

**Provision of Law: § 27-217 - Change of occupancy or use.**- (a) No change shall be made in the occupancy or use of an existing building which is inconsistent with the last issued certificate of occupancy for such building, or which would bring it under some special provision of this code or other applicable law or regulation, unless a new certificate of occupancy is issued by the commissioner certifying that such building or part thereof conform to all of the applicable provisions of this code and all other applicable laws and regulations for the proposed new occupancy or use. (b) Except as provided by law, a new certificate of occupancy shall not be required where the change of use is within the same use group as listed in the amended zoning resolution. Where a building exceeds three stories in height and the change does not exceed twenty per cent of the total floor area, an amendment to the existing certificate of occupancy for such new use shall be issued by the commissioner certifying that the proposed new occupancy and use conforms to the provisions of the laws governing building construction and that the proposed use will not be in conflict with any provisions of the labor law, multiple dwelling law or the zoning resolution.

**Background:** Inspectors in the Construction Division issue this type of violation. This violation is issued either as a result of a complaint, as a result of a scheduled inspection for an application, or as part of a review of previously issued violations. The violation is used when an inspector observes that any part of the building is being occupied contrary to the current Certificate of Occupancy (“C of O”) or other Department records. The C of O is the key document issued by the Department of Buildings and is used to certify the legal use and occupancy of a building. If planned construction is creating a new building, or will result in a change of use, egress, or occupancy to an existing building a new or amended Certificate of Occupancy is necessary. The Certificate of Occupancy will be issued when the completed work complies with the submitted plans and applicable laws, all paperwork is completed, all necessary approvals have been obtained from other appropriate City agencies, all fees owed to the Department are paid, and all relevant violations are resolved. A new building cannot be legally occupied until a C of O has been issued.

If a building was constructed before 1938 and there has been no change in use or additions to the property, it may not have a C of O. If you require proof of the legal use of a building that does not have a C of O, you must obtain a "Letter of No Objection" from the Department of Buildings' borough office where the property is located (see [OPPN 2/98](#) for fee).

The violation can be "Cured" since it this has been determined to be a "non- hazardous" violation.

**Certification Criteria:** A Certificate of Correction must be submitted *along with* a notarized statement by the owner or responsible party *along with* any bills, receipts, statements, photographs reflecting that all conditions have been corrected or submit a copy of a new/altered Certificate of Occupancy authorizing the observed use cited in the violation.

VIOLATION CONDITIONS FOR (B03) 27-217 Occupancy contrary to the C of O or other Building Department records.					
	Violation Description	References	Explanation	Comply with notice of violation	Acceptable Certification Submission
	<b>Occupancy contrary to the Certificate of Occupancy (C of O) or other Building Department records</b>	<p>BC <a href="#">§27-215</a></p> <p>BC <a href="#">§27-217</a></p> <p>BC <a href="#">§27-218, 27-119, 27-220</a></p> <p>BC <a href="#">§27-224</a></p> <p>BC <a href="#">§27-286</a></p> <p><a href="#">Fact sheet</a></p> <p><a href="#">Certificates of Occupancy</a></p> <p><a href="#">Find a C of O for a building</a></p> <p><a href="#">C of O Enhancement</a></p>	<p>This violation is issued for illegal occupancy. No building can be altered so as to change from one occupancy group to another, so as to affect any existing means of egress, or so as to increase the number of habitable rooms in the building. Certificates of Occupancy must be available at the building for inspection. Copies of Certificate of Occupancies are available online at <a href="http://www.NYC.gov/buildings">www.NYC.gov/buildings</a></p> <p>Although some older buildings do not have C of O's the Department has other records reflecting premises legal use.</p>	<p>Since this type of change would result in a change in occupancy an Alt 1 would be required to legalize the condition.</p> <p>File <a href="#">PW-1</a> and all required plans (i.e. Architectural, Zoning, Plumbing, Structural), zoning plot diagram and Work Types. File <a href="#">PW-1A Schedule A</a> indicating Occupancy and a <a href="#">PW-6</a> Certificate of Occupancy Application</p> <p>Final Construction, Electrical, Elevator and , Plumbing Signoff from respective divisions required on all Alt 1 applications.</p> <p style="text-align: center;"><b>OR</b></p> <p>Return to prior legal use as reflected on the Certificate of Occupancy. File for removal permit or ARA if needed.</p>	<p>Submit statement indicating all conditions have been removed and returned to prior legal use as reflected in Certificate of Occupancy or other records. Provide copy of ARA if applicable.</p> <p style="text-align: center;"><b>OR</b></p> <p>Provide copy of amended or new Certificate of Occupancy reflecting the altered/converted space.</p>