure so that the owner can occupy the 2nd and 3rd floors as one unit, and the 1st floor will have two units (it will be divided into a front and back apartment). Since it is a multi family and will remain a multi family, wondering if we can file as an Alt 2?

Another aspect of the project is that we are considering having stairs down to the cellar from each of the 1st floor units- for storage of each of the apartments. We are not sure about this yet, but wondering if that would also affect the filing type from an Alt 2 to an Alt 1?

Alt-II job is not OK. Layout of the apartments is changed. Proposed use (lay out of apartments) is contrary to the existing use/C of O of the building. A new C/O will be needed to reflect proposed layout per AC28-118.

Cellar of the existing building is accessory to the entire building and it will be converted accessory to the units on first floor. C/O of the building has to be changed.

Definition: USE (USED). The purpose for which a building, structure, or space is occupied or utilized, unless otherwise indicated by the text. Use (used) shall be construed as if followed by the words "or is intended, arranged, or designed to be used."

3. A three story, two family dwelling converted to a four family circa 1907 has a 32" wide interior staircase. Is there a "memo" allowing same? The 1901 building code does not specify the width of staircase.

Assuming the building will be a converted dwelling under the prior building codes, the stair can be 2'-6" as per MDL 189 [Stair and public hall construction].

3. Every stair, except a basement or cellar stair, shall be two feet six inches or more in clear width. Any wooden stair may be replaced by an iron stair of like dimensions. Every entrance hall shall be two feet eight inches or more in clear width.

4. Within the last 3 weeks we had scheduled appointments (with different Plan Examiners) only to find out once we got to DOB that the Examiner was out sick and our office was not notified beforehand in the morning. So on two (2) occasions within 3 weeks, we wasted two (2) mornings. Both appointments were for 11:00 and 11:30, leaving ample time for notification. CPE, Stanley S., will be careful to avoid these repetitive rescheduling events. If rescheduling is necessary, he will make sure the scheduling coordinators notify in advance.

5. If a building has a "contrary to C of O" ECB violation as the only item left under the C of O application. The Brooklyn C of O unit is currently rejecting the final C of O and raising the objection "obtain TCO 1st". WHY? All the other Boros allow the issuance of the final C of O so the homeowner can cure the violation. The TCO process just creates more work and delay for everyone.

One time TCO will be required to resolve occupancy violation. Final C/O may be issued subsequently.

6. Is it possible to submit a DOB application for a new building prior to receiving a tentative tax lot number? This question is for a project which requires two existing vacant lots to be merged as the site for a new building.

It's possible but not advisable; it can be rejected as incomplete at time of assignment, or if assigned to examiner objection will be raised. In addition, if approved, when tentative lot and BIN created, all the filing will be in obsolete BIN, which in turn will lead to the rejection of permits.

7. When I file an alteration application which also involve plumbing work (which is filed at DOB NOW) Do I have to provide the DOB NOW plumbing job number on my alt application drawings? and if yes, why? Why does the plumbing application have to be filed at same time or even before the alteration application?

Answer is still being compiled.

8. Since the SEP Unit has officially closed, what happens to applications that have an open SEP complaint in the system? Who do we contact?

A service notice to guide applicants in SEP audit resolution will be issued shortly. SEP continues to resolve audits until 2/24/2020.

9. With the [city](#) and [state](#) encouraging the use of non-polluting mechanical equipment to help attain greenhouse gas emissions reductions, when will the NYC code and zoning resolution and the NYS MDL be updated to allow heat-pump condenser equipment to be placed in required rear yards? They are only permitted as obstructions in yards of 1- and 2-family residences now. Rooftop placement is not always practical. Is there a way to obtain permission through the borough commissioner's office to place such equipment in rear yards of multi-family buildings?

Pursuant to ZR23-44, HVAC units are not permitted in the required yards for multi-family buildings. DOB is not authorized to vary NYC Zoning regulations.

ZR23-44

(a) In any yard or rear yard equivalent:

- (1) Air conditioning condensation units, *accessory*, for *single- or two-family residences*, provided that such units, if located between a *street wall*, or prolongation thereof, and a *street line*, are not more than 18 inches from a *street wall*, and fully screened from the *street* by vegetation;
- (b)(8) Water-conserving devices required in connection with air conditioning or refrigeration systems in *buildings* existing prior to May 20, 1966, if located not less than eight feet from any *lot line*.

