

## REQUEST FOR DETERMINATION Regarding Change of Occupancy

[See attached Interpretation Document for more clarification]

▶▶ This document must be submitted with an approved/signed Municipal Land Use Permit ◀◀

### SECTION A: Property Details

1. Complete Address of premises: \_\_\_\_\_
2. Describe space to be occupied: \_\_\_\_\_
3. Approximate square footage: \_\_\_\_\_
4. Does the space or structure possess a current valid Certificate of Occupancy?  Yes  No  
▶ Attach a copy of the Current Certificate of Occupancy to this form ◀

### SECTION B – Outgoing Occupant Details

1. Name of Outgoing Occupant: \_\_\_\_\_
2. Business Activity of Outgoing Occupant: \_\_\_\_\_
3. Average Number of Employees on average work day: \_\_\_\_\_
4. Average number of visits by public on average work day: \_\_\_\_\_

### SECTION C – Incoming Occupant Details

1. Name of Incoming Occupant: \_\_\_\_\_
2. Business Activity of Incoming Occupant: \_\_\_\_\_
3. Average Number of employees on average work day: \_\_\_\_\_
4. Average Number of public visitors on average work day: \_\_\_\_\_
5. **Has there been** any physical alteration to the premises **prior to** incoming occupant:  Yes  No  
If yes, Explain: \_\_\_\_\_
6. **Will there be** any physical alterations scheduled for the incoming occupant:  Yes  No  
If yes, Explain: \_\_\_\_\_
7. Does this Incoming Occupant meet current Zoning / Land Use requirements?  Yes (attach approved Land Use Permit)  No

*For Official Use Only*

### DETERMINATION by PMCA

- New Occupancy permit required. Contact the local PMCA office for additional information that may be needed (see letterhead above for contact info)
- No New Occupancy Permit required.
- Life Safety Inspection(s) required if a New Use and Occupancy Certificate is needed/requested.

Comment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Chambersburg Office: 380 Wayne Ave. Chambersburg, PA 17201 Phone: 717 496-4996  
 Bedford Office: 125 S. Richard Street, Suite 102, Bedford, PA 15522 Phone: 814 310-2326  
 Somerset Office: 318 Georgian Place, Somerset, PA 15501 Phone: 814 444-6112  
 Email: [pmca@pacodealliance.com](mailto:pmca@pacodealliance.com) Website: <http://pacodealliance.com/>

**▶ APPLICATION FOR CERTIFICATE OF USE AND OCCUPANCY ◀**

\_\_\_\_\_  
 Municipality County Tax Parcel I.D. Permit #

Location of Property specific to this request: (Complete Street City Zip)

\_\_\_\_\_  
 Proposed Use Proposed Business Name

\_\_\_\_\_  
 Current Use (or previous use if vacant) Yes or No If "yes" how long has it been vacant  
 Is space Vacant (circle one)

Explain in detail what portion of Structure will be occupied: i.e. how much space, what floor(s), etc.

**NAME AND CONTACT INFORMATION OF THE APPLICANT:**

\_\_\_\_\_  
 Print Full Name Phone (Cell and/or Land line) Email Address

\_\_\_\_\_  
 Complete Mailing Address: Street/P.O. Box City State Zip

**NAME AND CONTACT INFORMATION OF THE OWNER OF THE PROPERTY:**

\_\_\_\_\_  
 Print Full Name Phone (Cell and/or Land line) Email Address

\_\_\_\_\_  
 Complete Mailing Address: Street/P.O. Box City State Zip

**NAME AND CONTACT INFORMATION OF THE BUSINESS MAKING THE REQUEST IF OTHER THAN ABOVE:**

\_\_\_\_\_  
 Print Full Name Phone (Cell and/or Land line) Email Address

\_\_\_\_\_  
 Complete Mailing Address: Street/P.O. Box City State Zip

I certify that I am the owner of record, or that I have been authorized by the owner of record to submit this application and that the occupancy described has been authorized by the owner of record. I agree to conform to all applicable local, state, and federal laws governing the execution of this project. I certify that the Code official or his representative shall have the authority to enter the areas in which this work is being performed, at any reasonable hour, to enforce the provisions of the Codes governing this project. I further certify that this information is true and correct to the best of my knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities. The undersigned understands that completion of this form does not allow occupancy of the premises.

APPLICANT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINT NAME (*legibly*): \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

## INTERPRETATION OF CHANGE OF OCCUPANCY PROVISIONS

The International Building Code as well as the several International Codes incorporated therein by reference and the Pennsylvania Uniform Construction Code (PA U.C.C.) sets construction, occupancy and life safety standards in general by reference to "use and occupancy" classifications. (Reference Chapter 3 Section 302.1 of the International Building Code)

The PA U.C.C. defines the term "occupancy" as the "Approved use of a building or structure under the Uniform Construction Code". (Reference Section 401.1 of the PA UCC.Regulations)

Section 403.42 (a) of the Pennsylvania Department of Labor and Industry issued regulations under the PA U.C.C. relating to the requirements for obtaining a permit, provides as follows:

Section 403.42 Permit Requirements and exemptions.

