

AN ORDINANCE AMENDING CHAPTER 8 ENTITLED "IRVING BUILDING STANDARDS CODE" OF THE CITY OF IRVING, TEXAS, DEVELOPMENT STANDARDS AND CONSTRUCTION CODES; AMENDING SECTIONS 8-19 AND 8-67, ADDING ARTICLE XI. MANDATORY APARTMENT COMPLEX CRIME REDUCTION PROGRAM (COMPOSED OF SECTIONS 8-80 THROUGH 8-95); DEFINING TERMS; REQUIRING APARTMENT COMPLEXES WITH EXCESSIVE CRIME RATES TO PARTICIPATE IN A MANDATORY CRIME REDUCTION PROGRAM ADMINISTERED AND ENFORCED BY THE POLICE CHIEF; ESTABLISHING QUALIFICATIONS, PROCEDURES, REQUIREMENTS, FORMULAE, AND STANDARDS FOR THE PROGRAM; ESTABLISHING A PROGRAM FEE; PROVIDING AN APPEAL PROCESS; MAKING AMENDMENTS TO THE LICENSING REQUIREMENTS OF MULTI-FAMILY DWELLING COMMUNITIES; PROVIDING A PENALTY NOT TO EXCEED \$2,000; PROVIDING FOR SAVINGS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Irving, Texas, has reviewed the need for an apartment crime reduction ordinance and has reviewed the entire ordinance; and

WHEREAS, there are some apartment complexes in the city that have disproportionate crime rates as compared to other apartment complexes in the city; and

WHEREAS, tenants at these apartment complexes and the residents of the city are impacted by crime; and

WHEREAS, the City, by passing this mandatory apartment crime reduction program, desires to protect the tenants at these apartment complexes and the residents of Irving from the crime occurring at these complexes; and

WHEREAS, there are measures that these apartment complexes should take to address the crime at their property; and

WHEREAS, to protect the health, safety, welfare, and morals of the residents of the City of Irving, the City is amending Chapter 8 to ensure that the apartment complexes with excessive crime rates are addressing crime at their properties by mandating that these apartment complexes participate in a crime reduction program, requiring that apartment complexes in the program take steps to reduce crime, including attendance at crime watch meetings, holding of crime watch meetings for the tenants, performing of criminal background checks in the rental process, establishing standards for fencing, lighting, landscaping, and entry doors, and utilization of criminal trespass affidavits, establishing formulae to determine participation in the program, establishing a program fee, and establishing an appeal process;

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

SECTION 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. That subsection (b) of Section 8-19 "License," of Article IV, "License, Certificate of Occupancy, and Permit," of Chapter 8, "Irving Building Standards Code," of the City of Irving, Texas, Development Standards and Constructions Codes is amended to read as follows:

(b) *License application and issuance.*

- (1) An Owner or Manager shall file a City-supplied application with the Building Official for each location. The following correct and current information is required in the application:
 - a. Names, current addresses, and telephone numbers of all Owners, Managers, lien holders, and insurance companies;
 - b. State-issued driver's license or identification numbers and dates of birth of all Owners and Managers;
 - c. Names, addresses, state-issued driver's license or identification numbers, and dates of birth of all registered agents, presidents, and vice-presidents, if any of the above-named parties are corporations;
 - d. Names, addresses, state-issued driver's license or identification numbers, and dates of birth of all registered agents, presidents, and vice-presidents, if any of the registered agents are corporations;
 - e. One trade name;
 - f. Zoning district in which the property is located;
 - g. Telephone number, name, and address of a Person responsible for paying utility bills, including the utility bills for the common area of a Manufactured Home Community or Recreational Vehicle Community;
 - h. The number of units as follows:
 1. Multi-Family Dwelling Community. The number of Dwelling Units broken down by number of efficiencies, one Bedroom, two-Bedroom, and three-Bedroom;

