

# City of Alexandria, Virginia

## MEMORANDUM

**DATE:** JANUARY 30, 2007  
**TO:** OWNERS, TENANTS, DEVELOPERS, DESIGN PROFESSIONALS & CONTRACTORS  
**FROM:** JANNINE C. PENNELL, ACTING DIRECTOR  
**SUBJECT:** POLICY ON CERTIFICATE OF OCCUPANCY REQUIREMENTS

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The purpose of this memo is to clarify when a certificate of occupancy (CO) is required to ensure compliance with the Uniform Statewide Building Code (USBC) for both new and existing structures. The information contained in this memo shall be the policy of this office to establish a consistent process to be followed with regard to COs. This policy replaces one by the same title issued on February 2, 2005. It is effective immediately and shall remain in effect until revised or rescinded in writing.

An issued CO indicates that a specific occupancy is authorized by the Building Official for a specific address/structure or tenant space. This is different from the Zoning use classification which is not address specific and may encompass a broad area where several different uses are allowed. In addition to a specific address/tenant space, the authorization for a CO is based upon a USBC defined use group, construction type, the number of occupants, and any Special Use Permit (SUP) or Site Plan Conditions. The CO document shall specify the edition of the USBC under which the approval was granted; the specific address and/or tenant space; the building owner/tenant; the use group classification/type of occupancy; the number of occupants; the construction type; whether an automatic sprinkler system is provided; and whether any modifications were issued. It may also state any other special conditions or stipulations of the building permit or SUP. The issued CO becomes part of the permanent record of the building/tenant space and remains valid until the use changes or the building is demolished.

Fees for COs will be charged in accordance with the current fee schedule approved by City Council. Before a business license application or plans are approved, a review of the address history must be conducted in Permit\*Plan, on microfilm, and/or on the address history cards. The use group, type of occupancy, construction type, and whether a CO is issued must be determined and compared against the current submittal. If the new and old information differ in any manner, a more comprehensive review must be conducted to determine if a CO is required. When the conditions presented do not fit one of the below categories, please obtain clarification from your supervisor or me.

### New Construction of Structures (USBC §116.1)

When new buildings are constructed from the "ground up," a CO is required upon completion of the work for which permits were issued after receiving approvals from all City review agencies. Before a CO may be issued, conditions of the issued site plan and SUP must be reviewed to ensure that they have been met. It is possible that the conditions of a SUP will make the conditions of the CO more restrictive than the USBC. This often occurs in Assembly uses where SUP conditions may limit the number of seating/occupants regardless of the square footage of the tenant space. When this occurs, the more restrictive conditions of the SUP or the USBC take precedence. Issued modifications must be checked and noted on the issued CO. Whenever possible, the modification number(s) should be listed on the CO document.

### Existing Structures - Alterations (USBC §113.8)

For existing buildings/tenant spaces that have an issued CO, the final inspection approval for the alteration may serve as the certificate of occupancy unless a new CO is deemed necessary by the Building Official. A new CO will be required when the results of the alteration requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provisions (USBC103.3). Examples of this may include combining two tenant spaces

into one, or combining two dwelling units into one requiring a lot line to be vacated.

For alterations on pre-USBC<sup>1</sup> structures, or where a CO has not been issued but the structure's use has not changed, the final inspection approval for the alteration may serve as the certificate of occupancy unless the Building Official determines that a new CO is required. When a new CO is not required, proof of the use must be verified using official Code Enforcement records, or by records provided by the owner/agent such as a lease contract or sales tax records. When the continued use can be verified, a new CO will not be required unless deemed necessary by the Building Official.

**Existing Structures - New Additions (USBC §116.1)**

For additions on existing buildings, a CO is required to be issued before the addition may be occupied. The CO must be approved by all City review agencies to ensure that the finished construction for the addition is in compliance with conditions of the approved plans and issued permits. This includes Board of Architectural Review (BAR) approvals and Zoning set-back or height restrictions. Staff must ensure that the application states that the CO request is for the addition only. If the applicant wishes the CO to be for the entire structure, the addition would be inspected in accordance with the issued permits and the remainder of the structure would be inspected for compliance with the Virginia Maintenance Code (VMC), the City of Alexandria Fire Prevention Code, and/or the Virginia Statewide Fire Prevention Code (SFPC).

**Existing Structures - Continued Use (USBC §116.4)**

When an issued CO is desired for Pre-USBC and Post-USBC structures for which no record of an issued CO can be found, the owner/agent shall make a "written request" for a CO. The written request shall be in the form of a completed CO application provided by this office. An inspection of the building/tenant space will be conducted to ensure that the use of the structure has not changed and that there are no violations of the Virginia Maintenance Code (VMC), the City of Alexandria Fire Prevention Code, and/or the Virginia Statewide Fire Prevention Code (SFPC). Upon receipt of approved inspection reports, a CO shall be issued by the Building Official. The continued use of the structure shall not be prevented during or after the inspection. The fee for this CO will be in accordance with the current fee schedule.

