

FAQ

What Use Category Does Eating & Drinking and/or Assembly and Entertainment Space Fall Into?

Background:

Per [A-301.1.5](#), a [Zoning Permit](#) is required for every new use commenced on any land or in any structure.

It is common for businesses to fit into multiple use subcategories within the *Eating and Drinking Establishment* and *Assembly and Entertainment* use categories.

This FAQ is intended to clarify what zoning permits are needed for Nightclubs, Event Spaces, Entertainment Venues, Bar/Restaurants with Entertainment, Smoking Lounges, etc.

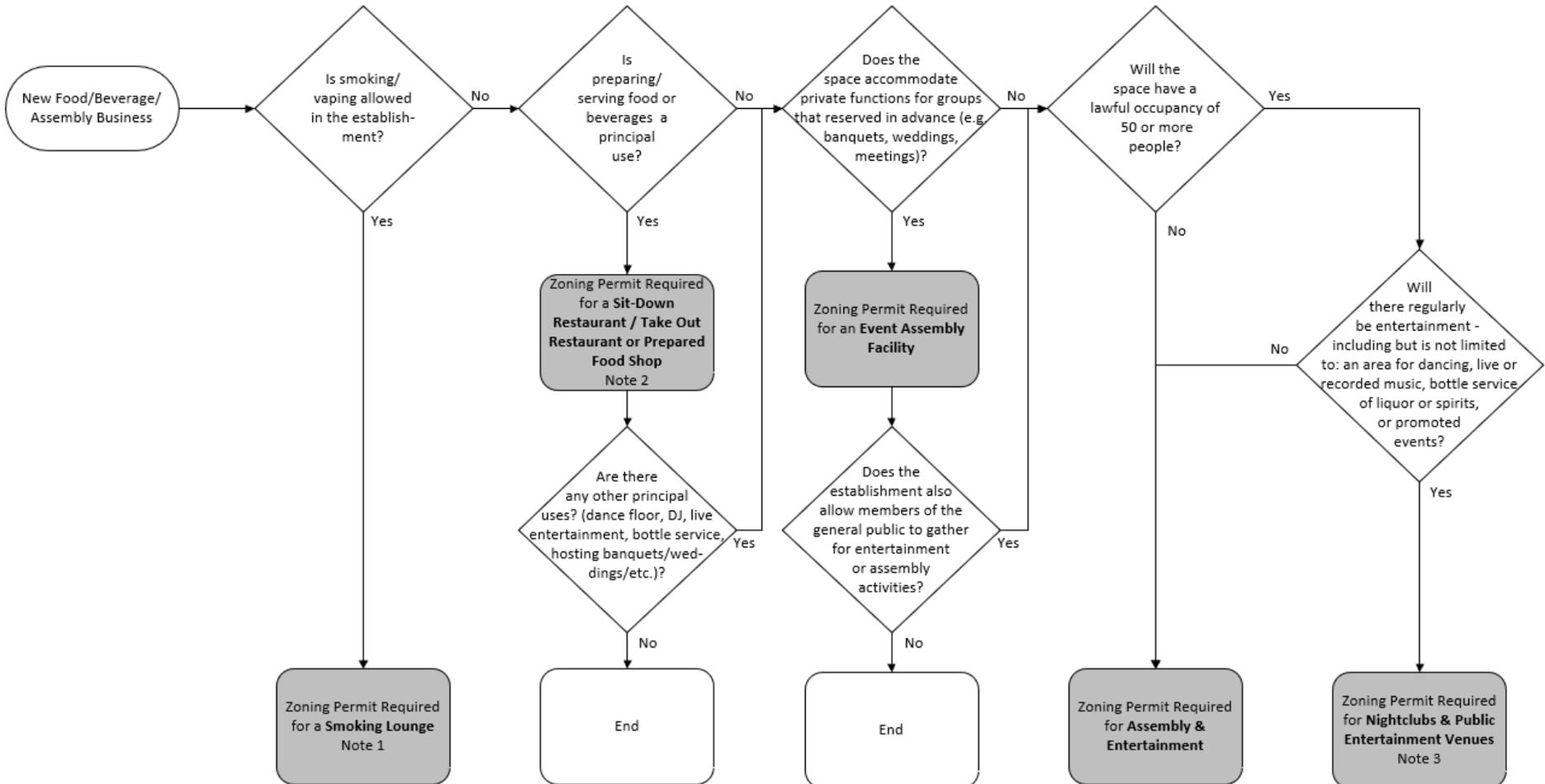
Answer:

The flowchart on Page 2 is intended to guide a business owner opening a new business that falls into one or more of the *Eating & Drinking Establishment* or *Assembly and Entertainment* use categories to determine what zoning permit(s) they are required to obtain.

