Agenda Information Sheet

June 23, 2016

Agenda Item

Consider approval of an ordinance amending Chapter 32 entitled "Zoning Ordinance" specifically related to sub-chapter 25 of the Zoning Ordinance entitled "Certificate of Occupancy and Compliance".

Background & Summary of Request:

A certificate of occupancy is a document issued by the city that certifies that a particular building and/or business complies with applicable building and zoning codes and indicates the building to be in a condition suitable for occupancy.

The zoning ordinance has always required certificates of occupancies however enforcement of that requirement was relaxed over the years. Working with the Fire Marshal's office the Planning & Development Department has started enforcing this requirement at the beginning of 2016. Starting this past January, certificate of occupancies are required for all new businesses and any change in occupancies for existing businesses. The amendments included in this ordinance serve only to follow the process we have implemented and this amendment confirms certificate of occupancies are only required for non-residential uses.

The Planning & Zoning Commission held a public hearing on this amendment and recommended approval as written.

The City Commission held a public hearing and approved the first reading as written.

Attachments:

1. Red-lined Version of Proposed Changes
2. Draft Ordinance

SECTION 25
CERTIFICATE OF OCCUPANCY AND COMPLIANCE

25.01 When certificate required.

No vacant land shall be occupied or used except for agricultural and residential uses and no building hereafter erected or structurally altered shall be occupied or used until a certificate of ~~occupancy shall~~occupancy ~~have~~ has been issued by the ~~Building Inspector~~City stating that the building or proposed building or land complies with all ~~of the building and health rules and~~ applicable City codes and ordinances and with the provisions of these regulations.

All businesses who provide services, sell goods, and/or are opened to the general public shall obtain a certificate of occupancy in accordance with this section.

25.02 Application for Certificate.

Certificate of occupancy and compliance shall be applied for coincident with application for a building permit and shall be issued within ten (10) days after the completion of the erection or structural alterations to a building and conformity with these and other applicable provisions and regulations.

25.03 Certificates to be kept on file and made available.

A record of all certificates shall be kept on file in the office of the ~~Building Inspector~~Planning & Development Department and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

25.04 Certificate required to change class or ownership of ~~building~~ non-residential property.

The use of any building already erected at the passage of this article shall not be changed from one class to another or the ownership shall not change unless and until a certificate of occupancy and compliance with the provisions of this article shall have been obtained from the ~~Building Inspector~~City.

~~25.05 Certificate required for vacant building or vacant land.~~

~~Certificate of occupancy for the use of a vacant building or of vacant land or the change in the character of the use of a building or land as herein provided shall be applied for before any such land shall be occupied or used, and a certificate of occupancy shall be issued within ten (10) days after the application has been made, provided such use is in conformity with the provisions of these regulations.~~

25.06 Certificate for nonconforming use.

Certificate of occupancy for a nonconforming use existing at the time of the adoption of this article shall be prepared and the certificate shall state that the use is a nonconforming one, and does not conform to the provisions of this article.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 32 OF THE CITY OF MARSHALL, TEXAS CODE OF ORDINANCES ENTITLED "ZONING", SPECIFICALLY SUBCHAPTER 25 ENTITLED "CERTIFICATE OF OCCUPANCY AND COMPLIANCE"; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS CONDUCTED IN STRICT COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Marshall, Texas (the "City") deems it necessary and proper and in the best interests of the citizens of the City to amend Chapter 32 of the Marshall Code of Ordinances entitled "Zoning" and specifically Sub-Chapter 25 entitled "Certificate of Occupancy and Compliance";

WHEREAS, Chapter 32, Section 14 of the Code of Ordinances established a procedure for amending the Zoning Ordinance; and

WHEREAS, the Planning & Zoning Commission, after due and proper notice in the manner and for the length of time required by law, held a public hearing for the purpose of considering proposed amendment; and

WHEREAS, after the close of said public hearing and pursuant thereto, the Planning & Zoning Commission filed a written report with the City Commission, recommending approval of the stated amendment; and

WHEREAS, pursuant to said report and after notice in the manner and for the length of time required by law, the City Commission held a public hearing in Marshall, Texas at City Hall on the 9th day of June, at 6:00pm for the purpose of considering the proposed amendment, and at which hearing all interested parties had an opportunity to be heard; and

WHEREAS, the City Commission, after considering the proposed request and after hearing all parties and citizens desiring to be heard, deems that the following request are necessary and for the best interest of the general welfare of the citizens of the City of Marshall, Texas; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COMMISSION OF MARSHALL, TEXAS THAT:

Section 1. That the findings set out in the preamble to this ordinance are hereby in all things approved.

Section 2. That Chapter 32 of the Marshall Code of Ordinances entitled "Zoning" and specifically Sub-Chapter 25 entitled "Certificate of Occupancy and Compliance" shall read as follows:

"25.01 When certificate required.

No vacant land shall be occupied or used except for agricultural and residential uses and no building hereafter erected or structurally altered shall be occupied or used until a certificate of occupancy has been issued by the City stating that the building or proposed building or land complies with all applicable City codes and ordinances and with the provisions of these regulations.

All businesses who provide services, sell goods, and/or are opened to the general public shall obtain a certificate of occupancy in accordance with this section.

25.02 Application for Certificate.

Certificate of occupancy and compliance shall be applied for coincident with application for a building permit and shall be issued within ten (10) days after the completion of the erection or structural alterations to a building and conformity with these and other applicable provisions and regulations.

25.03 Certificates to be kept on file and made available.

A record of all certificates shall be kept on file in the office of the Planning & Development Department and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

25.04 Certificate required to change class or ownership of non-residential property.

The use of any building already erected at the passage of this article shall not be changed from one class to another or the ownership shall not change unless and until a certificate of occupancy and compliance with the provisions of this article shall have been obtained from the City.

25.06 Certificate for nonconforming use.

Certificate of occupancy for a nonconforming use existing at the time of the adoption of this article shall be prepared and the certificate shall state that the use is a nonconforming one, and does not conform to the provisions of this article."

Section 3. That the meeting at which this ordinance was passed was conducted in strict compliance with the Texas Open Meetings Act (Texas Government Code Chapter 551).

Section 4. That all other prior ordinances or portions of ordinances of the City of Marshall in conflict with the terms and provisions of this ordinance are hereby repealed to the extent of such conflict only.

Section 5. That the repeal of any ordinance or portion of an ordinance by this ordinance shall not affect the validity of any pending enforcement action or fines outstanding and due and payable on or before the effective date of this ordinance.

Section 6. That if any section, paragraph, subdivision, clause, phrase or provision of this ordinance is hereafter determined to be invalid or in violation of the laws of the State of Texas or the Constitution of the United States by a court of appropriate jurisdiction, such finding of invalidity shall affect the continued enforcement only of the provision or provisions so determined to be invalid, it being the intent of the City Commission of the City of Marshall that all other terms and provisions of this ordinance not affected thereby shall remain in full force and effect.

Section 7. That this ordinance shall be effective from and after its passage and publication as required by law.

Section 8. The provisions of this ordinance shall be included and incorporated in the City of Marshall Code of Ordinances as an addition and/or amendment thereto.

PASSED AND APPROVED this _____ day of _____, 2016.

AYES: _____

NOES: _____

ABSTAINED: _____

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2016.

AYES: _____

NOES: _____

ABSTAINED: _____

_____

Eric Neal

CHAIRMAN OF THE CITY COMMISSION OF THE CITY OF MARSHALL, TEXAS

Attest:

_____

Debbie Manuel, Interim City Secretary