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## Code Interpretation 2010 -01

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**Code Effective Date:** January 1, 2008

REVISED

**Source Document:** 19NYCRR 1221 - *Building Code of New York State* (BCNYS)

**Question:** What is the occupancy classification of a small take-out food service establishment with a limited number of tables and chairs and what is the occupant load for the various spaces therein?

**Interpretation:**

The occupancy classification of a take-out service such as ice cream, coffee, burgers and fries, or pizza, for example, is B, business occupancy. The primary function of such businesses is the sale of take out goods. Typically, customers wait in one or more lines for service at a counter. It is not a mercantile occupancy where customers select merchandise from shelves or racks, and bring merchandise to a payment location. Rather, it is more similar to service businesses such as banks, dry cleaners and post offices.

Since the customers are standing the number of occupants (occupant load) is calculated in accordance with *Building Code of New York State* (BCNYS) Section 1004.1 and Table 1004.1.2 at 5 sq. ft. per person for the queuing area. The hall/corridor leading to the rear exit and the toilet room is B occupancy and the occupant load is calculated using the same sections at 100 sq. ft. per person.

Additionally, the occupancy includes a small number of tables and chairs as an accessory assembly space. BCNYS Section 303.1, Assembly Group A, states in part:

*Assembly areas with less than 750 square feet and which are accessory to another occupancy according to Section 302.2.1 are not assembly occupancies.*

The tables and chairs are accessory to the B take out food service occupancy and are classified as a B, business occupancy. The occupant load is calculated at 15 sq. ft. per person. There may be an aisle between the sets of tables for access to the front exit which is required to be a minimum of 36 inches in width in accordance with BCNYS Section 1013.4.1. Therefore, there are two B occupancies in the same space.

The kitchen prep area occupant load is calculated at 200 sq. ft. per person. The storage area occupant load is calculated at 300 sq. ft. per person. An accessory mercantile space for the display of related merchandise, when present, is calculated at 30 sq. ft. per person when located on the grade floor.

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