When using the flowchart, each shaded box will indicate that a permit is required for a specific use category. Depending on the business model that is proposed, a Zoning Permit may be required for multiple uses.

It is also important to re-evaluate if you decide to make changes to your business model to ensure that you remain in compliance.

You can also use this [online tool](#) to find out which use category(ies) apply to your business.



Flowchart Notes:

1. Smoking or vaping of tobacco products, electronic cigarettes, or other substances is not permitted in assembly and entertainment uses. [\(14-601\(7\)\(c\)\)](#)
2. If you need guidance differentiating between these uses, refer to the [Use Classification Guide](#) and [14-601\(7\)\(f\)](#).
3. This category does not include dance studios and related establishments providing instructional dance classes; performances incidental to a restaurant, hotel or retail uses and Event Assembly Facilities.

Additional FAQs

1. What use category(ies) do I need on my Zoning Permit if my establishment is a restaurant by day and functions as a nightclub on nights/weekends?

A Zoning Permit is required for all uses provided on a lot or structure. If your establishment functions in one manner during the day and another at night, you need a permit for each use category that describes your business.

For an establishment that functions as both a restaurant and a nightclub, they would need a Zoning Permit for whichever type of *Eating and Drinking Establishment* best describes the restaurant use and a Zoning Permit for *Nightclubs and Private Clubs*¹.

2. What use category(ies) do I need on my Zoning Permit if my establishment is a restaurant that plans to occasionally host private events like weddings or banquets?

A Zoning Permit is required for all uses provided on a lot or structure.

For an establishment that functions as a restaurant but also hosts private events, they would need a Zoning Permit for whichever type of *Eating and Drinking Establishment* best describes the restaurant use and a Zoning Permit for *Event Assembly Facilities*.

3. What use category(ies) do I need on my Zoning Permit if my bar primarily provides standing space for patrons but no additional entertainment like dancing, a DJ, or bottle service?

A bar that provides standing space for patrons would typically fall into the use category of *Sit-Down Restaurant*.

4. What use category(ies) do I need on my Zoning Permit for a hookah lounge?

A hookah lounge, or any eating and drinking establishment that allows smoking or vaping, is required to obtain a Zoning Permit for a *Smoking Lounge*. Smoking or vaping of tobacco products, electronic cigarettes, or other substances is not permitted in *Assembly and Entertainment* uses ([14-601\(7\)\(c\)](#)).

Please note, that *Smoking Lounge* was not defined in the Philadelphia Zoning Code until December 2019. This means that establishments that permitted smoking/vaping before that date were categorized as whichever use category most closely described the use. This was typically a *Sit-Down Restaurant* or *Assembly and Entertainment*.

5. What use category(ies) do I need on my Zoning Permit if my bar/restaurant also has karaoke?

Karaoke can be provided in a few different formats, and the details need to be considered to determine what Zoning Permit is needed.

When karaoke is the principal use of an establishment and is performed in a common area where all patrons have access it is considered live entertainment and the establishment would need a Zoning Permit for *Nightclubs and Private Clubs*¹.

Some karaoke bars/restaurants have smaller, private rooms that patrons can use; each of which have an occupancy of less than 50 people. This model would require a permit for *Assembly and Entertainment*.

If an establishment that is primarily a bar/restaurant hosts occasional karaoke nights, this is considered entertainment that is incidental to a restaurant and no additional Zoning Permit is needed to cover that specific use.

¹ If the lawful occupancy of the establishment is less than 50 people, a zoning permit is needed for *Assembly and Entertainment* instead of *Nightclubs and Private Clubs*.

6. What use category(ies) do I need on my Zoning Permit if my bar/restaurant occasionally hosts a drag brunch or similar performance?

Generally, if a bar/restaurant occasionally hosts drag brunch or similar performance, this is considered entertainment that is incidental to a restaurant, and no additional Zoning Permit is needed to cover that specific use.

Note, if performances are a primary use of the space, then the entertainment is not incidental to a restaurant and would need to be evaluated as such.

7. What use category(ies) do I need on my Zoning Permit if my bar/restaurant hosts games such as quizzo, trivia, or bingo?

