

# CITY OF MILPITAS

Building Safety Department  
455 E. Calaveras Blvd.  
Milpitas, CA 95035  
408-586-3240  
[www.milpitas.gov](http://www.milpitas.gov)



## AUTHORIZATION TO OCCUPY PRIOR TO PERMIT FINAL: TEMPORARY CERTIFICATE OF OCCUPANCY (TCO)

Structures, buildings, or portions thereof shall not be occupied or used for any purpose until the Building Official has issued a Certificate of Occupancy.

### Exception:

If during the final inspection process, the Fire Inspector and the Building Inspector finds that no substantial hazard will result from occupancy of any permitted structure, building, or portions thereof prior to the same being completed, and the following requirements have been met, and upon application to and approval of the Building Official, may:

Issue a Temporary Certificate of Occupancy (TCO) for the use of a site, structure, building, or portions thereof prior to the completion of the permitted site, structure or building with application review and approval and concurrence with other city departments as applicable.

The Temporary Certificate of Occupancy (TCO) shall not be issued or take effect, and the building shall not be occupied, until all approvals are obtained, fees are paid, and a signed TCO is issued by the Department.

Note: all permits and deficiencies outstanding at the time of TCO issuance shall be completed (finalized) and a permanent Certificate of Occupancy (CO) shall be issued prior to permanent occupancy.

### REQUIREMENTS TO QUALIFY FOR A TCO

The above and the following requirements shall be met prior to the Building Official and the Fire Marshal approving a request for a Temporary Certificate of Occupancy (TCO):

1. Final inspections shall be obtained from Fire and Building Safety & Housing Departments confirming all minimum fire and life safety requirements for temporary occupancy have been completed and approved, and to generate a list of discrepancies remaining that would allow the project to qualify for the TCO signatures and issuance of a temporary certificate of occupancy.
2. Inspections and TCO authorizations shall be obtained from Engineering Land Development and Planning Departments, as applicable, confirming all requirements for temporary occupancy have been completed and to obtain each departments list of discrepancies remaining.
3. A [Faithful Performance Deposit](#) shall be submitted to the city for all work remaining prior to TCO Issuance.
4. When requesting early occupancy of **isolated portions or phases** of a project, *Occupancy Phasing Plans* shall be submitted to the City **in advance** as a *Deferred Submittal* for review and approval through the [online submittal system](#) with below information:
  - a. Identifies the portion of the structure, building, or buildings where early occupancy is requested.
  - b. Shows the identified areas relationship to the rest of the project.
  - c. Illustrates how the proposed portion to be occupied will be isolated from the rest of the project. An approved physical barrier shall be installed between the area(s) requested for temporary occupancy and such area(s) shall be independent of the incomplete portions of the structure, building, or buildings.
  - d. Shows the completion of the interior/exterior exiting paths, utilities, sub-trade systems, restrooms, corridors, entrances/exits, parking, and/or other portions of the project that serve the area where temporary occupancy is being requested.
5. All life safety issues shall be completed and independent of incomplete portions of construction not included as part of the TCO request. No life safety hazard shall result from the temporary occupancy.
6. Exiting from the occupied area(s) as approved by the TCO shall be maintained.
7. Required parking for temporary occupancy shall be completed including accessible parking.

8. Mechanical, electrical, and sanitary systems shall be completed and operational for the requested area(s) to be occupied.
9. Fire alarm and sprinkler systems shall be operational, tested approved prior to early occupancy, and maintained.
10. Fire extinguishers proper location and installation shall be (i.e., 2A10BC and K at restaurant kitchen) per the Fire Department.
11. Address numbering identification shall be installed per city requirements (see [Request for New or Change of Address Numbers](#)).
12. Aisle width of 36" minimum shall be maintained between shelves and racks, and 44" minimum in main aisle serving aisles from both sides.
13. All non-fixed and moveable fixtures, cases, racks, counters, storage shelves and partitions taller than 5'-9" in height shall be submitted for permit. Do not place any furniture, fixtures, or equipment in areas where the inspectors must view and inspect necessary systems or attachments without prior approval.
14. All equipment weighing more than 400 pounds, equipment with center of mass located more than 4 feet above the floor, process equipment containing hazardous materials including process piping and mechanical equipment associated with it, containers and storage cabinets holding hazardous materials, supports, bracing and attachments of equipment and fixtures weighing more than 20 pounds suspended from a roof or floor, equipment in or attached to an occupancy Category IV structure and are needed for continued operation of the facility shall have a permit. Do not install the equipment until a permit is issued and do not operate until approved by inspection.

### **PROCEDURE TO OBTAIN A TCO**

The following is the procedure for obtaining a TCO. **Allow 2-3 business days for processing once approved to apply.**

*Please be advised that this process can take substantially longer where additional inspections are required due to complexity of project and inspections/re-inspections required.*

1. Once initial final inspections and requirements for the TCO as noted above have been accomplished and discrepancy lists have been created, and with the approval of the inspectors, submit to the Permit Center at [BuildingPermitCenter@milpitas.gov](mailto:BuildingPermitCenter@milpitas.gov) a **written request on letterhead** (Sample Letter on Page 3) addressed to the Building Official identifying the areas to be occupied and pay the required fees. The request letter shall be signed by both the Owner *and* the Contractor.
2. When requesting early occupancy only for portions or phases of a project, *Occupancy Phasing Plans* shall be **submitted in advance** for review and approval (see item #4 on page 1) **prior to** TCO issuance. Note that the review will go through standard plan review process. Please refer to [Plan Review Turnaround Time](#) for information.
3. If required, the [Faithful Performance Deposit](#) forms along with payment shall be submitted to the City and approved prior to issuance of a TCO.

# SAMPLE LETTER

## Request for Temporary Certificate of Occupancy

Date:

City of Milpitas  
Building Safety & Housing Department  
455 E. Calaveras Blvd.  
Milpitas, CA 95035

Attn: Building Official

Re: (Project/Business Name)  
(Address)  
Permit # B-

I (We) request a Temporary Certificate of Occupancy be issued at the above noted location to be in effect on \_\_\_\_\_ (Effective Date) \_\_\_\_\_ and expire at 12:00 noon on \_\_\_\_\_ (Ending Date) \_\_\_\_\_ for the (state the area of building to be occupied).

I (We) request this Temporary Certificate of Occupancy to allow me (us) to (state the reason for the early occupancy).

I (We) acknowledge that the following list of deficiencies shall be completed before a permanent certificate can be issued:

Building/Mechanical/Electrical/Plumbing:

- 1.
- 2.

Fire:

- 1.
- 2.

Engineering Land Development:

- 1.
- 2.

Planning:

- 1.
- 2.

*(The following shall be on the letter):* Prior to the expiration of the Temporary Certificate of Occupancy, I (we) will schedule all inspections to ensure that all deficiencies are resolved to the full satisfaction of the applicable city departments. However, if I (we) fail to comply by the TCO expiration date/time, I (we) will immediately cease all use and vacate the premises until the structure is brought into full compliance and all permit(s) are completed.

\_\_\_\_\_  
(Signature of Owner)  
(Print Name)  
(Title)  
(Business Name)  
(Phone #):  
(Email):

\_\_\_\_\_  
(Signature of Construction Company)  
(Print Name)  
(Title)  
(Business Name)  
(Phone #):  
(Email):