

## Department of Planning and Zoning

149 Church Street  
Burlington, VT 05401  
Telephone: (802) 865-7188  
(802) 865-7195 (FAX)  
(802) 865-7142 (TTY)  
www.ci.burlington.vt.us/planning

David E. White, AICP, Director  
Ken Lerner, Assistant Director  
Sandrine Thibault, AICP, Comprehensive Planner  
Jay Appleton, Project Planner/GIS  
Scott Gustin, AICP, Senior Planner  
Mary O'Neil, Associate Planner  
Nic Anderson, Planning & Zoning Clerk  
Elsie Tillotson, Administrative Assistant



## MEMORANDUM

TO: Bill Keogh, City Council President  
Burlington City Councilors  
Mayor Bob Kiss

FROM: David E. White, AICP, Director of Planning & Zoning  
Bill Ward, Code Enforcement Director

CC: Gene Bergman, Sr, Asst. City Attorney  
Kimberlee Sturtevant, Asst. City Attorney

DATE: Tuesday, March 09, 2010

RE: "After-the-Fact" Certificates of Occupancy Fees

---

The purpose of this memo is to summarize a proposal which will clarify the Code Enforcement Offices use of "After-the-Fact" fees for Certificates of Occupancy, and to set a cap on the total amount that can be charged in such cases. Attached to this memo you will please find a proposed City Council resolution, a proposed amended Dept. of Planning & Zoning FY2010 Fee Schedule, and a proposed Zoning Certificate of Occupancy After-the-Fact (ATF) Fee Schedule. This proposal has received the unanimous endorsement of the Planning Commission at their 16 February meeting and the Board of Finance at their 8 March meeting.

As you are aware, recipients of a Zoning Permit are required to obtain a Certificate of Occupancy (CO) prior to its use or occupancy. In many cases – particularly historically - property owners have not obtained the required CO in violation of the *Burlington Comprehensive Development Ordinance*. Even when a Temporary CO is received, allowing it to lapse without renewal or obtaining a Final CO creates a new zoning violation adding to the backlog and demands on City staff to monitor and undertake the necessary enforcement action. To cure the violation, the City's compliance and enforcement process allows property owners to seek an "after the fact" CO with an associated fee that is intended to assure more timely and efficient compliance. Under the Department's Fee Schedule, a property owner is charged a fee by the Code Enforcement Office for obtaining a Final CO (\$20 plus 10% of the zoning permit application fee), and a Temporary CO if warranted (Temporary CO's are effective for 180 days at a cost of \$150.00 for each, including any renewals).

This proposal intends to provide two things: first, that a separate "after the fact" CO fee be specifically set forth in the adopted Dept. of Planning & Zoning Fee Schedule thereby eliminating any ambiguity that these fees are proper; and second, to provide a cap on the maximum amount owed for older projects that may have been occupied for years without any Zoning CO (e.g. if a \$150 fee were to be charged for each 180 day TZCO period, the owner could owe thousands of dollars for even a minor project completed years earlier).

The attached table illustrates how these fees are proposed to be established and limited. We look forward to answering any questions you may have.