

MEMORANDUM

TO: Donna Baron, City Manager

FROM: Wayne K. Snell Jr., Director of Neighborhood & Inspection Services

DATE: September 10, 2018

SUBJECT: **Consideration of the Adoption of an Ordinance of the Lewisville City Council, Amending Chapter 17, Zoning, of the Lewisville City Code by Deleting Section 17-36, Certificates of Occupancy, in its entirety; Amending Chapter 4, Buildings and Building Regulations, by Adding a New Section, Section 4-36, Certificates of Occupancy; and Amending Chapter 2, Section 2-201, Fee Schedule, by Adding a Fee for Certificates of Occupancy.**

BACKGROUND

At the June 18th City Council workshop, staff briefed the City Council on our current certificate of occupancy (CO) regulations and the difficulties it has created for tracking tenant changes as well as enforcement. At the conclusion of the City Council workshop, Council directed staff to bring back an ordinance reflecting staff's recommended changes. The proposed ordinance reflects the direction given by City Council. The Planning and Zoning Commission also recommended unanimous approval (5-0) of the proposed ordinance on August 21, 2018.

ANALYSIS

The city's current regulations have created enforcement difficulties because tenant changes do not require new COs. For example, if a McDonalds goes out of business and a Burger King moves in, our current code would not require a new certificate of occupancy. This means that the building would still show McDonalds as the holder of the CO, despite McDonalds having left the site. To address this issue and keep track of tenant information, staff has been using a business registration process tied to our yearly fire inspection process.

This business registration process has worked relatively well, but many times we do not discover tenant changes until the building's yearly fire inspection. This means that tenants theoretically could be operating in a space without a business registration for one year (when their fire inspection would come due). It also means that if a tenant is not a permitted use for that particular location, staff is put in the bad position of having to close down an already-existing business that has invested money in our community, or we have to try to get the appropriate zoning for the site. It is also important to realize that although the city can enforce its zoning requirements, the city's current business registration process is not codified. This means that requiring a business to register with the city would be difficult if the tenant does not want to comply.

The proposed ordinance improves the current certificate of occupancy process by requiring a new certificate of occupancy for all tenants or ownership changes. This means that our current business

registration process will be replaced by a more formal CO process (exception listed below for unimproved land). This will enable staff to better (1) track the occupancy of a building; (2) maintain up-to-date information about the occupant and its use; and (3) ensure code requirements are met on the front-end, prior to the businesses investment. This change reflects the industry's best practices and is how all other cities in the metroplex regulate tenant changes.

Along with the ordinance, we are proposing the associated fee of \$100 for Certificate of Occupancies, which is adopted with the ordinance provided for in this agenda item.

The proposed ordinance also cleans up several other provisions relating to COs. It moves the CO requirements from the zoning ordinance to the building code to be consistent with industry standards. It also removes the requirement that COs be required for use of vacant land. Industry standards dictate that COs be used to regulate structures, not unimproved land. We will continue to use our business registration process to keep track of tenants of unimproved land. Code enforcement as well as fire prevention will monitor tenant and use changes to ensure compliance with our zoning regulations.

RECOMMENDATION

It is the City staff's recommendation that the City Council approve the ordinance as set forth in the caption above.