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2 **Resolution Relating to**  
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6 **AUTHORIZATION TO ADD/CLARIFY/CAP**  
7 **A FEE FOR "AFTER THE FACT" ZONING**  
8 **CERTIFICATE OF OCCUPANCIES TO THE**  
9 **BURLINGTON PLANNING & ZONING FEE SCHEDULE**  
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**RESOLUTION** \_\_\_\_\_

Sponsor(s): Councilors Davis,  
Decelles: Bd. of Finance

Introduced: 3/22/10

Referred to: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

12 **CITY OF BURLINGTON**  
13

14 In the year Two Thousand and Ten  
15 Resolved by the City Council of the City of Burlington, as follows:  
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17 That WHEREAS, the Burlington Planning & Zoning Fee schedule was adopted pursuant  
18 to the Vermont Planning and Development Act, 24 V.S.A. § 4440, to set reasonable fees to pay  
19 for the administration and enforcement of zoning bylaws; and

20 WHEREAS, pursuant to Section 3.2.11 of the Burlington Comprehensive Development  
21 Ordinance, a zoning certificate of occupancy (ZCO) is required prior to a person's use or  
22 occupancy of a property (or a portion thereof) when that property has been issued a zoning  
23 permit; and

24 WHEREAS, under the Burlington Planning & Zoning Fee Schedule a property owner is  
25 charged a fee for a ZCO: \$20 plus 10% of the zoning permit application fee for final zoning  
26 certificate of occupancy (FZCO) and \$150.00 for a temporary zoning certificate of occupancy  
27 (TZCO); and

28 WHEREAS, TZCOs are issued to allow use or occupancy when the building permit CO  
29 has been approved but the zoning portion of the project has not been completed as approved, the  
30 TZCO being effective for up to 180 day periods, with the \$150.00 TZCO fee due for each  
31 issuance, including renewals; and  
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14 WHEREAS, frequently property owners do not obtain either a final or temporary ZCO,  
15 in violation of the Burlington Comprehensive Development Ordinance; and

16 WHEREAS, even when property owners acquire TZCOs, if they then allow them to lapse  
17 without renewal or obtaining a FZCO, a zoning violation also occurs causing a backlog and  
18 increased demands on City staff to monitor and enforce against these properties; and

19 WHEREAS, allowing a property owner to go without a CO or paying the associated fees  
20 is unfair to those property owners who follow the regulations and obtain the necessary COs; and

21 WHEREAS, while in the past, the City did not have the resources to monitor whether  
22 permits received their zoning certificates of occupancy, now with the AMANDA permit system  
23 the City is better able to keep track of whether permits have received their COs in a timely  
24 fashion and can now act more expeditiously in enforcing the CO requirement; and

25 WHEREAS, to cure this violation owners can seek an “after the fact” ZCO, temporary or  
26 final which is, despite costs noted below, the most efficient and effective way to bring people  
27 into compliance, according to the Code Enforcement and Planning and Zoning staff, thereby  
28 making the special and separate fee for an “after the fact” ZCO fair and appropriate; and

29 WHEREAS, according to Planning & Zoning and Code Enforcement staff “after the fact”  
30 ZCOs generally require significant amounts of staff time and are typically complicated by time  
31 constraints due to refinancing and closing deadlines and occupancy prior to the required review;  
32 and

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14 WHEREAS, it is the recommendation of the Planning Commission and the staff of the  
15 Planning & Zoning Department and Code Enforcement Office that a separate “after the fact” CO  
16 fee be set forth in the fee schedule, thereby eliminating any ambiguity that these fees are owed;  
17 and

18 WHEREAS, it is also recommended by the Planning Commission and the staff of the  
19 Planning & Zoning Department and Code Enforcement Office that while it is fair to charge  
20 “after the fact” fees for the older projects that have been occupied for years without any ZCOs, if  
21 a \$150 TZCO fee were to be charged for each 180 day TZCO period, the owner would owe  
22 thousands of dollars, thereby making a cap on “after the fact” ZCO fees fair and reasonable; and

23 WHEREAS, it is also recommended that a cap on an “after the fact” ZCO fee is  
24 appropriate and fair given the City’s difficulty in previously tracking old permits and enforcing  
25 the CO requirements; and