2. Manufactured Home Community and Recreational Vehicle Community. The number of Manufactured Home plots and Recreational Vehicle plots; and
 3. Hotel. The number of Hotel Rooms; and
 - i. The current occupancy rate, in percentage, of a Multi-Family Dwelling Community.
- (2) Any Person shall not use or permit to be used more than one trade name at a Single Location.
 - (3) It is the duty of an Owner and Manager to update all information provided in the application within 7 calendar days of any change.
 - (4) The City may, at any time, require additional relevant information of the Owner or Manager to clarify items on the application. The Owner and Manager shall provide the information the City requires within 7 calendar days of the City's request.
 - (5) When more than 50 percent of the Ownership changes or there is a change of a general partner, the new Owners and partners shall obtain a new License within 30 days of the change. There is no fee for such a new License.
 - (6) The Owner or Licensee shall notify the City in writing of each change in Ownership and each change in Manager and individual responsible for compliance with this chapter, and any information required in this section within 7 calendar days of the change.
 - (7) A condominium regime seeking a License shall provide in addition to the foregoing information a copy of the application file-marked by the Dallas County Clerk of the instrument creating the condominium regime. The condominium regime shall also name a designated agent to receive notices relating to the Premises and give the agent's Street address and current correct telephone number, as well as name the council of Owners. Such council of Owners is hereby deemed to be a Manager of the property.
 - (8) If an annual License cannot be issued at the time the application is filed, a temporary License may be issued upon payment of the License fee. The temporary License shall be valid until such time as the annual License is issued or the temporary License is revoked for failure or refusal to comply with this chapter.
 - (9) No annual License may be issued until the applicant has met all the requisites for it and paid all applicable fees.

SECTION 3. That Section 8-67 "Criminal penalty; continuing violations," of Article IX, "Notices and Penalties," of Chapter 8, "Irving Buildings Standards Code," of the City of Irving, Texas, Development Standards and Constructions Codes is amended to read as follows:

Sec. 8-67. Criminal penalty; continuing violations.

(a) A violation of any of the provisions of this chapter shall be punishable by a fine not to exceed \$500.00. However, a fine for the violation of a provision of this chapter that governs fire safety, zoning, or public health and sanitation, including dumping or Refuse, may not exceed \$2,000.00.

(b) Violations that govern fire safety, zoning, or public health and sanitation include, but are not limited to, those violations in Buildings, Dwelling Units, Multi-Family Dwelling Communities, Manufactured Home and Recreational Vehicle Communities, Hotels, and on grounds.

(c) An offense under Article X or Article XI is punishable by a fine not to exceed \$2,000.

(d) Each day any violation of any provision of this chapter continues shall constitute a separate offense. Each Structure or ground which is in violation of any part of this chapter is a separate offense. Each violation in any Structure or ground is a separate offense.

(e) The penalties provided for in this section are in addition to any other enforcement remedies that the City may have under other City ordinances or state law.

SECTION 4. That Chapter 8 entitled “Irving Building Standards Code” of the City of Irving, Texas, Development Standards and Constructions Codes is amended by adding Article XI. Mandatory Apartment Complex Crime Reduction Program to read as follows:

ARTICLE XI. MANDATORY APARTMENT COMPLEX CRIME REDUCTION PROGRAM

Sec. 8-80. Definitions.

In this article, the following terms shall have the following meanings:

Apartment Complex. A Multi-Family Dwelling Community that contains ten (10) or more dwelling units that are leased or offered for lease and are not independently owned. This term includes the property on which the Apartment Complex is located.

Board. The zoning board of adjustment sitting as a permit license and appeal board.

Chapter 125 Crimes. Those crimes listed in Chapter 125 of the Texas Civil Practice and Remedies Code, as amended, including murder; capital murder; sexual assault; aggravated sexual assault; aggravated assault; robbery; aggravated robbery; unlawfully carrying a weapon; prostitution; gambling; delivery, possession, manufacture, or use of a controlled substance; discharging a firearm in a public place; reckless discharge of a firearm; engaging in organized criminal activity; commercial distribution or manufacture of obscene material. The term does not include Non-applicable Crimes.

Community Per Capita Crime Index or Crime Index. A statistically-determined level of criminal activity in an Apartment Complex in the City during a 12-month period that is expressed on a per capita basis and calculated in accordance with section 8-82.

Crime Risk Threshold. A statistically-determined level of criminal activity in Apartment Complexes in the City during a 12-month period, adjusted for the occupancy of the Apartment Complexes surveyed and expressed on a per capita basis and that is calculated in accordance with section 8-83.

