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BULLETIN 01-2

Issued: October 2001 Revised: June 2005
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Subject: Temporary Certificates of Occupancy
Reference: N.J.A.C. 5:23-2.23, 2.24, 4.18 and 4.20

The Uniform Construction Code (UCC) requires code officials to issue a Temporary Certificate of Occupancy (TCO) when all utilities are in place, and the building, or specified portions of a building, can be occupied without endangering the health and safety of the occupants (N.J.A.C. 5:23-2.23). A TCO is an administrative tool that allows a building to be occupied when the building is substantially complete and when the unfinished items do not adversely impact health or safety.

In this bulletin, the Department of Community Affairs (DCA) is providing direction on the issuance of a TCO by designating two categories of unfinished work or unmet prior approvals:

1. those which preclude the issuing of a TCO and
2. those which require the issuing of a TCO

A TCO shall not be issued when any of the following items that are part of a construction project have not yet been provided:

- health and life-safety systems (Note: Required systems must be fully operational and, where required, systems must have been tested.)
- sewer or septic system connection
- water supply connection or well certification
- electric utilities connection
- gas utilities connection
- New Home Warranty issued
- Rooming and Boarding Home license
- Elevation Certificate in flood hazard plain
- where required, an accessible route must be provided; although, the accessible route provided under a TCO may be temporary
- emergency vehicle access
- Soil Conservation Report of Compliance -- conditional or final (see Bulletin No. 91-2, Compliance with Requirements of the Soil Erosion and Sediment Control Act)

A TCO shall be issued, although any of the following items that are part of a construction project are incomplete:

- where there is no performance bond, site work such as parking, landscaping, drainage, and lighting (Note: Where unfinished items are covered by a performance bond, a Certificate of Occupancy (CO) may be issued.)

- a newly installed elevator or elevator device that has been approved to operate, but has not been registered with the DCA (Note: A CO shall not be issued until the elevator or elevator device has been registered with the DCA.)
- Hotel and Multiple Dwelling Certificate of Registration
- for low- and high-pressure steam and/or hot-water boilers when they are of a heat input capacity of 40,000 BTU/hr or more serving six dwelling units or more, or other dwellings with accommodations for 25 persons or more, registration issued by the Bureau of Boiler and Pressure Vessel Compliance
- unpaid non-UCC fees or penalties
- unpaid UCC fees or penalties that are being appealed

A TCO must reflect the approximate length of time needed to complete the work.

- For work that is covered by the permit, the construction official shall establish the time frame in consultation with the appropriate subcode official(s).
- For related construction work that is not covered by the permit, the construction official shall establish the time frame in consultation with the agency governing the incomplete prior approval, as appropriate.

The TCO fee must be established through a municipal ordinance. The TCO fee is not intended to be a revenue enhancer; it must reflect the administrative costs of issuing or renewing a TCO. When the permit applicant chooses to pay the full CO fee at the time of the initial issuance of the TCO, there shall be no TCO fee for the initial issuance. If the TCO is renewed, a TCO renewal fee may be charged, even when the CO fee has been paid in full.

The TCO rule and this bulletin are based on the premise that it is unreasonable to prevent the occupancy of a building when no serious health or safety concerns exist in the building.