26 WHEREAS, to effectuate a cap on after the fact ZCO fees and enhance the ability of staff  
27 to administer the volume of after the fact ZCO fees generated by increased monitoring and  
28 enforcement of the ZCO requirement, the Planning & Zoning Department and Code  
29 Enforcement Office and Planning Commission recommend certain trigger dates upon which to  
30 set the after the fact fees, as set forth in the attached schedule; and  
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14 WHEREAS, it is the recommendation of the Planning Commission and the staff of the  
15 Planning & Zoning Department and Code Enforcement Office that the following permits should  
16 be exempt from “after the fact” ZCO fees as they are simple, clear requests for which  
17 compliance can be determined relatively quickly: fence, sign, awning, lot line adjustments,  
18 satellite dishes, handicap ramps, demolition only permits, and stormwater only permits;  
19 additionally, permits approved before July 13, 1989 are recommended for exemption as they did  
20 not contain a specific condition of approval requiring a certificate of occupancy; and

21 WHEREAS, it is the recommendation of the Planning Commission and the staff of the  
22 Planning & Zoning Department and Code Enforcement Office that while permits that were  
23 approved on or after July 13, 1989 but expired on or before January 31, 2009 contained a  
24 specific condition of approval that required a certificate of occupancy, those permits predate  
25 many of the mechanisms now in place to track certificates of occupancy and should therefore  
26 carry only a nominal “after the fact” ZCO fee of seventy-five dollars (\$75.00); and

27 WHEREAS, all other zoning permits can fall into two categories based upon level of  
28 review: Tier 1 for administratively reviewed permits with an expiration date after January 31,  
29 2009; and Tier 2 for all DRB reviewed permits including appeals with expiration dates after  
30 January 31, 2009; and

31 WHEREAS, it is the recommendation of the Planning Commission and the staff of the  
32 Planning & Zoning Department and Code Enforcement Office that if a Tier 1 project fails to

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14 obtain or renew a required TZCO, an “after the fact” TZCO fee should be paid from the  
15 expiration date of the permit or the date of occupancy if that occurred first, for each 180 day  
16 interval up to a maximum fee of \$450.00 to help offset the cost of staff resources spent on  
17 pursuing and issuing after the fact temporary zoning certificates of occupancies, with the  
18 exceptions as noted; and

19 WHEREAS, it is the recommendation of the Planning Commission and the staff of the  
20 Planning & Zoning Department and Code Enforcement Office that if a Tier 2 project fails to  
21 obtain or renew TZCO, an “after the fact” TZCO fee should be paid from the expiration date of  
22 the permit or the date of occupancy if that occurred first, for each 180 day interval up to a  
23 maximum fee of \$1500 should be paid to help offset the cost of staff resources spent on pursuing  
24 and issuing after the fact temporary zoning certificates of occupancies, with the exceptions as  
25 noted.

26 NOW, THEREFORE, BE IT RESOLVED that the Burlington Planning & Zoning Fee  
27 Schedule be amended as recommended above by the Planning Commission and the staff of the  
28 Planning & Zoning Department and Code Enforcement Office and as set forth in the attached  
29 “After the Fact” Zoning Certificate of Occupancy Fees Schedule.



**City of Burlington, VT**  
**Department of Planning and Zoning**  
**Fee Schedule**

<b>Development Applications and Permits</b>	<b>Fee</b>
<b><u>Awning Permit:</u></b>	
A. Awning <u>with</u> a Sign: (per awning with signage)	1. \$10 filing fee; <b>and</b> , 2. \$80 per awning
B. Awning <u>without</u> Sign: (Treated as a Basic or COA Level 1)	\$70
<b><u>Fence Permit:</u></b>	\$45
<b><u>Sign Permit:</u></b> ( <i>per sign</i> ) (Awnings with signage subject to fee listed above)	1. \$10 filing fee; <b>and</b> , 2. \$80 per sign.
<b><u>Sketch Plan Review:</u></b>	
A. Initial Review ( <i>per Board</i> )	\$300 per request
B. Subsequent Review ( <i>per Board</i> )	\$250 per request
<b><u>Basic Zoning Permit:</u></b>	\$70
<b><u>Certificate of Appropriateness (COA) Level I:</u></b> ( <i>Estimated Construction Cost (ECC) of \$21,000 or less</i> )	\$70
<b><u>Certificate of Appropriateness (COA) Level II:</u></b> ( <i>Estimated Construction Cost (ECC) greater than \$21,000</i> )	
A. <u>Application Fee</u>	1. \$110; <b>and</b> , 2. \$2/\$1,000 ECC; <b>or</b> \$0.10/sqft.; whichever is greater
B. <u>Development Review Fee</u> ( <i>due prior to release of the permit</i> )	\$4.50/\$1,000 of ECC; <b>or</b> \$0.25/sqft.; whichever is greater
<b><u>Certificate of Appropriateness (COA) Amendment:</u></b> ( <i>based upon original ECC of total project</i> )	1. \$110; <b>and</b> , 2. \$0.50/\$1,000 ECC