Designated Apartment Complex. An Apartment Complex that is required to participate in a mandatory crime reduction program under section 8-84.

Entry Door. Each door of a Dwelling Unit that leads from the exterior of the Dwelling Unit into the interior of the Dwelling Unit. The term excludes sliding glass doors.

Licensed Apartment Complex. An Apartment Complex holding a license pursuant to Article IV of this chapter.

Non-applicable Crimes. All offenses involving domestic violence, forgery, counterfeiting, fraud, embezzlement, stolen property (buying, receiving, or possessing), crimes against family and children, driving while intoxicated, violations of alcoholic beverage laws, and vagrancy.

Occupancy Rate. The percent of units in a Multi-Family Dwelling Community that are occupied as reported in the most recent Multi-Family Dwelling Community License application.

Part I Crimes. Murder (excluding suicide and murder resulting from domestic violence), rape, robbery, aggravated assault (excluding domestic violence), burglary, theft, and auto theft. The term does not include Non-applicable Crimes.

Part II Crimes. Assaults other than those listed as Part I Crimes, narcotics offenses (restricted to those of delivery, possession, or manufacture), arson, vandalism, weapons offenses, prostitution, gambling, and disorderly conduct. The term does not include Non-applicable Crimes.

All other defined terms may be found in section 8-4.

Sec. 8-81. Authority of the Police Chief.

The Police Chief shall implement and enforce this article and may by written order establish such rules, regulations, or procedures, not inconsistent with this article, as the Police Chief determines are necessary to discharge any duty under or to affect the policy of this article.

Sec. 8-82. Community Per Capita Crime Index.

(a) The Police Chief shall calculate on a monthly basis the Community Per Capita Crime Index for each Licensed Apartment Complex in the City.

(b) The Community Per Capita Crime Index for an Apartment Complex is calculated as follows:

- (1) Determine the total number of Bedrooms in the Apartment Complex as reported in the most recent Multi-Family Dwelling Community License application filed with the Building Official;
- (2) Multiply the number of Bedrooms at the Apartment Complex by two (two occupants are counted for each Bedroom) to produce the ideal occupancy number for the Apartment Complex;
- (3) Multiply the ideal occupancy number by the Occupancy Rate of the Apartment Complex to produce the actual occupancy number;
- (4) Divide the number of Part I Crimes occurring at the Apartment Complex within the preceding 12 months by the actual occupancy number and multiply the result by 100 to produce the Community Per Capita Crime Index for Part I Crimes;
- (5) Divide the number of Part II Crimes occurring at the Apartment Complex within the preceding 12 months by the actual occupancy number and multiply the result by 100 to produce the Community Per Capita Crime Index for Part II Crimes; and
- (6) Divide the number of Chapter 125 Crimes occurring at the Apartment Complex within the preceding 12 months by the actual occupancy number and multiply the result by 100 to produce the Community Per Capita Crime Index for Chapter 125 Crimes.

(c) Example of calculation of Community Per Capita Crime Index.

Apartment size:	100 units
Apartment occupancy rate:	90% occupied
Apartment crime in 12-month	10 Part I Crimes; 20 Part II Crimes 15 Chapter 125 Crimes
Apartment-unit mix:	70 one-Bedrooms; 30 two-Bedrooms
Total Bedrooms	130

Ideal occupancy number = $130 \times 2 = 260$ (with two occupants counted for each bedroom)

Actual occupancy number = $260 \times 90\% = 234$

Community Per Capita Crime Index for Part I Crimes = $(10 \div 234) \times 100 = 4.3$

Community Per Capita Crime Index for Part II Crimes = $(20 \div 234) \times 100 = 8.5$

Community Per Capita Crime Index for Chapter 125 Crimes = $(15 \div 234) \times 100 = 6.4$

Sec. 8-83. Crime Risk Threshold.

(a) The Police Chief shall collectively calculate on a monthly basis the Crime Risk Threshold for all Licensed Apartment Complexes in the City.