When no formal CO is required but CO information is requested due to a change in ownership, refinancing or other such non-change of use reason, existing Code Enforcement records will be researched for available information. In response to the request, usually received via letter or FOIA, the Administrative Officer shall generate a letter for the signature of the Director that states:

- the complete address/s of the structure or project;
- the date of construction;
- the intended use at the time of construction;
- the type of construction (if known);
- that the use has not changed and that the continued use is authorized by the City;
- that there are no known violations of the Building or Fire Prevention Codes at the time of the request.

No field inspection will be performed unless specially requested by the requestor. When this occurs, a formal written CO request (application) must be completed and an inspection conducted to ensure that there are no violations of the Virginia Maintenance Code (VMC), the City of Alexandria Fire Prevention Code, and/or the Virginia Statewide Fire Prevention Code (SFPC). **Note:** Fire Prevention Code Permits (FPP) are non-transferable to new owners. Even if a CO is not required, new FPP permits must be obtained under the new owner's name for places of assembly, storage of hazardous materials, etc.

**Existing Structures - Change in Use (USBC §103.3 and IBC §3406.1)**

A new CO is required when there is a change in the existing occupancy classification of a structure or portion thereof. This may include a change of use within a use. Approved plans and issued permits are required for all changes in use, unless this requirement is waived by the Building Official.

Accessibility must be achieved for the portion of the building being altered. In addition, the entrance, interior and

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<sup>1</sup> Pre-USBC is any structure constructed prior to 1973.

exterior accessible routes<sup>2</sup>, accessible parking and signage, and all common areas must be accessible (see Accessibility for Existing Buildings and Structures memo dated 1/14/05). When an existing building is converted to a R-2 multi-family structure, Type B dwelling units are not required to be provided. However, if there are more than 20 dwelling units in the project, 2% must be Type A. When Type A units are required, an accessible path must be provided and all common areas must be accessible. When it is impractical to achieve compliance with the USBC, modifications may be requested based on evaluations provided under Section 3410, Compliance Alternatives, of the International Building Code (IBC).

When it is technically infeasible to meet accessibility requirements, compliance shall be done to the extent feasible as determined by the building official. Technical infeasibility is not related to the cost of the work, but rather to the structural integrity of the structure. Technical infeasibility is defined as the "removal or alteration of a load-bearing member that is an essential part of the structural frame" in order to achieve accessibility.

No building or portion thereof shall be occupied until it has been determined that the requirements for the new occupancy classification have been met and a certificate of occupancy is issued (IBC §3406.1 & §3406.2).

**Existing Structures - Vacant Unsafe/Unfit for Human Habitation (USBC §116.4)**

An issued CO may be suspended or revoked by the building official when a structure has been vacated and deemed unfit for human habitation due to fire, structural deficiency, or other reason that results in a written correspondence or written inspection report being issued to the owner. The correspondence or inspection report must state that the CO is revoked and that a new CO is required before the building/tenant space can be re-occupied. When the structural integrity of a building is in question, approved plans and permits are required to correct the deficiency to current code standards. The owner/agent must submit a written request for the CO in the form of a completed CO application provided by this office. The final approved inspections on the issued permits shall serve as the CO inspection. A copy of the issued CO for an previously unfit structure shall be sent to the Fire Marshal to close the case file.

**Existing Structures - Vacant Unsanitary/Unfit for Human Habitation**

When a structure or tenant space is vacated for reasons of being unsanitary, having excess storage/fire-loading, or other non-structural issues, the CO shall not be revoked. No permits or new CO are required provided that the use does not change upon complying with the written notice to correct deficient conditions. The structure may be re-occupied once the cited violations are abated.

If deficiencies related to structural integrity and/or the plumbing, mechanical or electrical systems are discovered during the time that the structure is vacant, a written notice shall be issued to the owner revoking the CO. The notice shall state that permits and a new CO are required before the structure may be re-occupied (USBC §116.3). The owner/agent must submit a written request for the CO in the form of a completed CO application provided by this office. The final approved inspections for issued permits shall serve as the CO inspection. A copy of the issued CO for a previously unfit structure shall be sent to the Fire Marshal to close the case file.

