

**OHIO DEPARTMENT OF COMMERCE  
BOARD OF BUILDING STANDARDS AND  
STATE FIRE MARSHAL**

To: Building Code Officials, Fire Officials, ODJFS Care Center Coordinators and  
Licensed Child Care Center Operators

From: Timothy Galvin, Chair of the Board of Building Standards  
William Spurgeon, Interim State Fire Marshal

Date: March 23, 2020

**Re: MEMORANDUM – TEMPORARY PANDEMIC CHILD CARE CENTERS AND OHIO’S  
BUILDING AND DESIGN CONSTRUCTION REQUIREMENTS**

On March 13, 2020, Governor DeWine signed Executive Order 2020-02D to authorize the adoption of emergency rules by the Ohio Department of Job and Family Services (ODJFS) for the establishment of licensed Temporary Pandemic Child Care Centers to address the child care needs of parents who work in the health, safety, and essential service fields during the COVID-19 pandemic.

To permit these facilities to be operational as quickly as possible, the use of a space that would not otherwise meet the building and fire code requirements for a child care center may be reviewed and approved as a time limited occupancy per Ohio Building Code (OBC) § 111.1.1.4. After review and approval of a time limited occupancy by the building official, a Time Limited Certificate of Occupancy is issued authorizing the use of the building or space for a specified period of time and under the conditions set forth in the Certificate which are unique to the use and its associated risks.

The time limited occupancy review process presumes coordination between facility operators, building and fire officials. We recommend that building officials, fire officials, local ODJFS care center coordinators, first responder and health care facility administrators be in close communication about the current and anticipated child care needs of their employees and personnel. If building officials or fire officials have some knowledge regarding the suitability of an existing building for approval as a child care center, they may wish to share such information with the stakeholders in this group. Also, recognizing that the review and approval for even a time limited occupancy takes time to ensure the safety of the facility, we recommend operators review the Type A Daycare Checklist, available on the Board’s [website](#), as a guide for issues that may arise during the facility review.

In summary, if an operator intends to open a licensed Temporary Pandemic Child Care Centers to address the day care needs of first responders and health care professionals during the current state of emergency, the building must be approved by the building official of the jurisdiction for this temporary use. Some buildings may already be approved for this use, so operators are encouraged to check with the building official about its current approval. If a time limited occupancy is needed, the owner of the building (or their authorized representative) must submit an application for approval of a change of occupancy to the building department with jurisdiction.

On an emergency basis the operator may begin to use the building for a temporary pandemic child care center provided they submit an application to the building department within one business day pursuant to OBC 102.10.1. The owner is advised that the process of a time limited occupancy may include some additional requirements based on the current approved occupancy of the building and once the building and fire officials are satisfied that adequate measures are in place, the process is formalized with a Time Limited Certificate of Occupancy for a specific period of time - the duration that the emergency use (in this case

child care) is intended to operate. After the approved time period expires, the time limited occupancy ends and the occupancy reverts to the previously approved use.

Additional information regarding time limited occupancy is described in the attached Board of Building Standards document “5-2 Time Limited Occupancy Process 111.1.1.4” Note that these reference materials indicate that a time limited occupancy is not generally used for periods in excess of a month, but the building code does not prescriptively limit the duration of a time limited occupancy. Due to the COVID-19 pandemic, we recommend building/fire officials employ reasonable interpretation given the circumstances when applying building and fire requirements, including establishing the duration for the time limited occupancy. Each time limited occupancy is evaluated on a case-by-case basis and the need for Temporary Pandemic Child Care Centers will likely exceed a month.

The Ohio Fire Code (OFC) is structured to recognize time limited certificates of occupancy for Temporary Pandemic Child Care Centers, particularly when the building code official consults with the fire code official during the review process. Fire code officials should review OFC §102.3.3 (changes of use and occupancy), OFC §102.3.4 (acceptance of time limited certificates of occupancy) and OFC §§102.3/105.3.3 (minimum conditions of occupancy) during their review of these temporary childcare locations. Fire code officials are strongly encouraged to contact the State Fire Marshal’s Code Enforcement Bureau for further guidance on the application of these OFC sections.

For questions about the application of the fire code to a Temporary Pandemic Child Care Center, please contact:

State Fire Marshal  
Code Enforcement Bureau  
8895 East Main Street  
Reynoldsburg, OH 43068  
614 | 728-5460  
Toll free:1-888-276-0303  
Email: [sfm\\_codeenf@com.state.oh.us](mailto:sfm_codeenf@com.state.oh.us)  
<https://www.com.ohio.gov/fire/default.aspx>

For questions about the application of the building code to a Temporary Pandemic Child Care Center, please contact:

Ohio Board of Building Standards  
6606 Tussing Road  
Reynoldsburg, OH 43068  
614 | 644 2613  
[bbs@com.state.oh.us](mailto:bbs@com.state.oh.us)

Building Department Resource Package

**Time Limited**

**Certificate of Occupancy Process**

**BBS Form 5-2**

**OBC 111.1.1.4**

August 2019

*111.1.1.4 Time-limited occupancy. A building or structure hereafter changed in part from one occupancy to another for a limited time may receive a certificate of occupancy reflecting that time-limited occupancy provided:*

- 1. There are no violations of law or orders of the building official pending;*
- 2. It is established after inspection and investigation that the proposed use is not deemed to endanger public safety and welfare;*
- 3. The building official has approved the use for an alternative purpose on a temporary basis;*
- 4. The building official has issued a certificate of occupancy indicating any special conditions under which the building or part of the building can be used for the alternative purpose within the time limit specified.*

# USING BUILDING SPACES FOR SHORT TERM & EMERGENCY PURPOSES

## **Emergency Planning, Temporary Uses, and Special Events often occur without proper coordination and approvals.**

Throughout Ohio, emergency planning includes an anticipated use of buildings located in the community that are designed and approved for purposes other than the potential use under emergency and temporary conditions. Additionally, special events are planned and occur frequently in structures not designed for the short term and unusual purposes. Communities must anticipate and prepare for these occurrences with coordinated professional involvement of the proper agencies.

