

ORDINANCE NO. _____

AN ORDINANCE AMENDING DIVISION 6 OF ARTICLE II OF CHAPTER 74 OF THE CODE OF ORDINANCES OF THE CITY OF PINEY POINT VILLAGE, TEXAS, BY DELETING SECTION 74-176 IN ITS ENTIRETY AND ADDING A NEW SECTION 74-176, ESTABLISHING REGULATIONS FOR CERTIFICATES OF OCCUPANCY, TEMPORARY CERTIFICATES OF OCCUPANCY, AND RELATED FISCAL SECURITY; PROVIDING FOR OTHER MATTERS RELATED TO THE SUBJECT; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION; AND PROVIDING FOR SEVERABILITY.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINEY POINT VILLAGE, TEXAS:

Section 1. That Section 74-176 be deleted in its entirety and a new Section 74-176 be added to Division 6 of Article II of Chapter 74 to provide as follows:

“Article II. – Administration

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Division 6. – Certificate of Occupancy

Sec. 74-176 – Certificates of occupancy or completion, temporary certificates of occupancy and related fiscal security.

Before occupancy, use or change of use, a certificate of occupancy shall be required upon substantial completion for any of the following:

- (1) Occupancy and use of a building erected or structurally altered.
- (2) Change in use of an existing building to a use of a different classification.
- (3) Occupancy and use of vacant land.
- (4) Change in the use of land to a use of a different classification.
- (5) Any change in the use of a conforming use.

- (6) A person may file an application with the building official for the installation of gas meters before the issuance of a certificate of occupancy, provided that:
- a. The proposed use or temporary occupancy, if applicable, is not hazardous to life, health, or public safety; and
 - b. The applicant posts fiscal security with the building official equal to the estimated cost to perform the installation of the gas meter, but in no event shall exceed \$2,000. A qualified professional must provide the city building official with an estimate of the cost, and the building official's approval of the estimate is required. An applicant must post the security as a cash deposit.
- (7) A temporary certificate of occupancy may be obtained if the structure has been completed and the issuance of the final certificate of occupancy is solely dependent upon the successful completion of all exterior improvements, exterior inspections, and the building final, provided that:
- a. A preliminary final walk-through has been completed, and successful passage of such walk-through confirmed, by two of the three following City Officials: the Building Official, the City Administrator, or the Mayor; and
 - b. The occupancy of the building is not hazardous to life, health, or public safety; and
 - c. The structure has successfully passed all interior inspections, including completion of the interior final; and
 - d. The applicant posts fiscal security with the building official in the amount of \$25,000.00. An applicant must post the security as a cash deposit; and
 - e. The property owner and builder affirm, in writing, that the property will be able to receive a Certificate of Occupancy within 45 days of the issuance of the Temporary Certificate of Occupancy. Furthermore, the property owner and builder agree that for each day beyond the 45 day time period, the property owner will pay \$2,000 a day

from the fiscal security as liquidated damages for failure to comply with the terms of this Section; provided, however, the property owner and builder may appeal the amount of liquidated damages assessed under this subsection.

- f. The applicant may request a maximum of two 30 day extensions if the applicant can establish that extraordinary circumstances exist that will reasonably prevent the property from being ready to receive a Certificate of Occupancy within the initial 45 day Temporary Certificate of Occupancy period or within any subsequently approved 30 day extension period, if applicable. Such request must be in writing and on a form approved by the City. The City Administrator shall consider any such request and approve or deny such request. The City Administrator's determination on any request for extension may be appealed to the City Council. A determination made by the City Council on any such appeal shall be final.
- g. A property owner and builder have the burden to establish that extraordinary events have occurred that prevented the timely compliance with the 45 day Temporary Certificate of Occupancy period or any subsequent extension thereof. City Council has absolute discretion as it relates to any relief granted under this subsection. A determination made by the City Council on any such appeal shall be final.

- (8) The city shall return any remaining fiscal security, if any, to the applicant if the building official determines that the applicant has obtained a certificate of occupancy; provided, however, if the building official determines that an applicant has breached the obligations secured by the fiscal security, such fiscal security shall be paid to the city as liquidated damages.”

Section 2. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each

day of violation shall constitute a separate offense.

Section 3. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Piney Point Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 4. All ordinances and parts of ordinance in conflict herewith are, to the extent of such conflict, hereby repealed.

PASSED, APPROVED, AND ADOPTED on first and final reading this ___th day of _____, 2020.

Mark Kobelan
Mayor

ATTEST:

Karen Farris
City Secretary