(b) The Crime Risk Threshold for Apartment Complexes is calculated as follows:

- (1) Determine the total number of Licensed Apartment Complexes in the City.
- (2) Add together each Apartment Complex's Part I Crimes and divide the sum by the total number of Licensed Apartment Complexes to produce the average for Part I Crimes.
- (3) Subtract each Apartment Complex's Part I Crimes from the average Community Per Capita Crime Index for Part I Crimes to get the Apartment Complex's deviation from the average Community Per Capita Crime Index for Part I Crimes.
- (4) Add the square of each Apartment Complex's deviation from the average Community Per Capita Crime Index for Part I Crimes together and divide the sum by the total number of Licensed Apartment Complexes to produce the average squared deviation for Part I Crimes.
- (5) Take the square root of the average squared deviation for Part I Crimes and add it to the average Community Per Capita Crime Index for Part I Crimes to produce the Crime Risk Threshold for Part I Crimes.
- (6) Repeat the process using each Apartment Complex's Part II Crimes and Chapter 125 Crimes to determine the Crime Risk Threshold for Part II Crimes and Chapter 125 Crimes, respectively.

(c) Example of calculation of Crime Risk Threshold.

Apartment Complex No.	1	2	3	4	5	6	7	8	9	10	SUM
Part I Crimes	12	9	3	10	12	22	7	11	15	19	120
Deviation from Average Community Per Capita Crime Index	0	-3	-9	-2	0	10	-5	-1	3	7	0
Deviation Squared	0	9	81	4	0	100	25	1	9	49	278

Average Community Per Capita Crime Index for Part I Crimes = $120 \div 10 = 12$

Average squared deviation = $278 \div 10 = 27.8$

Standard deviation = $\sqrt{27.8} = 5.27$

Crime Risk Threshold for Part I Crimes = $12 + 5.27 = 17.27$

(Note: To calculate the Crime Risk Threshold for Part II Crimes and Chapter 125 Crimes, repeat the formula using Part II Crimes and then for Chapter 125 Crimes.)

Sec. 8-84. Mandatory crime reduction program; when required.

(a) An Apartment Complex must participate in the mandatory crime reduction program when the Apartment Complex has:

- (1) A Community Per Capita Crime Index for Part I Crimes that is greater than the Crime Risk Threshold for Part I Crimes for all Licensed Apartment Complexes in the City and a Community Per Capita Crime Index for Part II Crimes that is greater than the Crime Risk Threshold for Part II Crimes for all registered Apartment Complexes in the City; or
- (2) A Community Per Capita Crime Index for Chapter 125 Crimes that is greater than the Crime Risk Threshold for Chapter 125 Crimes for all registered Apartment Complexes in the City.

(b) An Apartment Complex must remain in the mandatory crime reduction program for 6 months or until the Apartment Complex's Community Per Capita Crime Index falls below the Crime Risk Threshold for the applicable types of crime, whichever occurs later.

Sec. 8-85. Notice of designation to participate in mandatory crime reduction program.

(a) The Police Chief shall provide written notice to the Owner and Manager of each Apartment Complex designated to participate in the mandatory crime reduction program.

- (b) The notice must include the following information:
- (1) The name and address of the Apartment Complex;
 - (2) A statement that the Apartment Complex is required to participate in a mandatory crime reduction program, including a description of the fee and other requirements of the program;
 - (3) The Community Per Capita Crime Index and Crime Risk Threshold used to calculate the Apartment Complex's qualification for the mandatory crime reduction program;
 - (4) The actual occupancy number used to calculate the Apartment Complex's Community Per Capita Crime Index;
 - (5) The number of Part I, Part II, and Chapter 125 Crimes used to calculate the Apartment Complex's Community Per Capita Crime Index, including the date, time, and location of each offense;
 - (6) A statement that a mandatory inspection of the Apartment Complex premises will be conducted by the Police Chief at a scheduled date and time; and
 - (7) The process of appealing the Police Chief's decision requiring an Apartment Complex to participate in a mandatory crime reduction program.

(c) Designation of an Apartment Complex for participation in the mandatory crime reduction program and application of the requirements of this article are binding upon all subsequent Owners or other transferees of an ownership interest in the Apartment Complex.

Sec. 8-86. Delivery of notices.

