

ORDINANCE NO. 15-01

AN ORDINANCE OF THE CITY OF COMMERCE, TEXAS, TO REQUIRE ISSUANCE OF A CERTIFICATE OF OCCUPANCY AND PERFORMANCE OF A LIFE, HEALTH AND SAFETY INSPECTION TO BE CONDUCTED AND FILED WITH THE CITY PRIOR TO CONNECTION OR RECONNECTION OF WATER UTILITIES TO ANY RESIDENTIAL STRUCTURES; TO REQUIRE RENEWAL OF A CERTIFICATE OF OCCUPANCY AND PERFORMANCE OF A LIFE, HEALTH AND SAFETY INSPECTION TO BE CONDUCTED AND FILED WITH THE CITY ANNUALLY OR AT CHANGE OF OCCUPANCY, WHICHEVER OCCURS FIRST, ON ALL RENTAL PROPERTIES, INCLUDING APARTMENTS; REPEALING ARTICLE XII SECTION 22 OF THE COMMERCE CODE OF ORDINANCES AND ALL OTHER ORDINANCES IN CONFLICT HERewith PREVIOUSLY ADOPTED BY THIS COUNCIL; ESTABLISHING A PENALTY FOR VIOLATION OF THE CONDITIONS OF THIS ORDINANCE AND DECLARING AN EMERGENCY; PROVIDING FOR AN EFFECTIVE DATE FOR THE ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

Section 1. Purpose.

The City of Commerce recognizes the need for implementation of a policy that requires the issuance of a Certificate of Occupancy and performance of a Life, Health and Safety Inspection before water utility services can be connected or reconnected to any residential structure in the city in an effort to monitor ownership and standards of all residential structures, thereby reducing the number of demolitions of dilapidated and/or abandoned residential structures within the city. The city also recognizes the need for an organized inspection program for new and aging residential rental units in order to ensure that all rental units meet city and state safety, health, fire and zoning codes and to provide a more efficient system for compelling both absentee and local landlords to correct violations and to maintain, in proper condition, rental property within the city. The city recognizes that implementation of the Certificate of Occupancy and Life, Health and Safety Inspection policy is the most efficient system to monitor occupancy and standards of all residential rental units and thereby ensure that orderly inspection schedules can be maintained by city officials.

Section 2. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

Apartment Complex means a building or buildings comprised of three or more consecutive rental units each.

Bedroom means a room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, entryway, garage, patio, or breezeway.

Building Inspector means a properly identified building official for the City of Commerce, Texas, or his/her designee.

Certificate of Occupancy means a certificate issued by the city upon submission, review and approval of an executed Residential Occupancy Application, which lists any and all occupants of the property, as well as the owner(s) of the property.

City means the City of Commerce, Texas.

Life Safety Inspection means an inspection completed by the building inspector on all residential structures and residential rental units which must be completed and submitted to the city prior to connection of water utility services to each respective residential structure and must be completed annually or at change of occupancy, whichever occurs first, on all residential rental units.

Owner means the person claiming, or in whom is invested, the ownership, dominion, or title of real property including but not limited to: holder of fee-simple title; holder of life-estate; holder of leasehold estate for an interim term of five (5) years or more; a buyer under contract for deed; a mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate or a tenancy for initial term of less than five (5) years.

Person means an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint interest, or any other legal or community entity.

Premises means a lot, plot or parcel of land, including any structure thereon, and furthermore, including a dwelling unit, appurtenances thereto, grounds and facilities held out for the use of tenants generally and any other area or facility whose use is promised to the tenant.

Property manager means a person whom, for compensation, has control of the day-to-day operations of the residential rental unit or units or the person in a partnership or corporation, or any other legal entity, who has managing control of the residential rental unit(s).

Residential Occupancy Application means an application to be completed by an owner of a residential structure that lists all occupants and owners for each residential rental unit or residential structure, with said application to be submitted to the city prior to water utility services being connected by city.

