



## Legislation Details (With Text)

**File #:** 21-0709 **Version:** 1  
**Type:** Ordinance **Status:** Agenda Ready  
**File created:** 5/23/2021 **In control:** City Council  
**On agenda:** 6/1/2021 **Final action:**  
**Title:** Conduct the first reading of an ordinance amending Section 5-1B-2 of Article B (Residential Code) of Chapter 5 (Building Codes) of Title 5 (Building Regulations) of the Naperville Municipal Code to require the submittal of a cash deposit to obtain a Temporary Certificate of Occupancy for buildings constructed under the International Residential Code

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Temp CO Ordinance

Date	Ver.	Action By	Action	Result
6/1/2021	1	City Council	conduct the first reading	

### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Conduct the first reading of an ordinance amending Section 5-1B-2 of Article B (Residential Code) of Chapter 5 (Building Codes) of Title 5 (Building Regulations) of the Naperville Municipal Code to require the submittal of a cash deposit to obtain a Temporary Certificate of Occupancy for buildings constructed under the International Residential Code

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Peter Zibble, Operations Manager

#### **BOARD/COMMISSION REVIEW:**

The Building Review Board (BRB) considered this matter at its April 21, 2021 meeting and voted 5-0 to recommend a deposit requirement, but amended the motion to support a lump sum \$2,000 deposit for all properties. Staff concurs.

#### **BACKGROUND:**

Each year Naperville issues approximately 300 building permits for new single-family homes, duplexes, townhomes, and residential building additions or remodeling projects where the owner has moved out of the house and/or the house is being prepared for resale. Upon completion of these types of projects, the City certifies that the work was constructed in accordance with the applicable building codes and issues a Certificate of Occupancy. A Certificate of Occupancy (CO) allows for the building to be legally occupied. Therefore, property owners and builders strive to obtain the CO as soon as possible so the property owner can move into the home, or in the case of a builder-owned property, the property can be sold to a new owner.

To help expedite occupancy, the City offers a Temporary Certificate of Occupancy (Temp CO). A Temp CO may be issued upon request when the remaining work involves only minor exterior finishes, landscaping and grading, preparation of an as-built drawing, and other improvements that would not impact the safety of the occupants. Temp COs are issued for 60 days during the construction season. They are set to expire on June 15 when issued during the winter months to allow adequate time to complete the work. Since there is no cost to obtain a Temp CO, most builders and property owners request one.

The problem the City has experienced with Temp COs is that once issued, builders and property owners often fail to obtain the Final Certificate of Occupancy (Final CO). Without a Final CO, final inspections are unresolved, some fees may go unpaid, and permits remain open. The occupants of the home may be unaware that their right of occupancy was only temporary and that they could be subject to significant fines. Title 5 of the Naperville Municipal Code allows for fines of up to \$500 per day for unlawful occupancy of a building.

Instead of assessing large fines or evicting occupants, City staff partners with builders and homeowners to ensure the work is completed and Final COs are issued. Unfortunately, with the large numbers of Temp COs that are issued each year, this process consumes a great deal of staff time, and some builders or homeowners are not always cooperative. As of May 1, 2021, the City has 317 expired Temp COs, some dating back to 2014.

### **DISCUSSION:**

Staff has considered different options to encourage builders and property owners to complete the work required and remain engaged in the process until they receive the Final CO. We have considered the implementation of different types of fees, fines and surety options or the possibility of completely eliminating Temp COs. The preferred option is one that continues to expedite occupancies, minimizes costs for the builders, reduces staff time, and will result in improved compliance.

The recommendation is to collect a cash deposit prior to issuance of a Temp CO. The value of the deposit would then be fully refunded once the Final CO is issued. Such a deposit would help encourage timely completion of the remaining work and ensure that the builder or homeowner remains engaged through the completion of the permit process.

The required cash deposit amount would be 0.5% of the valuation of the improvement as indicated on the permit application with a minimum amount of \$2,000. Most deposits would be \$2,000, but larger infill homes would require deposits proportional to the estimated value of the remaining improvements. The actual cost to the builder/owner will be limited to the cost of borrowing for the value of the deposit and no other fees would be charged for the Temp CO.

The deposit would be held in escrow by the City until the Final CO is issued, and in no case will it be used by the City to complete the work or to hire others to do it. However, to help ensure the process does not continue indefinitely, the funds will be forfeited if the Final CO has not been issued within 24 months. Staff anticipates very few deposits will be forfeited as this will provide further incentive to complete the work. Also, with fewer Temp COs actually expiring, staff will be in a better position to provide additional attention to these properties long before the 24-month deadline.

Builders or property owners will be required to formally request a Temp CO. If the inspector deems the work sufficiently complete, a deposit amount will be established. The builder will pay the deposit

value to the City and designate in writing to whom the deposit amount will be refunded. Upon issuance of the Final CO, the City will send a check to the appropriate person in the amount of the original deposit. The deposit may be posted by and returned to anyone associated with the permit who has the authority to complete the remaining work.

Collection of a cash deposit for all future Temp COs will not address the existing backlog of expired Temp COs, but it will serve to improve compliance in the future, reduce staff time dedicated to this process, and ensure that more homes receive Final Certificates of Occupancy in a timely manner.

**FISCAL IMPACT:**

N/A