Any written notice that the Police Chief is required to give to an Apartment Complex under this article is deemed to be delivered:

- (1) On the date the notice is hand delivered to the Owner or Manager of the Apartment Complex; or
- (2) Three days after the date of notice is placed in the United States mail with proper postage and properly addressed to the Owner or Manager of the Apartment Complex at the address provided for in the most recent Multi-Family Dwelling Community License application.

Sec. 8-87. Appeal from designation.

(a) If the Police Chief designates an Apartment Complex for participation in the mandatory crime reduction program pursuant to this article, this action is final unless the Owner or Manager

of the Apartment Complex files a written appeal to the zoning board of adjustment with the city secretary not later than 10 days after receiving notice of being a Designated Apartment Complex.

(b) The zoning board of adjustment shall sit as a permit license and appeal board for purposes of hearing appeals under this article.

(c) If the appeal of the Police Chief's decision is based on changes in an Apartment Complex's occupancy rate, then the Owner or Manager of the Apartment Complex shall, at the time of filing the appeal, also file with the city secretary and the Police Chief a copy of a current and valid license for every occupied dwelling unit in the Apartment Complex.

(d) If a written request for an appeal is filed timely under subsection (a), the Board shall hear the appeal. The city secretary shall set a date for the hearing within 60 days after the date the appeal is filed.

(e) A hearing by the Board may proceed if a quorum of the Board is present. The Board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply. Any dispute of fact must be decided on the basis of preponderance of the evidence presented at the hearing.

(f) In deciding the appeal, the Board is limited to the issue of whether the Apartment Complex's Community Per Capita Crime Index was greater than the Crime Risk Threshold calculated for all registered Apartment Complexes in the City for the particular types of crime that qualified the Apartment Complex for designation under section 8-84 at the time of designation. The Board shall affirm the decision of the Police Chief if the Board finds that the Apartment Complex's Community Per Capita Crime Index exceeded the applicable Crime Risk Threshold at the time of designation and shall reverse the Police Chief's decision if the Board finds that the Community Per Capita Crime Index did not exceed the applicable Crime Risk Threshold at the time of designation.

(g) The Board's decision must be by a majority vote. Failure to reach a majority vote will leave the decision of the Police Chief unchanged. The decision of the Board is final, and no rehearing may be granted.

Sec. 8-88. Apartment Complex inspections.

(a) After an Apartment Complex has been designated to participate in the mandatory crime reduction program, the Police Chief shall inspect the Apartment Complex to:

- (1) Determine whether the Apartment Complex is in compliance with applicable City ordinances and state laws relating to public safety and security, including, but not limited to, requirements for locks, door viewers, signage, building numbering, and crime prevention addenda;
- (2) Evaluate what changes and improvements to the premises and operations of the Apartment Complex will assist in reducing the occurrence of crimes at the Apartment Complex; and
- (3) Determine whether the Apartment Complex is in compliance with this article.

(b) The Police Chief is authorized at a reasonable time to inspect:

- (1) The exterior of the Apartment Complex; and
- (2) The interior of the Apartment Complex, if the permission of the Owner, Manager, or other person in control is given or a search warrant is obtained.

(c) The Police Chief shall inspect a Designated Apartment Complex at least twice during each period that the Apartment Complex is required to participate in the mandatory crime reduction program. The first inspection must be conducted for the purposes of subsection (a)(1) and (a)(2), and the second inspection must be conducted for the purposes of subsection (a)(3). Other inspections may be conducted as the Police Chief deems necessary for the administration and enforcement of this article.

(d) The Owner, operator, Manager, or person in control of an Apartment Complex commits an offense if, either personally or through an agent or employee, he refuses to permit a lawful inspection of the Apartment Complex as required by this section.

(e) Whenever an Apartment Complex is inspected by the Police Chief and a violation of this article or any other City ordinance or state law applicable to the Apartment Complex is found, the Apartment Complex will, after the expiration of any time limit for compliance given in a notice or order issued because of the violation, be reinspected by the Police Chief to determine if the violation has been eliminated.

Sec. 8-89. Conference with the Police Chief.