If a bar/restaurant hosts game nights, this is considered entertainment that is incidental to a restaurant and no additional Zoning Permit is needed to cover that specific use.

8. The property or space that I'm using already has a Zoning Permit, what does it mean? Can I use it?

Typically, if the previous tenant had a valid Zoning Permit for the same use that you are proposing, a new Zoning Permit is not required. If the previous permit was issued by variance and there is a proviso on the permit, that proviso would apply to the new tenant as well.

It is also important to remember that a Zoning Permit allows the activities defined in the Philadelphia Zoning Code at the time that the permit was obtained. This means if the definitions of the code change, the property is "grandfathered" based on what was allowed when the permit was issued.

Below are two examples of how definitions in the code changed some of these uses in recent years:

- Before 12/20/2023, the Philadelphia Zoning Code included a definition for *Nightclubs and Private Clubs*. This definition was removed and replaced with *Nightclubs and Public Entertainment Venues and Event Assembly Facility*². Any permit that was obtained before 12/20/2023 will not include the definitions that are in the current code and should be evaluated based on the definitions in effect at the time that the permit was obtained.
- Before 12/30/2019, the Philadelphia Zoning Code did not include a definition for *Smoking Lounge*³. This means that establishments that permitted smoking/vaping before that date were categorized as whichever use category most closely described the use; this was typically a *Sit-Down Restaurant or Assembly and Entertainment*. These uses are allowed to remain without obtaining a new Zoning Permit, but the owners may be asked to confirm continuous use. This use is also required to obtain an exemption from the [Clean Indoor Air Worker Protection Law](#) from the Department of Public Health.

9. I am only proposing a temporary change of use; is that permitted without obtaining zoning approval?

No - The Philadelphia Zoning Code does not provide exemptions for temporary uses or structures. A Zoning Permit is required for all uses provided on a lot or structure.

Please refer to L&I's [FAQ](#) on pop-up beer gardens and restaurants for more information.

² See [Bill No 230764](#), enacted 12/20/2023.

³ See [Bill No 190601](#), enacted 12/30/2019.

10. Now I know what permits I need; will I be able to get these permits?

To determine if your property can obtain a by-right permit for the proposed use, visit the [Zoning Summary Generator](#).

Open the [Zoning Summary Generator](#), type your address into the search bar, and click the magnifying glass. Under the “Use Regulations” section, you will see a list of use(s) permitted by-right.

If the use is not listed under “Use(s) Permitted By-Right”, then a Zoning Permit Application will be denied by Licenses and Inspections (L&I). This decision can be appealed, and a permit will be issued only if a variance or special exception is granted by the Zoning Board of Adjustment (ZBA).

11. What do I do if my Zoning Permit Application is denied?

If an application for a Zoning Permit is denied, the applicant will have the opportunity to appeal that decision to the ZBA. As part of this process, a sign must be posted to notify the community of the upcoming hearing and the applicant must also meet with the Registered Community Organization (RCO). Neighbors may appear at a ZBA hearing to say why a variance should not be granted.

For more information about the appeal process, visit the [ZBA's website](#).

Additional Information and Resources

In addition to Zoning Permits, the business owner is required to obtain any other necessary Building Permits and licenses before construction or beginning business operations. Below are additional resources that business owners may find useful when determining the other approvals that are required.

General Resources:

- [Permit Navigator Business Portal](#)
- [Zoning Summary Generator](#)
- [Commercial Leasing Notice](#)
- [Find Your Neighborhood's Business Services Manager](#)
- [Use Classification Guide](#)
- Find out which category(ies) apply to your business by using this [online tool](#).

License Resources:

- The operator and any vendors on-site must possess a [Commercial Activity License](#).
- Any entity serving food and/or drink must possess the appropriate [Food Preparation and Serving License](#).
- A [Special Assembly Occupancy License](#) is required where the establishment offers social entertainment, like dancing, live music, or a DJ.
- If a dumpster is utilized for trash storage, a [Dumpster License](#) is required.
- Liquor licenses are regulated by the [Pennsylvania Liquor Control Board](#).

Questions?

Call 311 or (215) 686-8686 (if outside Philadelphia) or submit an online form via <http://www.phila.gov/li/get-help>.

Disclaimer:

This interpretation, policy or code application is intended to provide guidance to staff for consistency of review and is subject to change without notice. Application of this interpretation, policy or code application to specific projects may vary. There may be other ways to comply with the Code. If so, you are not required to use this method. You may want to investigate other options or consult with a professional identifying an equally code compliant solution.