

ANNUAL REPAIR PERMIT AND AMNESTY CERTIFICATE OF OCCUPANCY

My name is Stuart Harry Hersh, and like most in Austin, I rent.

In 1987, the City Manager sent a small group of City employees to the Brown Building on Colorado Street to accomplish two goals:

1. Combine all ordinances related to development into one chapter of the Austin City Code, and
2. Secure all staff interpretations of these respective ordinances and place them into criteria manuals that would become available to the public and all City staff.

By 1988, the City Council adopted all of the development ordinances into what we would call The Land Development Code or the LDC for short. The LDC was first part of Chapter 13 of the Austin City Code. A decade later, another group of City employees translated the LDC into less complex language so it became known as the Simplified Land Development Code. The criteria manuals provided interpretations of the various chapters of the LDC.

As part of this exercise, it was my job to integrate City permit and occupancy regulations with land development and building regulations. Since 1931, Austin's City Council had adopted building codes and zoning regulations as tools to implement the Comprehensive Plan of 1928 that formalized Austin's segregation goals and other public policies. Austin's adopted building codes were based on codes published by the International Conference of Building Officials and known as the Uniform Building Code.

When a property owner wanted to build a new building in Austin, the applicant or their agent had to apply for a building permit. City staff reviewed the application to confirm that the application conformed to applicable regulations, and issued the building permit if the application met those standards. The builder was required to secure City inspections along the way, so that the building would meet applicable regulations when it was completed. This confirmation of completion of all required inspections and compliance with applicable regulations was known then as it is know now as a certificate of occupancy. Since 1931, all new and existing buildings in Austin have been required to have a certificate of occupancy for the way they are used (for example, single-family residence, school, office, restaurant, etc).

When we drafted the Land Development Code in 1987, Austin was in an economic downturn. The number of City inspectors responsible for new construction inspection and code enforcement had been reduced. We knew that many properties lacked the required certificates of occupancy, particularly those in the following categories:

1. Buildings built prior to 1931
2. Buildings built outside the City limits and subsequently annexed
3. Buildings built when zoning changes required site plans that only the City Council could approve or modify
4. Buildings built when the code required separate building permits for each building but only one permit was issued per site plan
5. Buildings that had expired building permits when all required inspections had not passed
6. Buildings where the use had changed without required permits and inspections

In recognition of the magnitude of non-compliance with certificate of occupancy regulations at the time of the drafting of the Land Development Code and the diminution of staff enforcement resources, we proposed, and the City Council approved, an amnesty certificate of occupancy code provision for the first time with the following elements:

1. The zoning of the property allowed for the building use at the time it was first established
2. The building use had been in place at least 2 years (since March 1, 1986)
3. The building had been maintained or repaired according to adopted property maintenance code
4. The building use was not an adult-oriented business

Property owners could secure building permits to repair their property and an amnesty certificate of occupancy one all inspections were approved even if the use did not meet setback, building coverage, parking, impervious cover, and other applicable land use regulations.

Today, a property owner can not secure a repair permit under these amnesty provisions unless the building use existed on March 1, 1986 and has been continuous ever since or is in compliance with all current City regulations.

In order to promote the goals of building uses being established in appropriate zoning districts and maintenance of these buildings in accordance with adopted property maintenance standards, I recommend that we modify the City Code to allow the following:

1. Annual repair permits as described in the adopted 2012 International Existing Building Code, and
2. Repairs performed according to the 2012 International Existing Building Code and 2012, and International Property Maintenance Code and all required inspections approved, and
3. An amnesty certificate of occupancy be issued if the building use is allowed in the zoning district and has been in place for at least 2 years

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