



BUILDING ADVISORY 19-006

Version 3

August 17th, 2018
(Revised June 22nd, 2022)

Subject: Alternative classification of small assembly occupancies

Background:

Small restaurants and small gyms that are used for fitness, yoga or martial arts classes are currently required to meet the same requirements as much larger occupancies of the same assembly (A2) classification under the 2019 National Building Code Alberta Edition (2019 NBC AE). A small amount of risk exists for these small occupancies relative to the building code requirements for them. This Advisory is to make small restaurants and small gyms that are used for fitness, yoga, martial arts classes, or similar uses, more feasible for the owners and allow them to fit into more types of buildings based on their construction and whether they are sprinklered or not without compromising safety. This advisory will provide an explanation of how an individual small occupancy can be alternatively interpreted as a mercantile (E) or business and personal services (D) occupancy meeting the prescriptive requirements of the 2019 NBC AE.

There are a number of relevant background points in considering the alternative classification of what would normally be A2 occupancies as D or E when there is a low occupant load.

Calgary Building services has already considered small vocational colleges as D occupancy under Regulation Bulletin RB14-02.

- a) The 2012 Ontario Building Code addresses small restaurants under 3.1.2.6. Restaurants
 - (1) A restaurant is permitted to be classified as a Group E major occupancy provided the restaurant is designed to accommodate not more than 30 persons consuming food or drink.
- b) National Fire Protection Association (NFPA) 101 Life Safety Code 2018 Edition defines an assembly occupancy as being:
 - a. An occupancy used for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation, or similar uses; or used as a special amusement building regardless of occupant load.”
 - b. Table 7.3.1.2. Occupant Load Factor
Occupant load calculation for rooms containing fitness equipment is 4.6 m²/person and room without fitness equipment is 1.4 m²/person. [note that in the 2019 NBC AE 3.1.17.1. the occupant load for mercantile shops is 4.6.m².person]
- c) For a gathering of 30 people or less:
 - a. only a single means of egress is required, which most likely represents the way from which the occupants entered the space.
 - b. the tenant layout will be simple, providing an efficient evacuation.
 - c. 30 represents half of the maximum occupant load (60) allowing one means of egress.

- d) The definition of assembly occupancy as provided in the 2019 NBC AE includes “consumption of food or drink”. That is the part that seems to put restaurants there. The dictionary definition of restaurant would seem to put it there as well. However, one of the examples under mercantile occupancy in the dictionary is “shops”. That definition includes “a building, room, or other establishment used for the retail sale of esp. specialty goods or services (barber shop, coffee shop).” A small restaurant could therefore be seen as a “shop” and therefore considered mercantile.
- e) If the food preparation and sales area is larger than the seating area it would make it more a mercantile than an assembly as well. That is supported by the 2019 NBC AE classifying take-out food establishments as mercantile (E) occupancies. Sentence 3.7.2.2.(16) allows small mercantile (E) occupancies to only consider the number of staff when determining water closet numbers. Therefore, small mercantile occupancies would only be required to have one washroom.
- f) In examining the definitions, the use of the space for fitness and related types of classes could be considered assembly for “educational” purposes but they could also be considered as business and personal services for “receiving of professional or personal services”. Nothing in the definition of business and personal services says one-on-one services. In small groups a fitness class could be considered business and personal services. In article 3.2.4.1.(4)(f) a fire alarm system is required in a school with more than 40. Therefore 40 would be a supportable number to arrive at since it is based on the 2019 NBC AE. If the occupant load area were considered, the values from the occupant load table in 3.1.17.1. could be used. In that case the occupant load would be 4.6 sq.m./person for a business and personal services space.

Advisory

Calgary Building Services will consider an alternative classification of a single small occupancy used as small restaurants and small gyms that are used for fitness, yoga, martial arts classes, or similar uses as follows:

- Small restaurants may be considered small food shops and may alternatively be mercantile (E) rather than assembly (A2) occupancies:
 - If seating for 30 or less people
 - If No egress through the kitchen
- Small fitness facilities businesses may be considered business and personal services (D) rather than assembly (A2):
 - If providing services for not more than 40 people at one time, or
 - If the occupant load does not exceed 40 people based on an area of 4.6 sq.m./person

Note: A distillery¹ is a high hazard industrial (F1) occupancy, and tasting rooms are an assembly (A2) occupancy. Regardless of the size, at this time, an A2 tasting room in a distillery is not permitted to be classified as a mercantile (E) occupancy. In order for a tasting room to be combined with a distillery, the two occupancies must be divided by a firewall in accordance with Sentence 3.1.10.2.(1), or an alternative solution submission illustrating performance approximate equivalent or better than the acceptable solutions of the 2019 NBC AE is required.

This interpretation was made by the Codes and Standards Technical Interpretation Committee (CSTIC), July 11, 2018, and revised June 22nd, 2022.

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¹ - *Distillery* means a process plant where distilled beverage alcohols are produced, concentrated or otherwise processed, and includes facilities on the same site where the concentrated products may be blended, mixed, stored or packaged. (Division A -1.4.1.2. of the 2019 NBC AE)