- (a) An owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or ***change the occupancy of a commercial building***, structure and facility or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system regulated by the Uniform Construction Code shall first apply to the building code official and obtain the required permit under Section 403.42a relating to permit application). [Emphasis added]

Based on the foregoing, no permit shall be required solely upon change of a tenant (occupant) in a commercial building, but if there is **proposed any change of purpose or level of activity, a permit shall be required**. Any question concerning whether a proposed change is, in fact, a change of purpose or level of activity should be referred to the "Building Code Official: PA MUNICIPAL CODE ALLIANCE, INC. at 380 Wayne Avenue, Chambersburg, PA 17201: telephone 717 496-4996, e-mail: pmca@pacodealliance.com. The attached form may be used to make inquiry. If mailed, a pre-addressed stamped envelope must be enclosed for a return mail response.

► ► All inquiries must include the Municipal Land Use Permit Application ◀ ◀

**ADDITIONAL INFORMATION NEEDED TO HELP CLARIFY TYPE OF USE  
FOR MORE ACCURATE DETERMINATION**  
Specifically aids in determining if a Bed & Breakfast or Short Term Stay

▶▶ This document must be submitted with the PMCA Determination Packet &  
the Municipal Land Use Permit ◀◀

1. Complete Address of premises: \_\_\_\_\_
  
2. Brief Description of your Business at this location: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
3. What portion of the Facility is rented? \_\_\_\_\_  
 \_\_\_\_\_
  
4. Is this Property/Unit owner occupied?       Yes       No  
 If YES:  Owner       Employee       Agent of Owner       Other: \_\_\_\_\_
  
5. How many Total Bedrooms: \_\_\_\_\_
6. How many Guest Bedrooms: \_\_\_\_\_
7. Are there cooking facilities available to the guests?  Yes       No
8. Do you serve meals:  Yes       No  
 If YES:  Breakfast       Lunch       Dinner       Other: \_\_\_\_\_

I certify that I am the owner of record, or that I have been authorized by the owner of record to submit this application / document. I further certify that this information is true and correct to the best of my knowledge and belief. Ref. 18 Pa. Cons. Stat. § 4903.

Title / Relationship to this Parcel	Phone(Cell & Business)	Email
Complete Address		
Signature	Print (Legibly)	Date

**► Owner Occupied & Non Owner Occupied Transient Rental Units ◀**  
Requirement(s) per the Uniform Construction Code (UCC)

**Owner Occupied:**

In accordance with the International Residential Code (IRC) and International Building Code (IBC) owner occupied dwelling units with 5 or fewer guestrooms are permissible occupancies as long as they meet the following requirements.

- They must have: Emergency lighting, smoke detectors and fire extinguishers must be provided in all locations required by the IBC. However, PA act 1 of 2011 has exempted one & two-family dwellings from the sprinkler requirements of the International Residential Code. Therefore, Owner-Occupied lodging houses with five or fewer guestrooms do not need a sprinkler system.

►► It is important to note that these requirements above **only apply to Owner Occupied** lodging houses with five or fewer guestrooms. All other short-term transit rental units must comply with the requirements for Non-Owner-Occupied lodging houses. ◀◀

**Non-Owner-Occupied:**

- **Non-Owner-Occupied Lodging Houses** where the occupants are transient in nature must comply with all applicable requirements as outlined in the IBC for group R-1 occupancies (*see attached sheet on R designations*).

**Transient** is defined in the IBC as occupancy of a dwelling or sleeping unit for not more than 30 days. Section 903.2.8 requires a sprinkler system to be installed throughout all buildings with a group R fire area.

► All applicable requirements of the IBC apply including required Handicapped Accessibility, Egress, Fire Suppression (automatic sprinkler system), and other life safety features such as, Emergency Lighting, Smoke Detectors, Carbon Monoxide Detectors, Fire Extinguishers, and so forth. ◀

Residential Use Groups defined per the 2015 International Building Code - IBC  
**SECTION 310 / RESIDENTIAL GROUP [R]**

**310.1 Residential Group R.** Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code*.

**310.2 Definitions.** The following terms are defined in Chapter 2:

- **BOARDING HOUSE:** A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.
- **CONGREGATE LIVING FACILITIES:** A building or part thereof that contains *sleeping units* where residents share bathroom or kitchen facilities, or both.
- **DORMITORY:** A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.
- **GROUP HOME:** A facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides *custodial care* but does not provide medical care.
- **GUEST ROOM:** A room used or intended to be used by one or more guests for living or sleeping purposes.
- **LODGING HOUSE:** A one-family dwelling where one or more occupants are primarily permanent in nature and rent is paid for guest rooms.
- **PERSONAL CARE SERVICE:** The care of persons who do not require *medical care*. Personal care involves responsibility for the safety of the persons while inside the building
- **TRANSIENT:** Occupancy of a *dwelling unit* or *sleeping unit* for not more than 30 days.