## **Winter Weather Conditions Increases Likelihood Some Buildings Will Be Offered To Those In Need.**

Church groups and other social service organizations have in the past, and will continue to try to provide help to the homeless and others who may not be able to secure warm and safe environments for their families. Although a community may recognize this need as a social priority, it is extraordinarily critical that any building used for alternate purposes, particularly housing, will be evaluated and approved to assure that basic safety occurs.

## **Appropriate Resolution Requires involvement of both the Building Code & Fire Code Enforcement Entities**

Where the proposed short term change is intended to occur, the certified building department and the local fire prevention personnel must be utilized by the building owner to establish a legal strategy in the temporary use of the building that will result in the safe use of the facility.

Where the location of the commercial facility is in a geographic location without a certified building department, the state's building department will have jurisdiction.

Contact: Division of Industrial Compliance  
Chief Building Official – 800/523-3581

Both the Division of State Fire Marshal and the Board of Building Standards can be contacted as a resource to help in the explanation on the procedure of the approval process.

Contacts: Division of State Fire Marshal: Code Enforcement Bureau  
888/252-0803

Ohio Board of Building Standards  
800/523-3581 or 614/644-2613

## **Using the Time-Limited Occupancy Approval Method**

The Ohio Building Code provision for the Time-Limited Occupancy Approval Method can be used to properly respond to these issues. The Certificate of Occupancy section of the Ohio Building Code, Section 111, was revised to specifically provide a useful and practical option for building owners, building and fire departments to determine code compliance for temporary uses for buildings such as haunted houses, emergency shelters/housing, exhibits, tents for special events, etc.

Located in OBC section 110.1.5, the *Time-Limited Occupancy* provisions offer a method to approve short term changes in occupancy for an entire building or a portion thereof. This provision gives the building official discretion to approve a condition intended to occur for a short period of time.

The following is extracted from the Board's Chapter 1 Commentary:

**110.1.5 Time-limited occupancy.** A building or structure hereafter changed in part from one occupancy to another for a limited time may receive a certificate of occupancy reflecting that time-limited occupancy provided:

1. There are no violations of law or orders of the building official pending;
2. It is established after inspection and investigation that the proposed use is not deemed to endanger public safety and welfare safely;
3. The building official has approved the use for an alternative purpose on a temporary basis;
4. The building official has issued a certificate of occupancy indicating any special conditions under which the building or part of the building can be used for the alternative purpose within the time limit specified.

*The building official has the latitude to permit time-limited occupancy of a building or structure or some portion. The occupancy, however, is permitted if it is possible to assure that the building's occupants can do so safely without being endangered.*

*The language does not require building officials to allow time-limited occupancy; it only states the building official **may** issue a time-limited certificate of occupancy. This language is permissive to allow the building official some latitude when evaluating the methods to be used to assure safe occupancy. If the building official feels that adequate provisions can be made to permit safe occupancy, the time-limited certificate of occupancy can be issued.*

*The occupancy must be issued as time-limited and it is the building official's responsibility to track the issuance of a time-limited certificate of occupancy. The content of the certificate should comply with section 111.3.*

## Using the Time-Limited Occupancy Process

- Step 1. **Form a team** – It is imperative to have the owner (or owner’s representative who has decision making authority), a plans examiner, the CBO and fire official with fire prevention responsibilities (and other decision makers with a stake in the event/project) all on the same page and at the project discussion meeting.
- Step 2. **Hold a project discussion meeting** - The applicant must provide a **comprehensive description of what they intend to use the space or building for and for what amount of time**. Since each building is different, and ideas on how to use buildings are infinite, the information necessary and the questions to ask will vary with each case. Some examples:
- Minimum & maximum number of persons using the space
  - Times of the day the space/building will be used for the purpose
  - Types of materials/commodities that would/could change with the temporary use
  - What additional fuel and/or ignition sources will be used
  - Identification of combustible materials location
  - Types of fire protection and egress systems are currently in place
  - Travel distances to safety
  - What alternate areas of refuge can be used
  - Staffing available to be used for alternate protection methods
  - What methods are being planned as alternative protection methods
  - How will other spaces within the building be secured to limit the alternate use to specified areas
  - How will the evacuation plan be changed
  - What fire drill planning or event announcements will occur
  - Evaluation of the OBC’s requirements for the proposed time limited occupancy and if the proposal accounts in some way for the risks the code provides for
- Step 3. **Process the application for a time-limited change of occupancy** – In order to perform an inspection to verify existing conditions, it is necessary for the department to have a request in writing that describes the proposed temporary use. While it may be very beneficial to have a set of existing building plans available, they will not always be retrievable. In all cases, the owner must provide a footprint layout of the spaces (evacuation plan) indicating what each space is currently being used for and what spaces are intended to be used temporarily for the limited purpose. An inspection (joint building & fire department) should be conducted to verify the evacuation plan and to check for any serious hazards.
- Step 4. The team should **discuss the options for what systems to have in place** in order for the building official to approve the time-limited occupancy...when an agreement is reached, the Time-Limited Certificate of Occupancy should be prepared with all the understood conditions listed. If any of the options included changes to the building or the building systems that had not been inspected, a verifying inspection(s) must occur before the Certificate of Occupancy is issued. *Note:* the owner must clearly understand that the process shall be limited to short time periods (hours, days, weeks) and not generally used for periods in excess of a month. The approval is used once. Any intent to use this process after the expiration of the approval must require a new application and evaluation.