



Memorandum

To: Planning Commission
From: Thomas Dansie, Director of Community Development
Date: April 11, 2025
Re: Revisions to the Certificate of Occupancy Regulations (Section 10-1-5)

Executive Summary

A Certificate of Occupancy (CO) certifies that a building or structure complies with all applicable regulations and standards. It authorizes the owner of the property to occupy and use the building or structure for its intended purpose. A person may not occupy or use a building or structure if the CO has not been issued.

Sections 9-1-6 and 10-1-5 of the Town Code establish the Town's process for issuing COs. The Town's process requires a structure to be compliant with building, fire, and other life safety codes, as well as the Town's land use regulations before the Town will issue a CO. This practice allows the Town to ensure new construction complies with landscape, outdoor lighting, and other similar land use standards before the building is occupied.

The Utah State Legislature recently clarified the purpose of a CO. As clarified by the State, a CO is based primarily on life safety issues associated with the new construction (building code, fire code, health code, etc.). Land use issues (landscape, outdoor lighting, architectural standards, etc.) should be regulated by a local government's code enforcement process independent of the CO process. (See sections [10-9a-509\(i\) and \(j\)](#) and [10-9a-802\(5\) and \(8\)](#) for details on the recently clarified State law.)

The Town should alter the CO process in Town Code to align with the purpose of the CO as clarified by State Code. The Town Council recently made the necessary changes to section 9-1-6. Town Council. Because that section is not part of the Land Use Ordinance the Planning Commission was not required to review the change. However, in concert with the change to section 9-1-6, the Planning Commission should review complementary changes to section 10-1-5 which is part of the Land Use Ordinance.

Staff has prepared draft revisions to section 10-1-5 for the Commission to review. These revisions are intended to make the Town's CO process consistent with the State code. The proposed revisions remove the requirement for a structure to be compliant with land use ordinances prior to a CO being issued. The revisions also clarify that the Building Inspector, not the Director of Community Development, issues COs.

The Planning Commission reviewed these changes in the March work meeting. After that review the Commission requested two small changes to the draft:

- 1) Allow the DCD to sign a CO when the Building Inspector is unavailable, and

- 2) Recognize there are limited instances authorized by State Code where the Town can withhold a CO even when all building code requirements are met.

Staff has updated the draft to reflect these changes.

Public Comment

Staff has not received any public comment on this item.

Planning Commission Action

The Commission should review the proposed revisions to the Town's process for issuing certificates of occupancy found in section 10-1-5 of the Town Code. The Commission should determine if these changes are consistent with the requirements of the Utah State Code. If so, the Commission should make a recommendation to the Town Council to approve the proposed revisions.

The Commission may wish to use the following sample motion language when making this motion:

*The Commission recommends **approval** of the proposed changes to section 10-1-5 regarding the Town's process for issuing certificates of occupancy, as presented and discussed in the April 16, 2025 Planning Commission meeting. This motion is based on the following findings:*

[LIST FINDINGS]

10-1-5: CERTIFICATE OF OCCUPANCY REQUIRED:

- A. *Certificate required:* It is unlawful to use or occupy, or to allow the use or occupancy of, any building or structure that is newly constructed, erected, enlarged or altered structurally or of any newly established, expanded, altered or changed use or occupancy of land, buildings or structures, without a valid certificate of occupancy that has been issued in accordance with this chapter. It is unlawful to change the use or exceed the number of allowable occupants specified in a certificate of occupancy. It is unlawful to continue to use or occupy, or to allow the use or occupancy of any building or structure after a certificate of occupancy is revoked or a certificate of temporary occupancy has expired.
- B. *Issuance of certificate:* The ~~Director of Community Development~~Building Inspector will issue a certificate of occupancy only ~~if:~~
- ~~1. The building or structure and the proposed use(s) are consistent with all zoning regulations; and~~
 - ~~2. The Building Inspector has determined~~after determining that the building or structure is complete and conforms to the state construction code and all other ~~applicable~~ codes, ordinances, or statutes related to the public health, public safety, and general welfare of the occupants.
- C. *Validity:* A certificate of occupancy is valid only if it is signed by the ~~Director of Community Development~~Building Inspector, or by the Director of Community Development when authorized by the Building Inspector and when the Building Inspector is not available to sign the certificate.
- D. *Penalty:* It is a class C misdemeanor to violate any part of section 10-1-5.
- E. *Certificate contents:* The certificate of occupancy should contain the following information:
1. The building permit number;
 2. The address of the building or structure;
 3. Name and address of the owner;
 4. Description of the portion of the building or structure for which the certificate of occupancy is issued;
 5. A statement indicating that the building or structure has been inspected for compliance with the requirements of this section and the use for which the proposed occupancy is classified; and
 6. The printed name and signature of the Building Inspector ~~, and the Director of Community Development with signature blocks for both.~~
- F. *Temporary certificate of occupancy:* Notwithstanding subsection A. above, if compliance with section 10-1-5 is delayed or made impossible by extreme weather, the unavailability of certain materials, or other factors that are out of the control of the builder and the owner of the premises, the ~~Director of Community Development~~Building Inspector may issue a temporary certificate of occupancy to allow the occupancy of completed portions of a structure or building. The temporary certificate of occupancy is valid for 30 days unless otherwise specified in the certificate or as extended in accordance with this section. No temporary certificate of occupancy may be issued unless the structure or building complies substantially with all ordinances and meets minimum health and safety requirements. The ~~Director of Community Development~~Building Inspector may require the applicant, as a condition to the issuance of any temporary certificate of occupancy, to enter into a temporary occupancy agreement that may include the following terms and conditions:
1. The owner, the owner's agent, and the building contractor responsible for the project guarantee the performance of the specific remaining work, agree to a deadline for completion, and estimate the cost of completion.

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2. The agreement must provide for the recovery of costs and attorney fees incurred in the process of enforcing the agreement.
 3. If the property is not compliant by the deadline stated in the agreement, then the ~~Director of Community Development~~ Building Inspector may revoke the temporary certificate of occupancy, in which case the revocation is effective upon posting as provided in subsection G. below.
 4. The building inspector may extend the completion deadline only for good cause. The cause for an extension request must be documented in writing, at least ten days prior to the previously agreed upon completion deadline. In total, the extension(s) granted by the Building Inspector may not exceed 60 days beyond the original completion deadline specified in the agreement. An extension is valid only if it is in writing, and only if it is attached to the original agreement with the written request and a statement of good cause by the Building Inspector.
- G. *Posting:* The certificate of occupancy and any temporary certificate of occupancy will be posted in a conspicuous place on the premises and may not be removed by any person other than the Building Inspector (or designee).
- H. *Revocation:* The ~~Director of Community Development~~ Building Inspector may suspend or revoke a certificate of occupancy or a temporary certificate of occupancy if it was issued in error, issued on the basis of incorrect information supplied, or the subject building or structure or portion thereof is in violation of ~~any ordinance of the Town or~~ any provision of the state construction code or other applicable codes or statutes.
- I. *Withholding a Certificate of Occupancy.* The Building Inspector may withhold issuing a certificate of occupancy only for reasons established in §10-9a-509, §10-9a-802, or other applicable sections of Utah State Code.
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