Residential rental unit means any building or portion thereof which is rented, leased or let to be occupied for compensation as a residence, including apartments.

Residential structure means a structure in which a person or persons live; a residence; abode; habitation.

Resident Manager means a property manager or agent of a property manager who resides in the residential rental unit.

Tenant means any person who rents, leases, or occupies a dwelling unit for living or dwelling purposes with the consent of the owner, landlord, or property manager.

Section 3. Application and Issuance of Certificate of Occupancy.

- (a) Each owner of a residential structure within the city shall make application for occupancy for said residential structure and each residential rental unit therein, if applicable, with the Building Inspector within 60 days of the passage of this ordinance, and shall renew such application per the terms of subsection (g) below, or at such time that there is a change in occupancy of said structure or any respective unit.
- (b) Each new owner of a residential structure shall make application for occupancy with the Building Inspector by submitting to the City a Residential Occupancy Application, within ten (10) business days after the date of acquiring ownership.
- (c) Application for occupancy shall be made upon a form provided by the City for such purpose, and shall include at least the following information:
 - 1) Owner's name, address, work and home telephone number, driver's license number or identification card number and state of issuance thereof;
 - 2) If the owner does not live within fifty (50) miles of the City of Commerce, then in addition to the information in (1) above, the same information shall be provided for a local contact that has the authority to represent the owner in all matters relating to maintenance of the residential structure and all respective units therein, if applicable;

- 3) If the owner is a partnership, the name of all partners, the principal business address of the person in charge of the property, and telephone number of each partner;
 - 4) If owner is a corporation, the person registering must state whether it is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the primary individual in charge of the property of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation and the agent for service;
 - 5) Name, address, and telephone number of the property manager, if applicable;
 - 6) Street address of the residential structure;
 - 7) Street and mailing address of the residential rental unit, if applicable;
 - 8) Total square feet of living area and number of bedrooms;
 - 9) Name, driver's license number or identification card number and state of issuance for each adult (18 years of age or older) person currently in residence;
 - 10) Number of persons occupying the structure or unit;
 - 11) Whether there has been a change of occupancy or an additional adult person to take up residence in structure or unit since the date of last application; and
 - 12) Signature of the owner or owner's agent.
- (d) A separate Residential Occupancy Application is to be completed and submitted for each residential rental unit within a residential structure.
- (e) A fee, set and reviewed annually by the City Manager, shall be charged for each respective application.

- (f) The Building Inspector shall within fifteen (15) business days after receipt of the Residential Occupancy Application, either issue a Certificate of Occupancy or notify the owner that the application does not comply with the requirements of this ordinance.
- (g) A Certificate of Occupancy for apartment residential rental units shall be valid for a period of twelve (12) calendar months following issuance thereof and renewal shall be applied for at least fifteen (15) business days prior to the expiration date of the existing Certificate of Occupancy if there has been and is not expected to be any change in occupancy. A Certificate of Occupancy for all other residential units and structures shall be valid until there is a change in occupancy of said structure.
- (h) It is an offense for an owner to fail to register or fail to renew application of any structure or unit within the City, and each and every day that the owner continues to fail to register or renew the application of each respective structure or unit shall constitute a separate offense.
- (i) It shall be unlawful for any person to file a false Residential Occupancy Application with the City.

Section 4. Life, Health and Safety Inspections.

- (a) The Building Inspector, or his/her designee, shall inspect each residential structure and residential rental unit therein at the time of application to determine compliance with minimum housing standards and interior safety, city ordinances, International Property Maintenance Code, City Code, all applicable state and local laws, and other conditions as determined by the city. Inspections shall also be conducted if a change of occupancy has occurred for residential structures, annually or at change of occupancy, whichever occurs first, for residential rental units, or at any other time deemed necessary by the Building Inspector to maintain compliance with minimum housing standards.
- (b) Fees.
 - 1) Residential Structures and Residential Rental Units (Non-Apartment Complex). Inspection on all residential structures and residential rental units therein shall have a fee of \$25.00, respectively, with said fee covering an initial inspection and one follow-up inspection, if needed. This fee will be assessed per residential rental unit at each change-of-occupancy inspection. If

additional inspections are conducted on any one residential structure or residential rental unit due to failure to pass inspection on the initial and follow-up inspections, the fee will be \$50.00 for each additional inspection.