(a) At least once during each period that an Apartment Complex is required to participate in the mandatory crime reduction program, the Police Chief shall require a conference with the Owner or Manager of a Designated Apartment Complex to review:

- (1) The requirements of the mandatory crime reduction program;
- (2) The results of the Police Chief's inspection of the Apartment Complex;
- (3) Any voluntary recommendations for reducing crimes on or near the Apartment Complex; and
- (4) Any other information the Police Chief wishes to discuss at the conference.

(b) An Owner or Manager of a Designated Apartment Complex commits an offense if he fails to attend a scheduled conference after receiving notice of the conference from the Police Chief.

Sec. 8-90. Program fee.

(a) A program fee of \$250 will be charged to each Designated Apartment Complex to defray the costs incurred by the Police Chief in conducting inspections of the Apartment Complex, attending conferences with the Owner or Manager of the Apartment Complex, and administering and enforcing the mandatory crime reduction program. A separate program fee is required each time an Apartment Complex is designated to participate in the mandatory crime reduction program.

(b) The Owner or Manager of a Designated Apartment Complex shall pay the program fee to the Police Chief within 30 days after receiving notice of being a Designated Apartment Complex.

(c) No refund of a program fee will be made.

Sec. 8-91. Mandatory requirements for Designated Apartment Complexes.

(a) Within 30 days after receiving notice of being a Designated Apartment Complex, the Apartment Complex must meet all of the requirements of this section, except subsections (f) and (g) (entry doors and fencing). Subsections (f) and (g) (entry doors and fencing) must be met within 60 days after receiving notice of being a Designated Apartment Complex. The Police Chief may extend the deadlines of this subsection, in increments not exceeding 30 days each, upon a showing that the work cannot be performed within the required time period because of its scope and complexity.

(b) *Lighting.*

- (1) Security lighting must be provided, maintained, and operated so that it adequately illuminates all parking areas, walkways, stairs, steps, doorways, and garbage storage areas of the Apartment Complex to such a degree that the facial features of a person at least 5 feet tall are distinguishable from a distance of 35 feet.
- (2) Security lighting must be in compliance with all applicable City ordinances and state law. If there is any conflict between subsection (b)(1) of this section and another City ordinance or state law, the other law will prevail.

(c) *Landscaping.*

- (1) No bush or shrub on the premises of the Apartment Complex may be taller than 3 feet, except as follows:
 - a. The Police Chief may allow the Owner or Manager to maintain a shrub or bush taller than 3 feet if the Owner or Manager cuts the foliage 3 feet from the ground and a person on one side of the shrub or bush has a clear view of the feet and lower leg of a person on the other side of the shrub or bush;
 - b. In order to request such a modification, the Owner or Manager must make a written request to the Police Chief within 10 days of the first inspection of the property pursuant to section 8-88(a)(1);
 - c. Within 10 days of receiving a written request from the Owner or Manager of the Apartment Complex for a modification, the Police Chief shall grant or deny the request in writing and deliver it to the Owner or Manager; and
 - d. A copy of the request by the Owner or Manager for a modification and the approval by the Police Chief must be maintained by the Police Chief while the Apartment Complex remains in the mandatory crime reduction program.
- (2) No tree on the premises of the Apartment Complex may have a canopy lower than 7 feet above the ground.

- (3) All trees, shrubs, bushes, and other landscaping must be maintained in compliance with all applicable City ordinances and state law. If there is any conflict between subsection (c)(1) or (c)(2) of this section and another City ordinance or state law, the other law will prevail.

(d) *Locked common areas.* All enclosed common areas of the Apartment Complex (including, but not limited to, laundry rooms, club rooms, and fitness rooms) must be kept locked and may only be accessed with a key, key card, key pad, or similar device.

(e) *Key control plan.* A description of the plan and procedures for storing and assessing keys, key cards, and key codes to dwelling units, enclosed common areas, and other facilities of the Apartment Complex must be filed with the Police Chief.

(f) *Entry Doors.* Each Entry Door must be solid core or metal.

(g) *Fencing.*

- (1) The perimeter of the premises of a Designated Apartment Complex must be enclosed with a fence that is at least 6 feet high, except that if a lower height is required by another ordinance, the fence must be the maximum height allowed under the other City ordinance.

- (2) Notwithstanding subsection (g)(1) of this section, vehicular driveways and pedestrian walkways are not required to be fenced or gated, except that the combined width of openings in the fence of vehicular driveways and pedestrian walkways may not exceed 10 percent of the perimeter of the area of the property required to be fenced.