Development Applications and Permits	Fee
<b><u>Certificate of Appropriateness (COA) Level III:</u></b> <i>(Planned Unit Development, Lot line Adjustment and Lot Merger, or Subdivision; includes Major Impact Review Fee where applicable):</i>	
<b>A. Preliminary Plat</b>	
1. <u>Application Fee</u>	1. \$300 per lot or unit; <b>or</b> \$200 <b>and</b> \$2/\$1,000 ECC; <b>or</b> \$0.10/sqft.; whichever is greater
2. <u>Development Review Fee</u> <i>(due prior to release of the DRB Approval)</i>	\$3/\$1,000 ECC; <b>or</b> \$0.20/sqft.; whichever is greater
<b>B. Final Plat</b>	
1. <u>Application Fee</u>	1. \$10 filing fee; <b>and</b> ,
	2. \$300 per lot or unit; <b>or</b> \$200 <b>and</b> \$2/\$1,000 ECC; <b>or</b> \$0.10/sqft.; whichever is greater
2. <u>Development Review Fee</u> <i>(due prior to release of the permit)</i>	\$3/\$1,000 ECC; <b>or</b> \$0.20/sqft.; whichever is greater
<b>C. Preliminary/Final Combination</b>	
1. <u>Application Fee</u>	1. \$10 filing fee; <b>and</b> ,
	2. \$300 per lot or unit; <b>or</b> \$200 <b>and</b> \$4/\$1,000 ECC; <b>or</b> \$0.10/sqft.; whichever is greater
2. <u>Development Review Fee</u> <i>(due prior to release of the permit)</i>	\$3/\$1,000 ECC; <b>or</b> \$0.20/sqft., whichever is greater
<b>D. Lot Line Adjustment/Lot Merger</b>	\$70 per lot involved
<b><u>Conditional Use, Variance, and Appeals:</u></b>	
<b>A. Conditional Use and Variance</b> <i>(in addition to applicable COA application fee and paid at the time of application)</i>	\$135
<b>B. Conditional Use - Major Impact</b> <i>(in addition to applicable COA application fee and paid at the time of application)</i>	1. \$210; <b>and</b> ,
	2. \$1.10/\$1,000 ECC; <b>or</b> \$0.10/sqft.; whichever is greater
<b>C. Conditional Use - Major Impact Review Amendment</b> <i>(based upon the ECC of the <u>total</u> project)</i>	1. \$210; <b>and</b> ,
	2. \$1/\$1,000 ECC
<b>D. Appeals to DRB:</b> Appeals of Administrative Officer decisions to the Development Review Board	\$135
<b>E. Appeals to VEC:</b> Appeals of Development Review Board decisions to the VT Environmental Court.	\$250 <sup>1</sup>

<sup>1</sup> For information only: Fee assessed by, and paid to, the VT Environmental Court.

