

ORDINANCE NO. ORD-2008-9012

AN ORDINANCE AMENDING THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, BY ADDING CHAPTER 29A "CRIME PREVENTION," ARTICLE I. CONVENIENCE STORES; CONTAINING FINDINGS, DEFINITIONS, PROVIDING REQUIREMENTS AND PROCEDURES FOR REGISTRATION AND OPERATION OF CONVENIENCE STORES; AND PROVIDING FOR PENALTY AND SEVERABILITY.

WHEREAS, convenience store operators and customers are subjected to high incidence of criminal activities which in the twelve month period ending July 31, 2008, includes 48 percent of business robberies and 18 percent of all robberies in the City occurred in convenience stores; and

WHEREAS, the police department studied methods for reducing the occurrence of crime, preventing the escalation of crime, and increasing the successful prosecution of crime that occurs in convenience stores; and

WHEREAS, the police department determined in a review of numerous studies, practices of other jurisdictions, and its own research and experience that convenience store owners play a key role in promoting safety in their establishments; and

WHEREAS, training employees in safety procedures, posting notice of crime-prevention strategies in use, increasing visibility, and utilizing safety devices can increase the safety of store employees and customers; and

WHEREAS, the registration of convenience stores with the police official would facilitate the application and enforcement of this ordinance and other laws;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION 1. That the findings contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

SECTION 2. That the Code of Civil and Criminal Ordinances of the City of Irving, Texas, is hereby amended by adding a new Chapter 29A, Crime Prevention, Article I, that reads as follows:

Chapter 29A

CRIME PREVENTION

ARTICLE I. CONVENIENCE STORES

Sec. 29A-1. Definitions.

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

Convenience goods includes basic food, beverage, tobacco products, household, and/or pharmaceutical items.

Convenience store means any business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, and has less than 10,000 square feet of retail floor space. *Convenience store* does not include any business where there is no retail floor space accessible to the public.

Drop safe means a cash management device where money can be deposited without the depositor having access to the contents.

Employee means any person who is employed in consideration of direct or indirect monetary wages, commissions, or profits, any contract employee, and any other person engaged in the operation of a convenience store.

Height strip means markings to aid in estimating the height of suspects.

Manager means the person designated by the owner to be responsible for the daily operation of a convenience store.

Police official means the chief of police or person he may designate to act as the official primarily responsible for the administration of this article or the official's designees.

Registered agent means the person identified by the owner of a convenience store in the registration filed pursuant to this article that is authorized to receive on behalf of the owner any legal process and/or notice required or provided for in this article.

Safety training program means the training program promulgated by the police department for convenience stores or a nationally recognized training program approved by the police official that includes all the training elements of the police department's training program.

Sec. 29A-2. Registration of convenience stores.

(a) It shall be unlawful for any person to own or operate a convenience store in the city that has not been registered as required by this section. No fee shall be charged for the registration required by this section.

(b) The owner of a convenience store shall register annually by providing to the police official the following information regarding the convenience store:

- (1) The name, telephone number, facsimile number, and business or residence address of each owner; and, if the owner is a corporation, whether foreign or domestic, the name of the registered agent of the owner and the telephone number and facsimile number and business or residence address of the registered agent, which address information shall include the street name and number, office or suite number if a business address, and the city, state, and zip code;

- (2) The nature and extent of the owner's interest in the property; and
- (3) The name, telephone number, facsimile number, and business or residence address, including street name and number, city, state and zip code, of the current manager and, if the manager is other than an individual, the name, title, telephone number, facsimile number, and business or residence address, including street name and number, city, state, and zip code, of the individual to be contacted for any purpose under this article relating to the convenience store.

The use of a public or private post office box or other similar address shall not be sufficient for the purposes of complying with this subsection.

(c) Any change of ownership of a convenience store, including, but not limited to, the sale of the convenience store or any ownership interest therein, shall require the purchaser or transferee to update the information provided under subsection (b) of this section and to file the updated information with the police official within 30 days of the effective date of the ownership change. The same requirements shall apply to any change relating to the owner's registered agent and manager. A prior owner shall advise the police official that he no longer holds any ownership interest in the property.

(d) No certificate of occupancy shall be issued for a newly constructed or established convenience store until the owner shall comply with the provisions of this article.

(e) After the owner of a convenience store complies with the provisions of this section, the police official will provide to the convenience store:

- (1) A registration compliance decal which shall be displayed in a place visible to the public at the entrance door to the convenience store; and
- (2) A registration statement, a true and correct copy of which shall be posted in the convenience store at all times in a conspicuous place accessible at all times to the public.

(f) Compliance with the requirements of this section shall be deemed to meet the requirements of §§250.003 and 250.004 of the Texas Local Government Code.

Sec. 29A-3. Employee, manager, supervisor safety training.

(a) All newly-hired employees, managers, and immediate supervisors of managers must complete a safety training program within 90 days of employment. Employees, managers, and immediate supervisors of managers who are employed by a convenience store on the effective date of this article must complete a safety training program not later than 180 days following the effective date of this article.

(b) All persons who complete the required safety training program shall sign a statement indicating the date, time, and place the safety training program was completed. The owner shall keep the statements or copies of the statements on file in the convenience store for at least two years and make them available to the police official immediately upon request.

Sec. 29A-4. Trespass affidavit.

