



# City of Denton

City Hall  
215 E. McKinney Street  
Denton, Texas  
[www.cityofdenton.com](http://www.cityofdenton.com)

## AGENDA INFORMATION SHEET

**DEPARTMENT:** Department of Development Services

**ACM:** Cassey Ogden

**DATE:** April 16, 2024

### **SUBJECT**

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas amending the Denton Development Code's land occupancy process; amendments include but are not limited to: Table 2.2-A: Summary of Development Review Procedures and Section 2.5: Development Permits and Procedures; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted 7-0 to recommend approval of the request. Motion for approval by Commissioner Villareal and second by Commissioner Smith. (DCA24-0002b, Land Occupancy, Julie Wyatt)

<https://dentontx.new.swagit.com/videos/300405?ts=4455>

### **BACKGROUND**

Denton Development Code (DDC) Section 1.2 outlines the purpose of the City's zoning regulations, including the following:

- 1.2.7** Encourage the appropriate use of land, buildings, and structures; and
- 1.2.8** Establish procedures for the processing of planning and zoning actions that affect the development and use of property subject to the planning jurisdiction of the City.

Generally, the processes established by DDC Subchapter 2 allow for review of any proposed land use and development through plats, zoning change requests, Zoning Compliance Plans, Certificates of Occupancy, and/or other procedures. There are, however, some instances that do not fall within the one of the established procedures, limiting the City's ability to review a proposed land use to ensure that it meets all zoning and development regulations. This situation most often occurs when a building or horizontal improvements (i.e. paving or utilities) would not be needed to facilitate the use of land. Examples of where this may occur could include the use of land for outdoor recreation purposes that don't involve construction of any occupiable buildings, or the conversion of an existing parking lot to automobile storage associated with an off-site internet sales office.

The purpose of this amendment is to establish a new process whereby staff can review the use of land when a building is not being occupied to confirm that a proposal meets zoning and development standards. The amendment requires additions to Subchapter 2 as shown below and in Exhibit 3:

## Summary of Development Review Procedures

R = Review/recommendation D = Decision A = Appeal [R/D/A] = Public hearing required

<R/D/A> = Public meeting required ◇ = Recommended ✓ = Required

Procedure	DDC Reference	Public Notice				Pre-Application Activities		Review and Decision-Making Bodies				
		Online	Mailed	Published	Posted Sign	Pre-App. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment
<u>Certificate of Land Use</u>	<u>2.5.11</u>					◇		R	D			<A>

### 2.5.11 Certificate of Land Use

#### A. Purpose

The certificate of land use procedure provides a mechanism for the city to evaluate new, existing, and/or changes in the use of land to ensure compliance with applicable standards of this DDC.

#### B. Applicability

A certificate of land use shall be required prior to the use of land, except when a Certificate of Occupancy or Temporary Use Permit is required. The certificate of land use shall be used to confirm the proposed use is permitted as a primary use of the property or may be used to confirm the proposed use is a permitted accessory use to an established primary use of the property.

#### C. Certificate of Land Use Procedure

Figure 2.5-11 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of a certificate of land use. Additions or modifications to the common review procedures are noted below.

##### 1. Step 1: Pre-Application Activities

###### a. Pre-Application Conference

A pre-application conference is optional in accordance with Subsection 2.4.3.

###### b. Citizen Participation

Not required.

##### 2. Step 2: Application Submittal and Processing

The certificate of land use application shall be submitted and accepted, and may be revised or withdrawn, in accordance with Subsection 2.4.4.

##### 3. Step 3: Staff Review and Action

The Director shall review the application and/or examine the site to determine conformance with the applicable standards. The applicable standards may include, but are not limited to zoning, platting, parking, landscaping, lighting, noise, and other standards in accordance with Subsection 2.4.5.

##### 4. Step 4: Scheduling and Notice of Public Meetings/Hearings

Not required.

