



## Approval To Use Other Floors in Child Care Programs

Group child care programs can request approval from the New York City Department of Health and Mental Hygiene (NYC Health Department) to use floors above the third floor for preschool programs and floors above or one level below the first floor for infant/toddler programs. For more details, see Section 47.41B and Section 47.41C in Article 47 of the NYC Health Code, available at [on.nyc.gov/article-47-health-code](https://on.nyc.gov/article-47-health-code).

The NYC Health Department can approve these requests with additional approvals from the NYC Department of Buildings (DOB) and the Fire Department of New York (FDNY). You will also need to submit a satisfactory safety plan to the NYC Health Department that details how children would be evacuated from these floors during emergencies.

You may only begin to use these floors after the NYC Health Department has provided written approval and added the other floors to your permit.

- **New permit applicants:** If you are applying for a permit to open a group child care program, you must complete all [permit requirements](#) and the following steps to include other floors on your permit. Review Article 47 of the NYC Health Code for all permit requirements.
- **Permit holders:** If your group child care program has a permit and you want to expand to other floors, you must amend your permit to include these floors.

Approval is site- and permit-specific and cannot be extended to other programs, floors, rooms or areas without additional requests for approval.

### Procedure for Approval To Use Other Floors

**Step 1.** Schedule a site viability inspection so the NYC Health Department can assess whether the other floors are appropriate for child care.

- **New permit applicants:** Submit your online permit application. The NYC Health Department will contact you within approximately two weeks to schedule the inspection.
- **Permit holders:** Contact your Early Childhood Educational Consultant or Bureau of Child Care borough office, available at [on.nyc.gov/borough-office-locations](https://on.nyc.gov/borough-office-locations).

**Step 2.** Submit floor plans or blueprints to the NYC Health Department for approval.

- **New permit applicants:** Submit floor plans or blueprints for all floors.
- **Permit holders:** Submit plans or blueprints for the additional floors.

Be sure the plans or blueprints show the square footage of the space, indicate one child-size toilet and one child-size sink are provided for every 15 children, identify two means of egress on each floor, and confirm there is an interior fire alarm and sprinkler system as required by the corresponding building and fire codes.

**Step 3.** Obtain a Certificate of Occupancy from the DOB that has the correct occupancy group for the proposed child care on other floors. Submit this Certificate of Occupancy to the NYC Health Department for approval.

The following table includes acceptable occupancy groups for infant/toddler and preschool programs. (See the Page 3 for more detailed descriptions.)

| Construction Code | Infant/Toddler | Preschool |
|-------------------|----------------|-----------|
| 1938              | PUB            | PUB       |
| 1968              | H-2            | G         |
| 2008              | I-2, I-4       | E, A-3    |
| 2014              | I-2, I-4       | E, A-3    |
| 2022              | I-2, I-4       | E, A-3    |

If you already have a Certificate of Occupancy with the correct occupancy group for the proposed child care on other floors, you may skip Step 3. The NYC Health Department will approve your original Certificate of Occupancy.

**Step 4.** Pass a fire safety inspection. Upon approval of your Certificate of Occupancy, the NYC Health Department will send a request to the FDNY to schedule a fire safety inspection at your site (the FDNY may charge a fee for this inspection). The NYC Health Department will also notify you of the inspection results.

**Step 5.** Submit an Enhanced Safety Plan to your borough office that details how children would be evacuated from the other floors during emergencies. The NYC Health Department will approve this plan in writing once it determines that the plan includes sufficient safety information.

The Enhanced Safety Plan must include the policies and procedures in Item VI: Fire Safety and Emergency Procedure of the safety plan guideline, available at [on.nyc.gov/safety-plan-template](https://on.nyc.gov/safety-plan-template). Your program’s letterhead and the applicant’s signature are required. To review the guidelines for developing a written safety plan, visit [nyc.gov/health](https://nyc.gov/health) and search for [group child care information for operators](#).

**Step 6.** Add the other floors to your group child care permit.

- **New permit applicants:** The NYC Health Department will issue a permit that includes the other floors after you have completed all permit requirements.

