

3. Guidelines for Issuance of LNOs for SLA 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 use. Often DOB receives requests for LNOs even when an existing CO is adequate to establish use and satisfies SLA 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 “Eating and Drinking Establishment.” 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 matches conforming ZR use and is sufficient to satisfy SLA 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 SLA requirements: LNO will 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 SLA requirements: LNO will NOT be issued – Existing CO must be amended per AC 28-118.3 (See Section 5, Example 3a and 3b)
- iv. No Existing CO, but use is conforming under the Zoning Resolution because there is a sufficient record of such use: 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. New York State Liquor Authority Licensing Requirements:

Prior to an SLA license being issued, SLA’s statute requires a CO or a letter from the DOB stating a CO is not required, which would typically result in the issuance of an LNO.

When evaluating the existing CO and the need to issue an LNO, DOB shall use the following summary of required ZR Use Groups and common premises’ descriptions:

ZR Uses	Zoning Use Group on Post-1961 CO’s	Examples of Use Descriptions on Pre- & Post-1961 COs**
Banquet Hall*	Use Groups 9 and 13	<ul style="list-style-type: none"> • Commercial • Banquet Hall • Catering
Beverages: Manufacture: Alcoholic	Use Group 18	<ul style="list-style-type: none"> • Commercial • Manufacturing
Bottling works, for any beverages	Use Group 17	<ul style="list-style-type: none"> • Commercial • Manufacturing
Breweries	Use Group 18	<ul style="list-style-type: none"> • Commercial • Manufacturing

Cabaret*	Use Group 12	<ul style="list-style-type: none"> Eating and drinking establishment w/o restriction on entertainment
Catering Establishment*	Use Groups 9 and 10 (in a hotel)	<ul style="list-style-type: none"> Commercial Banquet Hall Catering
Drug Stores	Use Groups 6 and 12	<ul style="list-style-type: none"> Commercial Retail Stores
Eating and Drinking Establishment*	Use Groups 6, 10 (in a hotel), and 12	<ul style="list-style-type: none"> Commercial Retail Stores Eating and drinking establishment
Food Stores	Use Group 6	<ul style="list-style-type: none"> Commercial Retail Stores Grocery
Hotels	Use Group 5	<ul style="list-style-type: none"> Hotel
Liquor Stores	Use Group 6	<ul style="list-style-type: none"> Commercial Retail Stores
Storage: Wholesale	Use Group 16	<ul style="list-style-type: none"> Commercial Storage Warehouse
Wholesale Establishments	Use Groups 7, 11, and 16	<ul style="list-style-type: none"> Commercial Wholesale

*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

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

The following examples are provided as Guidelines²:

a. Buildings with a Certificate of Occupancy:

Example 1 – LNO is NOT Required:

The building has a CO and the applicant is applying for an SLA license to serve alcohol at an Eating and Drinking Establishment, Use Group 6. The building's CO indicates ZR Use Group 6 with a use description of "Retail," "Stores," or "Commercial." This is adequate to match the SLA requirements.

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

The building has a CO and the applicant is applying for an SLA license to serve alcohol at a cabaret, Use Group 12. The building's CO indicates no ZR Use Group, but the written use description is "Eating and Drinking Establishment with '250' people," which matches ZR Use

² 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.

Group 12 and is allowed in the zoning district. While the ZR use description reasonably agrees with the ZR requirements, an LNO is needed since the ZR Use Group does not appear on the CO.

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

The building has a CO with a use description that does not agree with the Building Code occupancy classification or ZR Use Group required for the business seeking a liquor license. The applicant is applying to SLA for a license to serve alcohol at 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 the entire building and serve alcohol as a catering establishment with an occupant load of 75 or more persons, 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 A-2 (assembly), as defined in BC 302.1. In this case, an amended CO will be required. Additionally, 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:

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] Liquors." The applicant is applying for an SLA license to sell wine and liquor, which is an allowed use in this zoning district. Therefore, an LNO will be issued to confirm a liquor store, ZR Use Group 6.

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 license to sell alcohol at 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.