



BUILDINGS 2025-002 BULLETIN TECHNICAL

ISSUANCE DATE
April 1, 2025



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Code & Zoning Interpretation

PURPOSE: This Bulletin clarifies the requirement of an amended Certificate of Occupancy for alterations to a small, existing establishment in accordance with Zoning Resolution amendment on 06/06/2024.

SUBJECT(S): Alterations; Business and Mercantile Establishment; Certificate of Occupancy

RELATED CODE SECTIONS & RESOURCES

Administrative Code (AC) 28-118.3, ZR 11-24

I. BACKGROUND

On June 6, 2024, the New York City Zoning Resolution (ZR) was amended to include new zoning uses and new Use Group (UG) categories and numbering. Use Groups have been reorganized and simplified from numbers ranging from 1 to 18, to Roman numerals ranging from I through X, according to UG translation tables on the Department of City Planning's (DCP) website, as reproduced at the end of this bulletin. This bulletin clarifies the exception of section 28-118.3 of the New York City Administrative Code (AC) that permits the alteration of existing small mercantile and business establishments without the need to amend the Certificate of Occupancy (CofO).

II. CODE ANALYSIS

The exception to amending the CofO of existing small mercantile and business establishments is governed by AC § 28-118.3, which states in part:

The provisions of sections 28-118.3.1 and 28-118.3.2 shall not be interpreted to require an issuance of a new or amended certificate of occupancy for a change from a mercantile establishment to a business establishment, or from a business establishment to a mercantile establishment, provided all the following criteria are met:

1. Such alteration is limited to a change within the same zoning use group;

The key phrase "same zoning use group" stated in criteria #1 above relates to ZR § 11-24 as follows:

ZR § 11-24 Equivalence of Use Group Classifications. *Uses existing prior to June 6, 2024, within a Use Group that on June 6, 2024, were recategorized into another Use Group shall not be considered a change of use for the purposes of applying the provisions of this Resolution.*

Because the Zoning amendments that impact the UG numbering and organization occurred on June 6, 2024, the ability to utilize AC § 28-118.3 exception 1 will depend largely on the content of the CofO. Note that conditions 2 to 5, inclusive, in AC § 28-118.3 must still be satisfied. For example, a change from a mercantile (M occupancy) to an office (B occupancy) or vice versa, in accordance with condition 4 of AC § 28-118.3, is subject to BC 1101.3.1 item 2.1.

A. Where CofO indicates UG 6, 6A, 6B or 6C

In accordance with the Zoning Resolution in effect prior to 06/06/2024, a mercantile establishment was typically categorized as UG 6A (convenience retail or service establishment) or UG 6C (retail or service establishment), and an office establishment of any kind, whether open or not open to the customers, was typically categorized as UG 6B.

On or after 06/06/2024, a mercantile establishment has been typically recategorized to UG VI (retail and services) and office establishment has been typically recategorized either into UG VI (service establishment) or UG VII (office, business, professional including ambulatory diagnostic or treatment health care, or governmental). The recategorization of UG 6 uses to UG VI or UG VII is not a change of zoning use, in accordance with ZR § 11-24. This is similar to how a change from a UG 6 mercantile to UG 6 business was a change within the same UG prior to 06/06/24 which did not require an amendment to the CofO if the other conditions of AC § 28-118.3 were met.

Therefore, with respect to condition 1 of AC § 28-118.3, spaces indicated on CofOs as UG 6, 6A, 6B or 6C, as described above, may continue as any UG VI (retail or service) or UG VII (office) use, provided such a use is permitted by the zoning district, without requiring an amendment to the existing CofO, if conditions 2 to 6 of AC 28-118.3 are satisfied.¹ For example, a ground floor art gallery and an office indicated as UG 6 on the CofO may be used as a retail store (within UG VI) without amending the CofO, if conditions 2 to 6 of AC 28-118.3 are met.

B. Where CofO indicates uses that have been recategorized into UG VI

Existing ground floor uses that were classified in a UG other than UG 6 previously, but are now recategorized to UG VI, may be occupied by any UG VI without amending the CofO if permitted within the zoning district, and conditions 2 to 6 of AC 28-118.3 are satisfied. For example, a ground floor bicycle repair shop indicated as UG 7 or 7B on CofO may be used as a retail store (i.e., UG VI) without amending the CofO.

C. CofO issued with new Roman numeral UGs

Existing ground floor small mercantile and business establishments that are indicated as Roman numeral UGs are permitted to be changed to another use under the same Roman numeral only, if conditions 2 through 6 of AC 28-118.3 are satisfied. For example, if conditions 2 through 6 of AC 28-118.3 are satisfied, an art gallery indicated as UG VIII may be changed to another UG VIII, such as a gaming facility or dance studio (UG VIII), without amending the CofO, but must amend the CofO if it is changed to a retail store (UG VI).

III. CONSTRUCTION DOCUMENTS

Where the application is subject to Part II(A) of this Bulletin, the comment on the PW1 and the first page of the plan of such Alteration application must state:

“Prior designation of UG 6 to remain, Alteration-CO not required per BB 2025-002 and AC 28-118.3 exception.”

¹ Note that this allowance does not extend to UG VII laboratories, previously UG 17B, without amending the existing CofO because that change does not meet condition 1 of AC § 28-118.3.

Where the application is subject to Part II(B) of this Bulletin, the comment on the PW1 and the first page of the plan of such Alteration application must state:

“Prior designation of non-UG 6 recategorized to UG VI, Alteration-CO not required per BB 2025-002 and AC 28-118.3 exception.”

Where the application is subject to Part II(B) of this Bulletin, the first page of the plan must include a UG analysis table. For example, an existing costume rental establishment on the ground floor converting to a children’s clothing store would include the table below:

Existing Zoning Use		Proposed Zoning Use			
Prior Use Group Designation		Recategorized use per DCP’s Translation by Prior Use Group		Description of Use	Use Group
Description of use	Use Group	Description of use	Use Group	Clothing and clothing accessories retailers (4581 of the 2022 NAICS)	<u>VI</u> <u>(retail)</u>
Costume rental	9A	All other consumer goods rental (5322 of the 2022 NAICS)	<u>VI</u> <u>(service)</u>		

Where the application is subject to Part II(C) of this Bulletin, the comment on the PW1 of such Alteration application must state:

“Alteration-CO not required per BB 2025-002 and AC 28-118.3 exception.”