10. For a new single-family building in Flood zone proposed Ground Level is located below flood elevation and above curb elevation, to be used for storage, entryway and garage. This Ground Level is 2' below Flood Elevation and accordingly 4' below Design Flood Elevation (Flood-resistant Construction Elevation). If the proposed Ground Level ceiling is 7.9' high then the floor is a Cellar for Zoning purposes and not zoning floor area. What happens if we propose an 8.5' high ceiling making this level a Basement for Zoning purposes? – would this mean that the Ground Level, which is below flood elevation, would be counted as zoning floor area just as construction which is above flood elevation?

Yes, the basement shall be considered as zoning floor area but that basement shall not be used as habitable spaces as it is located in flood zone.

ZR64-11:

Basement: For *buildings*, or portions thereof, that comply with *flood-resistant construction standards*, a "basement" is a *story* (or portion of a *story*) partly below *flood-resistant construction elevation*, with at least one-half of its height (measured from floor to ceiling) above *flood-resistant construction elevation*

Cellar: For *buildings*, or portions thereof, that comply with *flood-resistant construction standards*, a "cellar" is a space wholly or partly below the *flood-resistant construction elevation*, with more than one-half its height (measured from floor to ceiling) below the *flood-resistant construction elevation*.

11. Existing 3-story and cellar 3-family building in R4-1 zone has a rear porch at the level of the 1st floor. It's NOT in a flood zone. If said porch does NOT project into rear or side yards, and since in R4-1 coverage is controlled by yards, are we correct to assume that TPPN-04-2003 does NOT apply to this porch and the area under the porch can be used for accessory purposes allowed for the cellar of this building, like boiler room and/or storage.

Yes, TPPN#04/03 is not applicable for the subjected porch as it is not located in the required yards; but subjected building is a non-conforming use building per ZR22-00, No structural alteration shall be permitted for existing non-conforming use building per ZR52-22.

The usable area below the porch shall be considered as cellar. If the cellar area is accessory to an individual dwelling unit of the building, such cellar area shall not be larger than the area of that individual unit Per BB#2012-008.

12. Why doesn't the Department follow the originally intended plan to audit professionally certified applications 45 days after approval and instead choose to audit jobs once construction is completed? Understandably there may be special circumstances in certain rare cases, but when it happens often or even to all applications at the end of construction it triggers the obvious question – why not audit at the beginning if Department obviously has sufficient number of examiners now?

Prof-Cert applications are always at risk of being audited at any point prior to sign off. In some rare cases pro-cert applications receive audits after sign off which may result into a sign off roll back.

13. For plumbing jobs DOB NOW continues to ask questions in "schedule 'B' style" – "gas uses", "gas appliances and equipment" with quantities ... moreover they now want to know "gas pressure". Just like with schedule B, this also creates confusion with interpretations – should we mark "gas cooking equipment" if a single-family has it but it's not subject to plumber's work?

In general we need to know the scope of work such as quantities, locations and usages, in order to review for required inspection(s). Please provide specific scenario, perhaps a job number to review the comment/objection.

14. I have a pro cert sign that I am amending the drawing for a typo.

First, it asks for all the documents to be uploaded again. The examiner rejected the PAA because the ACP5 didn't scan correctly. That's fine but the examiner didn't reject the document so we can't upload a new one. There is no way to communicate with the clerk to reject the document besides the help line that takes too long. Is there a phone #?

The applicant is working on this with Cheryl Leon, but made no mention of being rejected for an incorrectly scanned ACP5. There is not an ACP5 submitted with the PAA. His conversation is about a FEMA calculation.

Please ask him to resubmit the PAA. Any document that is accepted with the initial filing will be approved when submitted with the PAA.

15. Records window is declining to search for "off-site" records if the Property Profile shows "no actions". From experience, many sites showing no action do have old records on file. Why now the change?

Borough Director, Bernalyn J., spoke to her service managers and was assured that the instruction to the staff is to do an off-site search even if there is "no actions listed. The managers will speak to the RR staff to make sure we are all following the same procedure.