- (3) All fencing must be maintained in compliance with applicable City ordinances and state law. If there is any conflict between subsection (g)(1) or (g)(2) of this section and another City ordinance or state law, the other law will prevail.

(h) *Pay phones.* All pay phones on the premises of the Apartment Complex must be blocked to incoming calls or removed from the Apartment Complex.

(i) *Trespass affidavits.*

- (1) An Owner or Manager of the Apartment Complex shall execute a trespass affidavit, on a form provided by the Police Chief for that purpose, that authorizes the police department to enforce, on behalf of the Apartment Complex, all applicable trespass laws on the premises of the Apartment Complex.

- (2) A true and correct copy of the trespass affidavit must be posted at the Apartment Complex in a manner and location so that it is clearly visible to the public at all times.

(j) *Background checks.*

- (1) A current official criminal history report (issued by the Texas Department of Public Safety within the preceding 12 months) must be obtained on all current and prospective employees of the Apartment Complex.
 - (2) A current official criminal history report (issued by the Texas Department of Public Safety within the preceding 12 months) must be obtained on all prospective tenants 17 years of age or older who apply for occupancy in the Apartment Complex.
 - (3) A current credit report must be obtained on all prospective tenants 18 years of age or older who apply for occupancy in the Apartment Complex.
 - (4) All records maintained on an employee or tenant in compliance with this subsection must be retained at the Apartment Complex for at least 90 days following the date of any termination of the employee's employment or the tenant's occupancy at the Apartment Complex.
 - (5) The Owner or Manager of the Apartment Complex shall make all records maintained under this subsection available for inspection by a police officer at reasonable times upon request.
- (k) *Crime watch meetings.*
- (1) *Crime watch meetings at the Apartment Complex.*
 - a. At least one crime watch meeting must be held every 6 weeks at the Apartment Complex.
 - b. The Owner or Manager must post notice in the common areas of the Apartment Complex in English and Spanish notifying the tenants of the crime watch meetings at least 10 days prior to the meeting.
 - c. The Police Chief must be given at least 10 days' advance, written notice of the meeting.
 - (2) *Neighborhood crime watch meetings.* The Owner or Manager of the Apartment Complex each calendar year shall attend at least 3 crime watch meetings other than the meetings required by subsection (k)(1). The meetings attended must be held by crime watch organizations consisting of business owners, single-family residential property owners, or managers, employees, or tenants of MultiFamily Dwelling Communities, or any combination of those groups, gathered for the purpose of improving the quality of life in and around the properties, promoting crime prevention, reducing criminal opportunity, and encouraging cooperation with the City of Irving Police Department. The meetings must be attended in the neighborhood in which the Apartment Complex is located or, if that neighborhood has no crime watch organization, then in the nearest neighborhood that does. A written statement, signed by a crime watch chair, verifying

that the crime watch meeting was attended by the Owner or Manager of the Apartment Complex must be submitted to the Police Chief upon request.

- (3) *Apartment Complex Crime Prevention and Information Seminar.* The Owner or Manager shall attend the Apartment Complex Crime Prevention and Information Seminar as provided by the City of Irving Police Department.
 - (1) *Residential security survey.*
 - (1) An Owner or Manager of the Apartment Complex shall distribute a residential security survey, on a form provided by the Police Chief, to each tenant of the Apartment Complex who is 18 years of age or older.
 - (2) The Owner or Manager of the Apartment Complex shall file all returned surveys with the Police Chief within 30 days after distribution.

Sec. 8-92. Modification of landscaping and fencing requirements.

(a) The Owner or Manager of a Designated Apartment Complex may request a modification of the fencing requirements set forth in section 8-91(g) by filing a written request with the city secretary not later than 10 days after receiving notice of:

- (1) Being designated for participation in a mandatory crime reduction program under section 8-84; or
- (2) Having a previously-granted fencing modification revoked by the Police Chief under subsection (h) of this section.

(b) The Owner or Manager of a Designated Apartment Complex may appeal the decision of the Police Chief not to grant a landscaping modification as set forth in section 8-91(c) by filing a written request with the city secretary not later than 10 days after receiving notice of the Police Chief's decision of denial.