The owner of a convenience store shall execute a trespass affidavit as promulgated by the police department in order to enforce all applicable trespass laws on the owner's behalf at such property. A true and correct copy of the trespass affidavit shall be posted at the convenience store at all times in a conspicuous place accessible at all times to the public.

Sec. 29A-5. Security signs; height strips; protection of inventory.

(a) An owner or operator of a convenience store shall post at all public exits and entrances 'No Trespassing' signs, as promulgated by the police department, in lettering two inches or larger, in English and in Spanish. Additionally, a convenience store shall post such signs on the front, sides, and rear of the convenience store.

(b) An owner or operator of a convenience store shall have height strips posted at all public exits.

(c) An owner or operator of a convenience store shall secure, block, or mark off goods and inventory not available for sale in such a manner that customers cannot purchase such items while the store is open for business.

Sec. 29A-6. Visibility.

A convenience store shall maintain an unobstructed line of sight allowing a clear view of and from the cash register and sales transaction area through all windows and public access doors. Such windows and doors must be clear of all items that would obstruct a clear view including, but not limited to, blinds, tinting, signage, advertisements, shelving, and merchandise. Such unobstructed line of sight must, at a minimum, extend from three feet above the ground to at least six feet above the ground.

Sec. 29A-7. Alarm system.

(a) A convenience store shall have a silent panic or holdup alarm system for which a permit has been issued in accordance with Chapter 9 of this Code. This system shall, at a minimum, include a panic button located within reach of the cash register and out of view of the customer. Such panic button will generate an alarm signal indicating a holdup or other life-threatening emergency requiring a police department response.

(b) A convenience store shall have posted at all public exits and entrances signs or decals indicating that a security alarm system is in use.

Sec. 29A-8. Drop safe.

(a) A convenience store shall have a drop safe on the premises to keep the amount of cash available to employees to a minimum. A drop safe must be bolted to the floor. A drop safe may have a time-delay mechanism to allow small amounts of change to be removed.

(b) A convenience store shall have a cash accountability policy mandating the maximum amounts of cash that can be kept in cash registers.

(c) A convenience store shall have posted at all public exits and entrances signs or decals indicating that employees cannot open the safe and that employees have minimum cash on hand.

Sec. 29A-9. Surveillance camera system.

(a) A convenience store shall have a minimum of three color digital high-resolution surveillance cameras. The cameras shall have a minimum 450 lines of resolution, a lux lower than 1. One camera shall be placed to capture a view of the face of the customer at the service counter. Another camera shall be placed with view of the main entrance/exit area. The third camera shall be placed with an exterior view of the parking lot.

(b) The entrance/exit area camera shall be placed to provide a clear and identifiable full frame of the filmed individual's face entering or leaving the store.

(c) The cameras shall be functional and provide views unobstructed by inventory or other matter, twenty-four hours a day, including hours when the store is not open for business and shall display the date and time of the recording.

(d) The owner shall provide the police department with digital color images in connection with crime investigations upon request.

(e) The owner shall maintain a library of the recorded digital images for not less than 30 days.

(f) A convenience store shall have posted at all public exits and entrances signs or decals indicating that surveillance cameras are in use.

Sec. 29A-10. Automated teller machines.

Automated teller machines in convenience stores shall be securely bolted to the slab in four corners of the machine, with bolts of a minimum size of 1 ½ inch in diameter and six inches in length.

Sec. 29A-11. Applicability.

This article shall be applicable as follows:

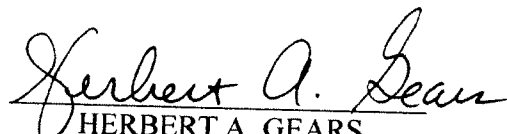
For convenience stores in operation, or with a completed building permit application, on the date of passage of this article:

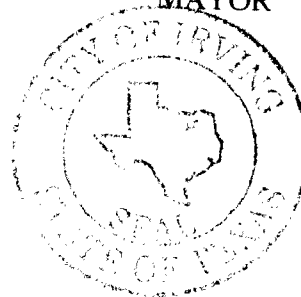
- (1) All employees, managers, and owners shall receive training as required in section 29A-3 not later than 180 days following the effective date of this article.
- (2) The owner or operator of a convenience store shall comply with sections 29A-7 (alarm system), 29A-8 (drop safe), 29A-9 (surveillance camera system) and 29A-10 (ATM) no later than January 1, 2010.
- (3) The owner or operator of a convenience store shall comply with all other provisions of Chapter 29A, Article I, on the thirtieth day following the date of passage of this article.

SECTION 3. Any person violating or failing to comply with any provision of this ordinance shall be fined upon conviction not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00). Each day any violation of any provision of this ordinance continues constitutes a separate offense.


SECTION 4. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,
on November 6, 2008.

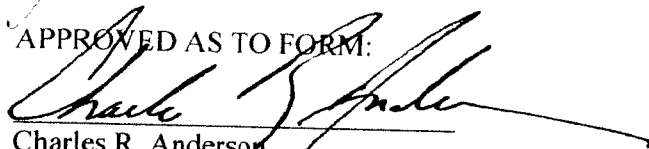

HERBERT A. GEARS
MAYOR



ATTEST:


Janice Carroll, TRMC
City Secretary

APPROVED AS TO FORM:


Charles R. Anderson
City Attorney