

## Change of use and fire safety requirements

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Every building or part of a building has a use that has been categorised by law.

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**Of interest to** Homeowners, Building owners, Building consent authorities

The use of a building (or part) for the purposes of the Building Act 2004 is determined by the 2005 Regulations - specifically, the table in Schedule 2 of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

There are currently 15 different use categories that a building might fall within, depending on the type of activity undertaken in the building or space. For example, use might be determined by whether the building will include crowd activities (such as a cinema, university or stadium) and, if so, the number of people, or by whether people will sleep in the building and, if so, the accommodation type (for example, a prison, house, motel or apartment building).

In some circumstances, an owner who intends to change the use of a building (or part of a building) is required by the Building Act 2004 to notify the territorial authority (TA) of that intention. If building work is necessary as part of the change of use (for example, the building in its new intended use may be required to have new fire safety features or to have some of its existing features altered), the owner must apply for a building consent.

An application for building consent must be accompanied by plans and specifications detailing the proposed work, including the inspection and maintenance requirements of any added or altered specified systems for inclusion on the building's compliance schedule. The TA in turn must consider the intended change of use and the corresponding building work proposed to see if it agrees that the building, in its new use, will comply with the Building Code to the extent required by the Building Act.

To change the use of a building or part of a building means both:

- to be changing from one categorised use (as per the 2005 Regulations table) to another categorised use
- and that the new use has more onerous requirements than the old use for compliance with the Building Code, or has additional requirements for compliance.

The additional or more onerous requirements will usually mean that the fire hazard or the risk to life has increased in the building's new use.

The fire hazard may have increased because either:

- the type of work carried out in the building has changed (for example, a wood workshop has become a paint-spraying workshop)
- or the goods now stored present a greater fire hazard than the previous goods
- or the goods are now stored on higher racks.

The risk to life may have changed because either:

- there are more people in the building under its new use (for example, a building previously used as a storage warehouse changes to a bulk retail store)
- or people's activities place them at increased risk (such as when a building used as a workplace becomes a building in which people sleep).

The least well understood, and therefore the least applied, area of the 2005 Regulations is a change of use in buildings used for storage, such as warehouses and coolstores.

If a building is used to store non-combustible commodities with a low fire load, then the use is WL (Working Low). If the fire load changes (for

example, when those commodities are packed in cardboard cartons and wrapped in plastic pallet wrapping), then the use will change to WM (Working Medium). If the height of storage is increased to over three metres, then the use will change to WH (Working High).

In each of the above situations, the building owner must give notice in writing to the TA of what change of use is proposed, and must apply for a building consent for any necessary building work occurring as a result of this change. The TA will then check the owner's proposal and decide whether it is satisfied that the building in its proposed new use will comply as nearly as is reasonably practicable with the Building Code requirements for<sup>1</sup> (<https://www.building.govt.nz/managing-buildings/change-of-use-and-alterations/fire-safety-requirements/downloadpdf#footnotes>):

- means of escape from fire
- protection of other property (for example, the spread of fire to other property)
- sanitary facilities
- structural performance
- fire rating performance
- and, if required, access and facilities for people with disabilities<sup>2</sup> (<https://www.building.govt.nz/managing-buildings/change-of-use-and-alterations/fire-safety-requirements/downloadpdf#footnotes>).

In order to meet the Building Act's requirements, the owner may have to propose some building work to meet the additional or more onerous requirements (for example, installing a fire alarm system or higher fire rated separations).

When the TA is satisfied all the requirements have been met in the building consent application, it will notify the owner in writing, issuing a building consent for the work. On completion of the work, the TA will issue the code compliance certificate along with the amended compliance schedule as necessary.

It should be noted that if the building use changes to one that has less onerous requirements for compliance with the Building Code than previously, then this is not a change of use as defined in the 2005 Regulations, and therefore the TA does not have to be notified.

## Failure an offence

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It is an offence to fail to give notice to the TA where the owner proposes to change the use of a building. If an owner has changed the use of a building but, for whatever reason, has neglected to notify the TA or to obtain a building consent for work performed, then an independent qualified person (IQP) may be in the best position to advise the owner and the TA that the change has taken place. This IQP might, for example, have noticed changes that have occurred since their last visit.

Although it would be too late for the owner to apply for a building consent, such advice from an IQP would enable the TA to require information from the owner and to make the necessary amendments to the building's compliance schedule. The owner would also have the option of applying for a certificate of acceptance for the building work performed.

<https://www.building.govt.nz>Footnotes:

[1] See section 114 and 115 of the Building Act 2004

[2] See section 117 and 118 of the Building Act 2004

All guidance related to Change of use and alterations (<https://www.building.govt.nz/managing-buildings/change-of-use-and-alterations/>)

- with compliance with the Building Act, it is published under section 175 of the Building Act
- with a Weathertight Services claim, it is published under section 12 of the Weathertight Homes Resolution Services Act 2006.