New Business #1

COUNTY AGENDA REQUEST

Department:	Permits and Inspections	Presenter(s):	Joe Scarborough
Meeting Date:	Wednesday, January 15, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's request to adopt Ordinance 2014-01 amending the Fayette County Code of Ordinances, Section 5-163.-Temporary Certificate of Occupancy (TCO) Prohibited and Section 5-813.-Temporary Certificate of Occupancy Prohibited.

Background/History/Details:

Currently, our Ordinance, as applicable to the Commercial Building Code and Existing Building Code, prohibits the occupancy of any portion of a Commercial Structure unless the complete structure meets all Code requirements and a final Certificate of Occupancy is issued. With the significant increase in large, non-residential developments both ongoing and proposed in the County, it would be beneficial to industry to allow a Temporary Certificate of Occupancy (TCO) for a specific portion of a building should all Building Code/ Life-Safety Code/Fire Code requirements be met in that specific area. An example would be in an Office/Warehouse structure where the warehouse is complete and could be used for storage/etc., while construction is ongoing in the office area. Another example would be where a Studio/Office Building is under construction, the studio portion completed and could be used for movie sets/filming, but with the office portion remaining under construction. Isolation of the occupied portion from the ongoing construction will be required (fire-rated doors, framing closed all openings accessing construction side, etc.). One-hundred percent Fire Marshal release will be required, and all outstanding fees associated with the permit must be paid . The TCO would be for a maximum of 45 days. The area of the construction for which a TCO is being sought comprises at least 80% of the structure. Following are reasons motivating the County to allow for a TCO: 1) Large, non-residential development not 100% ready, but with large structures that are substantially complete. Issues brought up by allowing for a TCO: 1) Safety of owners, employees, invitees, and public; 2) Failing to timely complete the project; 3) Lack of practical remedy for bad actors.

What action are you seeking from the Board of Commissioners?

Approval of staff's request to adopt Ordinance 2014-01 amending the Fayette County Code of Ordinances, Section 5-163.-Temporary Certificate of Occupancy (TCO) Prohibited and Section 5-813.-Temporary Certificate of Occupancy Prohibited.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance		Reviewed by Legal	
Approved by Purchasing		County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

Chapter 5 – BUILDING, GENERAL FEES

~~Sec. 5-163. Temporary certificate of occupancy prohibited.~~

~~The building official is not authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit.~~

Sec. 5-163. Provision of Temporary Certificate of Occupancy.

The Board of Commissioners finds that certain non-residential structures may be of such a size that requiring 100% completion of the structures can impact the timely legitimate and safe use of a substantial part of the structures. Components of this type of structures could be safe for persons to use, work in, or visit so long as certain minimum standards are met. The minimum standards within this Chapter have been developed in recognition of the need to facilitate the early use of certain structures where requiring 100% of project completion could impact the timely legitimate and safe use of the structures based upon its size.

Sec. 5-164. Temporary Certificate of Occupancy.

The building official is authorized to issue a temporary certificate of occupancy for non-residential structures when all conditions for such issuance have been satisfied. The following criteria are minimum standards which must be met prior to any structure being eligible for a temporary certificate of occupancy:

The development shall be an approved non-residential use being constructed within a non-residential zoning district.

The development shall be a minimum of 50 acres.

The building shall total a minimum of 25,000 square feet.

All fees and every other charge due the County for the structure shall be current and paid in full.

The area of the structure for which a temporary certificate of occupancy is being sought comprises at least 75% of the structure.

Every part of a structure for which a temporary certificate of occupancy is being requested shall meet all minimum standard codes (building, fire, etc.) applicable to all non-residential structures in the County. Separation of the area specified by the temporary certificate of occupancy from any area of ongoing construction will be required. Fire Marshal release shall also be required. The building official shall identify the limits of the occupied area .

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Sec. 5-165. Request for Temporary Certificate of Occupancy.

The Owner/Licensed Contractor, to which a non-residential Building Permit was issued, must submit in writing, a request for issuance of a temporary certificate of occupancy. This request shall include justification of the proposed need, construction plans identifying the requested area, and signed agreement holding the County harmless in the event of any claims that may arise during the period that the temporary certificate is in effect.

Sec. 5-166. Time Limit of Temporary Certificate of Occupancy.

The duration of the temporary certificate of occupancy shall not exceed 45 days.

Sec. 5-167. Expiration of Temporary Certificate of Occupancy.

The temporary certificate of occupancy shall expire on the date provided thereon or on the date of issuance of a certificate of occupancy, whichever is first to occur. However, if the temporary certificate of occupancy expires prior to the issuance of a certificate of occupancy, the property owner acknowledges that the property owner is subject to a daily fine for every day after the expiration of the temporary certificate of occupancy until the issuance of a certificate of occupancy.

Sec. ~~5-164~~ ***5-168***. - Revocation.

The building official is authorized to, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

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~~Sec. 5-813. - Temporary certificate of occupancy prohibited.~~

~~The building official is not authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit.~~

Sec. 5-813. Provision of Temporary Certificate of Occupancy.

The Board of Commissioners finds that certain non-residential structures may be of such a size that requiring 100% completion of the structures can impact the timely legitimate and safe use of a substantial part of the structures. Components of this type of structures could be safe for persons to use, work in, or visit so long as certain minimum standards are met. The minimum standards within this Chapter have been developed in recognition of the need to facilitate the early use of certain structures where requiring 100% of project completion could impact the timely legitimate and safe use of the structures based upon its size.

Sec. 5-814. Temporary Certificate of Occupancy.

The building official is authorized to issue a temporary certificate of occupancy for non-residential structures when all conditions for such issuance have been satisfied. The following criteria are minimum standards which must be met prior to any structure being eligible for a temporary certificate of occupancy:

The development shall be an approved non-residential use being constructed within a non-residential zoning district.

The development shall be a minimum of 50 acres.

The building shall total a minimum of 25,000 square feet.

All fees and every other charge due the County for the structure shall be current and paid in full.

The area of the structure for which a temporary certificate of occupancy is being sought comprises at least 75% of the structure.

Every part of a structure for which a temporary certificate of occupancy is being requested shall meet all minimum standard codes (building, fire, etc.) applicable to all non-residential structures in the County. Separation of the area specified by the temporary certificate of occupancy from any area of ongoing construction will be required. Fire Marshal release shall also be required. The building official shall identify the limits of the occupied area .

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Sec. 5-815. Request for Temporary Certificate of Occupancy.

The Owner/Licensed Contractor, to which a non-residential Building Permit was issued, must submit in writing, a request for issuance of a temporary certificate of occupancy. This request shall include justification of the proposed need, construction plans identifying the requested area, and signed agreement holding the County harmless in the event of any claims that may arise during the period that the temporary certificate is in effect.

Sec. 5-816. Time Limit of Temporary Certificate of Occupancy.

The duration of the temporary certificate of occupancy shall not exceed 45 days.

Sec. 5-817. Expiration of Temporary Certificate of Occupancy.

The temporary certificate of occupancy shall expire on the date provided thereon or on the date of issuance of a certificate of occupancy, whichever is first to occur. However, if the temporary certificate of occupancy expires prior to the issuance of a certificate of occupancy, the property owner acknowledges that the property owner is subject to a daily fine for every day after the expiration of the temporary certificate of occupancy until the issuance of a certificate of occupancy.

Sec. ~~5-814~~ ***5-818***. - Revocation.

The building official is authorized to, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions

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