**Temporary CO (USBC §116.1.1)**

Upon receipt of a written request from the permit holder, a temporary CO may be issued before the completion of the entire work covered by the permit provided that the portion of the buildings/tenant space to be occupied may be done safely without endangering life or public welfare. A complete list of all outstanding issues must be provided to the Building Official in order for a determination to be made on the temporary CO request. In most cases, the temporary CO must be approved by all City review agencies prior to being issued; **however, the discretion for issuing a temporary CO rests solely with the Building Official.**

During the CO inspection, it shall be the responsibility of the assigned inspector to provide a complete list of outstanding deficiencies on the inspection ticket. A copy of this ticket will be provided to permit holder or left on the job site. The inspector **shall not** write on the ticket "OK for Temp CO," "Recommend for Temporary CO" or any words that suggest that a temporary CO will be issued. In addition to the information that is required on a permanent CO document (USBC §116.2), the Temporary CO document shall list the conditions of the temporary CO and the

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<sup>2</sup> Because of the economic impact or providing accessible routes, the cost to do so shall not be required to exceed 20% of the total alteration cost.

expiration date. If the conditions of the temporary CO are not resolved prior to the expiration date, the CO coordinator shall inform the New Construction Supervisors and the Building Official. The decision to void or extend the temporary CO rests solely with the Building Official.

A **Stocking Permit** may be requested prior to a CO when there is a need to install or store equipment, furniture, merchandise or personal belongings in the structure prior to true occupancy. The Stocking Permit is limited in scope and does not allow the structure to be used for hiring interviews; staff training; any type of sales or business operation; homeowner/tenant occupancy; or sleeping purposes. Stocking Permits are reviewed and approved by the Building Official on a case by case basis. If the building/tenant space is equipped with an automatic fire suppression, this system must be fully tested, approved and functional before a Stocking Permit will be considered. All life safety items must also be installed, inspected and approved by this office before a Stocking Permit will be issued. A 24-hour fire watch may be required when the building is not equipped with an automatic fire suppression system. The Stocking Permit is a courtesy permit only that is used solely at the risk of the owner/tenant.

#### **Places of Assembly - Fire Prevention Code Permits (FPP)**

When a CO application for a place of assembly is received and entered into Permit\*Plan, the receiving **engineering aide** must advise the applicant that a Fire Prevention Code Permit (FPP) for Assembly is required. **The FPP permit must be issued before, or in conjunction with, the CO being issued.** A copy of the issued CO for Assembly Use will be sent to the Fire Marshals Office for a follow-up inspection within **two weeks** of the CO issue date. When a CO is not required based upon a continued use of the assembly space (ie: new restaurant tenant in a existing restaurant space), the **engineering aide** receiving the plans/permit application will advise the applicant of the need for a FPP permit. The **reviewing engineer** will include in provided review comments the need for a FPP permit for assembly use. The **new construction inspector** approving the final building inspection for any place of assembly, regardless of whether a CO is required, will send a copy of the inspection ticket to the Fire Marshal's Office to alert them that the business is ready to open and requires an inspection. Assembly Use Groups are defined in Section 302.1 of the 2003 International Building Code (IBC). This section lists specific examples of types of occupancies for A-1, A-2, A-3, A-4, and A-5.

Should the FPP permit for a place of assembly be suspended or revoked for violations of the Fire Prevention Code, the CO may also be suspended or revoked by the Building Official (USBC 116.3). The investigating Fire Marshal must issue a written notice to the owner or person in charge of the establishment noting the violation(s) resulting in the suspension of the FPP. A copy of this notice must be forwarded to the Building Official, through the Fire Marshal, on or before the end of the workday for the issuing employee. If the Building Official determines that the CO shall also be suspended or revoked, a written communication will be sent to the building owner **and** the responsible party for the establishment advising them of the suspension and of what is required to re-occupy the structure. Reasons to revoke the FPP permit(s) may include: unclean/untested hood systems; fire suppression/alarm system out of service; failing to maintain a required fire watch; over-crowding or any violation of occupancy loads established by the FPP, CO or SUP; failure to maintain required egress (ie: storage in egress paths; blocking doors, chaining doors or non-functioning egress doors); excessive or repeat violations of the Fire Prevention Code.

If you have any questions about the information contained in this memorandum, please call 703 838-4360 to speak with me or one of the below listed supervisors.

cc: Gregg Fields, Engineering Supervisor  
Robert Rodriguez, Fire Marshal  
Virginia Clarke, Administrative Supervisor  
Maurice Jones, Fire Protection Systems Supervisor  
Peter Mensinger, New Construction Supervisor  
Michael Monaghan, New Construction Supervisor  
William Coates, Assistant Fire Marshal  
Andrea Buchanan, Assistant Fire Marshal  
All Code Enforcement Staff