##### 5. Step 5: Review and Decision

The Director shall issue a certificate of land use, subject to any additional conditions, if the Director finds that the land use complies with the applicable provisions of this DDC and other applicable ordinances of the city in accordance with Subsection 2.4.7.

##### 6. Step 6: Post-Decision Actions and Limitations

Post-decision actions and limitations in Subsection 2.4.8 shall apply, with the following modifications:

###### a. Effect of Approval

- A certificate of land use authorizes establishment of a particular use on land, subject to any additional conditions.
- The certificate of land use shall clearly state the approved permitted use of the land and any conditions associated with that use.

###### b. Appeal to the Zoning Board of Adjustment

The applicant may appeal the denial, revocation, or suspension of a certificate of land use to the Zoning Board of Adjustment in accordance with Subsection 2.8.3.

Since the proposed amendments will create a new process and permit requirement for property owners and/or tenants, staff has begun the following tasks to assist with the implementation, if approved:

- Update the Certificate of Occupancy application to add the Certificate of Land Use option.
- Analyze the existing land uses to identify properties which may be impacted by the proposed regulatory change. If approved, a letter will be sent to the property owners and tenants (if different) to inform them of the change in regulations and assist with them coming into compliance.

Additionally, if the proposed DDC amendment is approved, review and inspection fees for the Certificate of Land Use will be recommended to City Council at a future meeting. Staff anticipates that the proposed fee will be consistent with the current fees for a Certificate of Occupancy and will likely include a 90-day “grace period” before the fee goes into effect to incentivize compliance and ease the transition for existing property owners and tenants.

### ***PLANNING AND ZONING COMMISSION***

The Planning and Zoning Commission held a public hearing for the request at their March 20, 2024 meeting. No members of the public spoke at the hearing.

During the meeting, the Commission asked about the purpose for the proposal. Staff responded that there were two reasons. First, the City occasionally receives questions about how to locate a use on a vacant parcel that would not require a building permit and/or Certificate of Occupancy. Since the DDC does not currently have a defined process, staff must provide ad hoc directions, which can result in uncertainty for the City, land owner, potential tenant, and surrounding properties. Second, the DDC previously contained a similar process called a *Certificate of Zoning Compliance* which was removed in error with the 2022 updates to Subchapter 2. The proposed Certificate of Land Use would resolve these two issues.

The Commission also expressed an additional concern that the Certificate of Land Use could negatively impact special events and temporary uses such as weekend markets and community gatherings. Staff responded that the regulations governing temporary uses are separate from the Certificate of Land Use and are provided for within DDC Section 5.5, Temporary Uses and Structures. The Certificate of Land Use is not intended for limited-time or single-occurrence events (for example, a pumpkin patch or a block party with a food truck), rather, it is intended for ongoing or regularly occurring primary or accessory uses that would not be reviewed as part of a Certificate of Occupancy or a Temporary Use Permit.

The Commission voted [7-0] to approve the request.

See Exhibit 2 for Staff Analysis.

### **PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

<b>Date</b>	<b>Council, Board, Commission</b>	<b>Request</b>	<b>Action</b>
April 23, 2019	City Council	2019 Denton Development Code	Approved with an effective date of October 1, 2019
March 20, 2024	Planning and Zoning Commission	DCA24-0001 Land Occupancy	Recommended approval (7-0)

## **OPTIONS**

1. Approve
2. Approve with conditions
3. Deny
4. Postpone Item

## **RECOMMENDATION**

The Planning and Zoning Commission recommended **approval** of the proposal (7-0).

Staff recommended **approval** of the amendment related to land occupancy as the proposed amendment meets the established criteria for approval for Code Text Amendments as outlined in Section 2.7.4D of the DDC.

## **EXHIBITS**

Exhibit 1 - Agenda Information Sheet  
Exhibit 2 - Staff Analysis  
Exhibit 3 - Draft DDC Amendment  
Exhibit 4 - Presentation  
Exhibit 5 - Draft Ordinance

Respectfully submitted:  
Tina Firgens, AICP  
Deputy Director of Development Services/  
Planning Director

Prepared by:  
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