- **Permit holders:** Contact your Early Childhood Education Consultant or Bureau of Child Care borough office for an amended permit that includes the other floors.

Submit required documentation through your online account at [nyc.gov/dohmhpermits](http://nyc.gov/dohmhpermits) unless directed otherwise. If you need help, contact the borough office that corresponds with your program’s address. To find your borough office, visit [on.nyc.gov/borough-office-locations](http://on.nyc.gov/borough-office-locations).

When obtaining a Certificate of Occupancy from the DOB, be aware of the following:

- The Certificate of Occupancy must have the correct occupancy group for the child care to be located on other floors. The NYC Health Department may also approve infant/toddler programs classified as Group E to be on other floors, but only if the rooms have at least one exit door that leads directly to the public way (the public space beyond the private property line, including the roadway or sidewalk). For example, for an infant/toddler classroom classified as Group E to be on the second floor, the room would require one exit door leading directly to an exterior staircase that goes to the street level (the public way) and another exit door that leads to an evacuation route within the building.
- Acceptable descriptions of use for group child care include day care, nursery, day nursery, classrooms and kindergarten. In some instances, there may be no description of use, and occupancy would be limited by the occupancy group listed on the Certificate of Occupancy.
- The description of use should match the occupancy group. For example, if the occupancy group is A-3 (children age 2 and older), but the description of use is “day care for age 4 and older,” your program must follow the description of use. In this case, to care for children age 2 and 3, you would have to amend the Certificate of Occupancy. Alternatively, you could request a Letter of No Objection or a Letter of Verification. (See the Page 4 for descriptions.)

**DOB Group Occupancy Codes With Descriptions Valid for Child Care<sup>1</sup>**

|     |   |
|-----|---|
| PUB | This is only applicable to buildings built before 1968. Structures in which people congregate for civic, political, educational, religious or recreational purposes, people are harbored to receive medical treatment, or people are detained by reason of public duty. |
| H-2 | Buildings and spaces used for the care or treatment of people with physical limitations because of health or age.   |
| G   | Buildings and spaces occupied for instruction or other educational purposes.  |
| I-2 | Child care facilities that provide care on a 24-hour basis to more than five children younger than age 2.   |

<sup>1</sup>Additional group occupancy codes may be accepted on a case-by-case basis. For more information, visit [nyc.gov/site/buildings/codes/code-n-mdl-reference-tables.page](http://nyc.gov/site/buildings/codes/code-n-mdl-reference-tables.page).

|     |   |
|-----|---|
| I-4 | Custodial care facilities that provide care to more than two children younger than age 2, or to more than four people age 2 or older who are incapable of responding to an emergency without physical assistance from staff.  |
| E   | Day care facilities where no more than two children are younger than age 2. Custodial care facilities with up to 30 children younger than age 2 may be classified as Group E when the rooms where the children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior. |
| A-3 | Custodial care facilities with 75 or more people that provide care to people age 2 and older, where no more than four occupants are incapable of responding to an emergency without physical assistance from staff.   |

**Other Types of DOB Approval**

**Temporary Certificate of Occupancy** — If the DOB determines that a property is safe to occupy, but there are outstanding issues that must be resolved before the final Certificate of Occupancy can be issued, the DOB may issue a Temporary Certificate of Occupancy, which typically expires after 90 days.

**Letter of No Objection** — The DOB may issue a Letter of No Objection if there is no Certificate of Occupancy available for a building (for example, if a property was built prior to 1938 when Certificates of Occupancy were not required) or if the building has a different use than the one listed on the Certificate of Occupancy. A Letter of No Objection typically lists the number of children, age range allowed, areas to be used and hours of operation.

**Letter of Verification** — If a Certificate of Occupancy is available for a building and requires verification or clarification, the DOB may issue a Letter of Verification.

For information on the requirements for child care programs, call **311** or visit [nyc.gov/health](http://nyc.gov/health) and search for [group child care information for operators](#). To find your Child Care Bureau borough office, visit [on.nyc.gov/borough-office-locations](http://on.nyc.gov/borough-office-locations).