(c) If a written request is filed under subsections (a) and (b) with the city secretary within the 10-day limit, the Board shall consider the request. The city secretary shall set a date for the hearing within 45 days after the date the written request was filed.

(d) A hearing by the Board may proceed if a quorum of the zoning board of adjustment is present. The Board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply. Any dispute of fact must be decided on the basis of a preponderance of the evidence presented at the hearing.

(e) The Board shall grant the request for a fencing modification if it finds that:

- (1) An existing fence or other barrier, or a proposed fence or other barrier, on the premises of the Apartment Complex will serve to defer and reduce crime at the Apartment Complex to the same extent as the fence required under section 8-91(g); and
- (2) The existing fence or barrier, or the proposed fence or barrier, complies with all other applicable City ordinances and state law.

(f) The Board shall grant the Owner or Manager's request to maintain a shrub or bush taller than 3 feet and cut the foliage 3 feet from the ground if it finds that:

- (1) A person on one side of the shrub or bush has a clear view of the feet and lower leg of a person on the other side of the shrub or bush; and
- (2) Such modification will serve to defer and reduce crime at the Apartment Complex to the same extent as the requirement that shrubs or bushes not exceed 3 feet pursuant to section 8-91(c).

(g) The Board shall grant or deny the request for a landscaping or fencing modification by a majority vote. Failure to reach a majority vote will result in denial of the request. The decision of the Board is final, and no rehearing may be granted.

(h) If the Board grants the request for a landscaping or fencing modification, the modification remains valid and does not have to be renewed each time an Apartment Complex is designated for participation in the mandatory crime reduction program, unless the Police Chief revokes the landscaping or fencing modification upon a determination that the modified landscaping or fence or other barrier:

- (1) Fails to deter and reduce crime at the Apartment Complex to the same extent as the landscaping or fence or other barrier required under subsections (c) or (g) respectively of section 8-91; or
- (2) Fails to comply with a City ordinance or state law applicable to fences and landscaping.

(i) Upon revoking a landscaping or fencing modification, the Police Chief shall notify the Owner and Manager of a Designated Apartment Complex in writing of the revocation. The notice must include the reason for the revocation, the date the Police Chief orders the revocation, and a statement informing the Owner and Manager of the right to appeal the decision by filing a new request for a landscaping or fencing modification in accordance with subsection (a). The Police Chief may not revoke a landscaping or fencing modification under subsection (h) sooner than 6 months after the modification is granted by the Board.

(j) The grant of a request for modification of the landscaping or fencing requirements of sections 8-91(c) or (g) does not exempt a Designated Apartment Complex from any other provision of this chapter or other applicable City ordinances or state law.

Sec. 8-93. Adoption of rules by zoning board of adjustment sitting as permit license and appeal board.

The Board may adopt rules to govern its proceedings and conduct of business before the Board. Any rule or rules shall be adopted by a resolution by the Board entered upon the minutes of the Board and a copy thereof shall be filed with the city secretary.

Sec. 8-94. Appeals to district court.

Once the decision of the Board is final under sections 8-87 and 8-92, the decision may be appealed to the state district court by the City, the Owner or Manager of the Apartment Complex, or by any other person aggrieved by the decision. An appeal to the state district court must be filed within 30 days after the date of the Board's final decision. An appeal to the state district court is limited to a hearing under the substantial evidence rule.

Sec. 8-95. No private cause of action.

This article does not create a private cause of action other than one brought by the City or expand existing tort liability against an Owner, Manager, or other person in control of the Designated Apartment Complex.

SECTION 4. That save and except as amended by this ordinance, the provisions of Chapter 8 of the City of Irving, Texas, Development Standards and Constructions Codes shall remain in full force and effect.

SECTION 5. 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.

SECTION 6. That this ordinance shall become effective from and after the date of its passage as provided by the Charter of the City of Irving, and the caption hereof shall be published in the official newspaper within the City and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,
on September 3, 2009.

HERBERT A. GEARS
MAYOR

ATTEST:

Janice Carroll, TRMC
City Secretary

APPROVED AS TO FORM:

Charles R. Anderson
City Attorney