Other Fees	Fee
<b><u>Zoning Certificate of Occupancy:</u><sup>2</sup></b> (by Code Enforcement Office)	
A. Final Certificate of Occupancy	1. \$20 <sup>E</sup> <b>and</b> , 2. 10% of the zoning permit application fee.
B. Temporary Certificate of Occupancy	\$150 <del>per site visit</del> <u>each</u>
C. <u>“After-The-Fact” Zoning Certificate of Occupancy</u>	<u>see attached schedule</u>
<b><u>Zoning Compliance Report Request:</u><sup>3</sup></b> (by Code Enforcement Office)	
	\$35
<b><u>Documents, Copies, etc.</u></b>	
A. Audio Tapes	\$3.50 per tape
B. File Research	\$20.00 per hour
C. <u>Planning Documents:</u> Municipal Development Plan, Comprehensive Development Ordinance, etc.	actual cost of publication (hardcopy or CD)
D. Postage and Handling	\$4.00 (in state) \$5.00 (out of state)
E. Photocopies	\$0.10 per page
F. Paper Zoning Map (24x36, color)	\$15.00 per map
G. Digital Maps (PDF format and emailed only)	no charge
<b><u>Land Records Filing Fee</u></b> (per page)	
	\$10.00 <sup>4</sup>

**Fee Schedule Notes:**

- A. All development review and permit fees include a \$10 filing fee assessed by the Burlington Clerk and Treasurer’s Office as required by state statute unless otherwise noted.
- B. All development review and permit fees are **due at the time of application** unless otherwise noted and are non-refundable. Check should be made payable to the “City of Burlington.” Credit cards are not currently accepted.
- C. Permit applications resulting from a zoning Notice of Violation are subject to double or triple the application fee as specified under Sec. 2.7.8 of the *Burlington Comprehensive Development Ordinance*.
- D. “ECC” is the Estimate Construction Cost as specified under Sec. 3.2.4 (a) of the *Burlington Comprehensive Development Ordinance*.
- E. For permit applications submitted prior to July 1, 2009, the Final Certification Occupancy fee is \$10 plus 10% of the zoning permit application fee. (Prior to July 1, 2009, the filing fee assessed by the Burlington Clerk Treasurer's Office was paid at the time of the original zoning permit application.)

<sup>2</sup> For information only: Fee assessed by, and paid to, the Burlington Code Enforcement Office.

<sup>3</sup> For information only: Fee assessed by, and paid to, the Burlington Code Enforcement Office.

<sup>4</sup> For information only: Fee assessed by, and paid to, the Burlington Clerk and Treasurer’s Office.

**ZONING CERTIFICATE OF OCCUPANCY AFTER THE FACT (ATF) FEE SCHEDULE**

<b>Permit Type</b>	<b>Exempt from ATF</b>	<b>Nominal ATF</b>	<b>Tier 1 ATF</b>	<b>Tier 2 ATF</b>
<ul style="list-style-type: none"> <li>• Fence</li> <li>• Sign</li> <li>• Awning</li> <li>• Lot line adjustments</li> <li>• Satellite dishes</li> <li>• Handicap ramps</li> <li>• Demolition only</li> <li>• Permits approved before July 13, 1989</li> <li>• Stormwater only</li> </ul>	<p>Permits that fall within the following timeframe:                      approved on or after July 13, 1989 and expire before or on January 31, 2009.</p>	<p>All permits that are administratively reviewed with expiration dates after January 31, 2009.</p>	<p>All DRB reviewed permits including appeals with expiration dates after January 31, 2009.</p>	
<p><b>ATF Fee</b>  <b>ATF = \$0</b>                      No ATF fee applies.  <i>However, all other applicable fees, including but not limited to the Final Zoning Certificate of Occupancy fee still apply.</i></p>	<p><b>ATF = \$75.00</b>  <i>All other applicable fees, including but not limited to the Final Zoning Certificate of Occupancy fee still apply.</i></p>	<p><b>ATF ≤ \$450.00</b>                      ATF fee equals \$150.00 per TZCO required previously but not obtained up to a maximum fee of \$450.00. Number of TZCO's required calculated from the expiration date of the permit or the date of occupancy if that occurred first, based upon TZCO intervals of 180 days.  <i>All other applicable fees, including but not limited to the Final Zoning Certificate of Occupancy fee still apply.</i></p>	<p><b>ATF ≤ \$1,500.00</b>                      ATF fee equals \$150.00 per TZCO required previously but not obtained up to a maximum fee of \$1,500.00. Number of TZCO's required calculated from the expiration date of the permit or the date of occupancy if that occurred first, based upon TZCO intervals of 180 days.  <i>All other applicable fees, including but not limited to the Final Zoning Certificate of Occupancy fee still apply.</i></p>	