**310.3 Residential Group R-1.** Residential Group R-1 occupancies containing *sleeping units* where the occupants are primarily *transient* in nature, including:

- *Boarding houses (transient)* with more than 10 occupants
- *Congregate living facilities (transient)* with more than 10 occupants
- *Hotels (transient)*
- *Motels (transient)*

**310.4 Residential Group R-2.** Residential Group R-2 occupancies containing *sleeping units* or more than two *dwelling units* where the occupants are primarily permanent in nature, including:

- Apartment houses
- *Boarding houses (nontransient)* with more than 16 occupants
- *Congregate living facilities (nontransient)* with more than 16 occupants
- Convents
- *Dormitories*
- Fraternities and sororities
- *Hotels (nontransient)*
- *Live/work units*
- Monasteries
- *Motels (nontransient)*
- Vacation timeshare properties

**310.5 Residential Group R-3.** Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

- Buildings that do not contain more than two *dwelling units*
- *Boarding houses (nontransient)* with 16 or fewer occupants
- *Boarding houses (transient)* with 10 or fewer occupants
- Care facilities that provide accommodations for five or fewer persons receiving care
- *Congregate living facilities (nontransient)* with 16 or fewer occupants
- *Congregate living facilities (transient)* with 10 or fewer occupants
- *Lodging houses* with five or fewer *guest rooms*

**310.5.1 Care facilities within a dwelling.** Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or Section P2904 of the *International Residential Code*.

**310.5.2 Lodging houses.** Owner-occupied *lodging houses* with five or fewer *guest rooms* shall be permitted to be constructed in accordance with the *International Residential Code*.

**310.6 Residential Group R-4.** Residential Group R-4 occupancy shall include buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive *custodial care*. Buildings of Group R-4 shall be classified as one of the occupancy conditions specified in Section 310.6.1 or 310.6.2. This group shall include, but not be limited to, the following:

- Alcohol and drug centers
- Assisted living facilities
- Congregate care facilities
- *Group homes*
- Halfway houses
- Residential board and care facilities
- Social rehabilitation facilities

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code.

**310.6.1 Condition 1.** This occupancy condition shall include buildings in which all persons receiving custodial care, without any assistance, are capable of responding to an emergency situation to complete building evacuation.

**310.6.2 Condition 2.** This occupancy condition shall include buildings in which there are any persons receiving custodial care who require limited verbal or physical assistance while responding to an emergency situation to complete building evacuation.

## **Below is an Opinion from the International Code Council (ICC)**

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**QUESTION:** What is the correct classification and use group of a bed-and-breakfast where the owner does not live there on a regular basis?

**ANSWER:** Regarding the occupancy classification for an existing residential dwelling being converted to a bed & breakfast and the need for a sprinkler system. All comments are based on the 2012 International Residential Code (IRC) or 2012 International Building Code (IBC) unless noted otherwise.

As indicated in your correspondence, the residences in question which are being converted to bed & breakfast occupancies are not owner-occupied and are to be rented out on a daily or weekly basis. As such, the occupancy of the dwelling unit is considered transient by definition since the occupancy is intended to be for a period not exceeding 30 days.

In general, bed & breakfast facilities are considered transient congregate living facilities. Therefore, bed & breakfast occupancies are either considered a Group R-1 or Group R-3 occupancy depending on occupant load. Congregate living facilities, in accordance with Section 310.3 of the 2012 IBC, with an occupant load exceeding 10 would be classified as a Group R-1 occupancy; whereas congregate living facilities, in accordance with Section 310.5 of the 2012 IBC, with an occupant load of 10 or fewer would be classified as a Group R-3 occupancy.

With that being said, all new Group R-1 and R-3 occupancies regulated by the IBC are required by Section 903.2.8 to be protected by an approved automatic sprinkler system. While the existing residence may still look like a single family dwelling, the functional use of the residence has changed. As such, in this case, it is not only a change in occupancy but a change in code from an IRC structure to an IBC structure. Therefore, sprinkler protection, in our opinion, is required for the occupancy condition unless otherwise approved by the code official. It should be noted that Section 3408.1 of the 2012 IBC allows a potential change of occupancy without complying with all of the requirements for new construction provided the new use and occupancy is no more hazardous than the existing use subject to the approval of the code official. As such, final evaluation of the extent of sprinkler protection is subject to the code official.

Additionally, it should be noted that the 2012 IRC has a new exception within its scoping provisions. Exception #2 of Section R101.2 would allow an "owner-occupied" lodging facility with five or fewer guestrooms to now be regulated in accordance with the IRC as a single-family dwelling if it is equipped with an approved sprinkler system. As noted in your correspondence, however, the proposed bed & breakfast facilities are not intended to be owner-occupied. Therefore, single-family dwellings not complying with the exception are intended to be regulated by the applicable provisions in the IBC.

Code opinions issued by ICC staff are based on ICC published codes and do not include local, state or federal codes, policies or amendments. This opinion is based on the information which you have provided. We have made no independent effort to verify the accuracy of this information nor have we conducted a review beyond the scope of your question. This opinion does not imply approval of an equivalency, specific product, specific design, or specific installation and cannot be published in any form implying such approval by the International Code Council. As this opinion is only advisory, the final decision is the responsibility of the designated authority charged with the administration and enforcement of this code.