- 2) Apartment Complexes. Inspection on each rental unit within an apartment complex shall have a fee of \$10.00, respectively, with said fee covering one initial inspection. This fee will be assessed per rental unit at each annual inspection. If a second inspection is conducted on any rental unit due to failure to pass inspection on the initial inspection, the fee will be \$30.00 for each unit's second inspection. If additional inspections are conducted on any rental unit due to failure to pass inspection on both the initial and second inspections, the fee will be \$75.00 for each additional inspection on each unit.
- (c) If, upon completion of the inspection, the premises are found to be in compliance with all standards and codes mentioned in Section 4(a), the City shall issue an inspection slip/report to the owner.
 - (d) Failure to give the City Building Inspector or his/her designee access to the residential structure or any individual rental unit(s) therein shall constitute a violation and grounds for denying a passing inspection for each said structure or unit, and the fees associated for said inspection and all additional inspections shall be assessed as if the initial inspection was completed and judged as a failure to pass inspection.

Section 5. Offenses and Penalties.

If any person commits an offense, knowingly performs an act prohibited by this ordinance or knowingly fails to perform an act required by this ordinance shall be in violation of this ordinance and is subject to a fine of not more than \$2,000.00 for each offense, and each and every day such offense or violation shall continue shall be deemed a separate offense and fined accordingly.

Section 6. Severability.

That if any section, provision, subsection, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Commerce, Texas hereby declares it would have enacted such remaining portions, despite such invalidity.

Section 7. Repealer.

Article XII "Residential Rental Property Licensing" Section 22 of the City of Commerce Code of Ordinances, and any other ordinance or portion of ordinances previously adopted by this Council in conflict herewith, are hereby repealed.

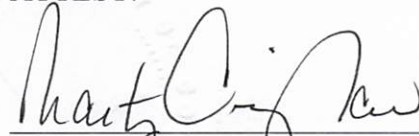
Section 8. Declaration of Emergency.

The City Council, having determined that there is an immediate need that this Ordinance be adopted immediately in order to preserve and protect the peace, health, safety, or welfare of the community, declares that an emergency exists and demands that the rule which requires an Ordinance be read at more than one (1) meeting of the City Council be and is hereby suspended and this Ordinance shall take full force and effect immediately upon its passage.

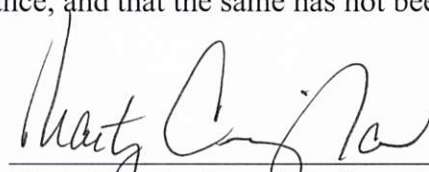
PASSED AND APPROVED ON THIS 20 **DAY OF** January, 2015.


John Ballotti, Mayor

ATTEST:

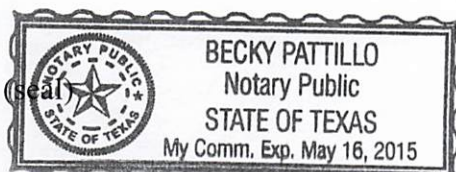

Marty Cunningham, City Secretary

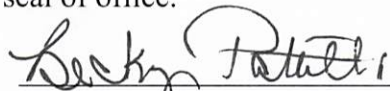
I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of an ordinance, and that the same has not been repealed and is in full force and effect.


Marty Cunningham, City Secretary

(seal)

Sworn to and subscribed before me, on this the 20th day of January 2014 to certify which witness my hand and seal of office.




Notary Public, State of Texas