



**NASSAU COUNTY FIRE COMMISSION
OFFICE OF THE FIRE MARSHAL**

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FIRE MARSHAL BULLETIN

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Occupancy of Buildings

To: Nassau County Fire Departments; Building / Property Owners and Fire Protection Contractors

Definitions:

OCCUPANT LOAD – The number of persons for which the means of egress of a building or portion thereof is designed.

OCCUPIED – A building, structure or tenant space that has a certificate of occupancy or certificate of completion issued by the local building department.

OCCUPIED SPACE – A portion of a building or structure that is occupied by the public or employees, to which a continuous and unobstructed way of egress travel from any accessible point in a building or facility to a public way is required.

CERTIFICATE OF OCCUPANCY – A required document issued by the local building department which permits a structure, building or portion thereof, to be occupied.

TEMPORARY OCCUPANCY – A required document / certificate issued by the local building department which permits a structure, building or portion thereof, to be temporarily occupied limited to a specified period of time.

The following are the New York State Building and Fire Code requirements for the occupancy of buildings and structures, and the Nassau County Fire Marshal's Office policy regarding the stocking, furnishing and occupancy of buildings by employees or the public.

Rules and Regulations – Department of State

Title 19 (NYCRR)

Chapter XXXII – Division of Code Enforcement and Administration

Part 1203 – Uniform Code: Minimum Standards for Administration and Enforcement

1203.3 (d) Certificates of occupancy; certificates of compliance.

(1) A certificate of occupancy or a certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub-classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or a certificate of compliance.

(2) Issuance of a certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, a written statement of structural observations and/or a final report of special inspections, prepared in accordance with the provisions of the Uniform Code, must be received prior to the issuance of the certificate. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the Uniform Code must be received prior to the issuance of the certificate. A certificate of occupancy or certificate of compliance shall contain the following information:

- i. the building permit number, if any;
- ii. the date of issuance of the permit, if any;
- iii. the name, address and tax map number of the property;
- iv. if the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued.
- v. the use and occupancy classification of the structure;
- vi. the type of construction of the structure;
- vii. the assembly occupant load of the structure, if any;
- viii. if an automatic sprinkler system is provided, a notation as to whether the sprinkler

system is required;

- ix. any special conditions imposed in connection with the issuance of the building permit; and
- x. the signature of the official issuing the certificate and the date of issuance.

(3) **Temporary occupancy.** A certificate allowing temporary occupancy of a structure may not be issued prior to the completion of the work which is the subject of a building permit unless the structure or portions thereof may be occupied safely, any **fire- and smoke-detecting or fire protection equipment which has been installed is operational**, and all required means of egress from the structure have been provided. The effectiveness of a temporary certificate shall be limited to a specified period of time during which the permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Uniform Code.

(4) A certificate of occupancy or certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within a specified period of time.

Building Code of NYS Section 3312 – Automatic Sprinkler System

[F] **3312.1 Completion before Occupancy.** In buildings where an automatic sprinkler system is required by this code, it **shall be unlawful to occupy any portion of a building or structure until the automatic sprinkler system installation has been tested and approved.**

Fire Code of NYS Chapter 9 – Fire Protection Systems

901.5.1 Occupancy. It shall be unlawful to occupy any portion of a building or structure until the fire detection, alarm and suppression systems have been tested and approved.

Stocking and Merchandising of Building or Structure:

A building or structure may only be permitted to bring in merchandise or stock with the permission of the local Town, Village or City Building Department, however the **Rules and Regulations – Department of State, Title 19 (NYCCR), Part 1203.3 (d) 3.**, require that any Fire Code of NYS required fire- and smoke-detecting or fire protection equipment which has been installed, is operational, and all required means of egress from the structure have been provided. An installed and operational fire and smoke detecting system shall be interpreted as a fully operational and functional system, while not tested and approved by the NCFM, will operate and function as designed with a twenty-four-hour Firewatch in effect in accordance with the Firewatch requirements of the NCFM.

Additionally, in buildings or structures that require an automatic sprinkler system, these systems shall be completely installed, tested and approved by the NCFM prior to any consideration of seeking permission to stock or merchandise a building or structure.

Occupancy of Buildings and Structures:

A building or structure may only be permitted to be occupied with the permission of the local Town, Village or City Building Department, however the **Rules and Regulations – Department of State, Title 19 (NYCCR), Part 1203.3 (d) and Fire Code of NYS Section 901.5.1 Occupancy**, states that it **shall be unlawful to occupy** any portion of a building or structure until the Fire Code of NYS required fire detection, alarm and suppression systems have been tested and approved. Therefore a Town, Village or City Building Department is not authorized to issue a certificate of occupancy or a certificate of compliance unless all of the requirements of the **Rules and Regulations – Department of State, Title 19 (NYCCR), Part 1203.3 (d) and Fire Code of NYS Section 901.5.1 Occupancy** are completed.

****Additionally, any required fire detection, alarm and suppression systems that are not required by the Fire Code of NYS but are required by the Nassau County Fire Prevention Ordinance shall be tested and approved prior to the occupancy of a building or structure.**

NYS Uniform Fire Prevention and Building Code more restrictive code allowance:

County of Nassau, Fire Prevention Ordinance

Building Code of NYS Chapter 1 Section 102.2(3) Applicability – Other laws and regulations

“The ability of any city, town, or village or the **County of Nassau**, to enact or adopt, and to enforce, a local law or ordinance imposing higher or more restrictive standards for construction within the jurisdiction of such city, town village or county than are applicable generally to such city, town, village or county in the Uniform Code..”