



**ORDINANCE NO. 3419**

**AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH, CHAPTER 26 “BUSINESSES,” BY AMENDING ARTICLE IV “APARTMENT COMPLEX RENTAL,” BY AMENDING SEC. 26-113; AND FURTHER AMENDING ARTICLE VII “MANDATORY CRIME REDUCTION PROGRAM FOR DESIGNATED APARTMENT COMPLEXES,” BY AMENDING SEC. 26-453 THROUGH SEC. 26-458 IN THEIR ENTIRETY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Farmers Branch finds it to be in the public interest and necessary for the preservation of public health and safety within the City of Farmers Branch to amend the Code of Ordinances as follows.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:**

**SECTION 1.** Chapter 26 “Businesses,” Article IV “Apartment Complex Rental” of the Code of Ordinances of the City of Farmers Branch is amended as follows:

“.....

**Sec. 26-113. License application; place of business; issuance; renewal and expiration.**

- (a) An applicant for a license shall file with the building inspector a written application upon a form provided for that purpose which shall be signed by the owner, or his agent, and the property manager. Should an applicant own an apartment complex at more than one location, a separate application shall be filed for each location. The following information shall be required in the application:

.....

- (6) Acknowledgment of receipt of copy of the mandatory crime reduction program for apartment complexes ordinance and agreement to abide by such ordinance, where applicable, as a condition to receiving and maintaining a license.

**SECTION 2.** Chapter 26 “Businesses,” Article VII “Mandatory Crime Reduction Program for Designated Apartment Complexes” of the Code of Ordinances of the City of Farmers Branch is amended in its entirety to read as follows:

**“Sec. 26-450. Purpose.**

- (a) The purpose of this article is to protect the health, safety, morals, and welfare of the occupants of apartment complexes and other citizens of the city by obtaining greater compliance with minimum property standards through the establishment of a mandatory crime reduction program for apartment complexes. Reducing the crime rate at an apartment complex is essential to making the apartment complex safe, sanitary, and fit for human use and habitation.

**Sec. 26-451. 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:

*Apartment complex* shall mean a multifamily property that contains ten or more dwelling units, which may be located in one or more buildings, that are leased or offered for lease and are not independently owned.

*Board* shall mean the City of Farmers Branch Zoning Board of Adjustment.

*Chief of Police* and/or *Chief* shall mean the chief of the police department of the city or the chief’s authorized representative.

*Crime* shall mean any and all incidents that occur at an apartment complex that cause a criminal offense or arrest report to be generated by the Farmers Branch Police Department. Crime shall include all applicable crimes occurring within the surrounding neighborhood that, through information or investigation, can be traced to the apartment complex premises. The term does not include *Non-Applicable Crimes*.

*Non-Applicable Crimes* shall mean all offenses involving domestic violence, forgery, fraud, counterfeiting, embezzlement, stolen property and identity theft offenses; and offenses that result from transition onto an apartment complex from the street as a result of a traffic stop, status offenses (i.e., offenses that constitute criminal activity because of the age of the accused).

*Owner* means a person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to:

- (1) Holder of fee simple title.
- (2) Holder of life estate.
- (3) Holder of a leasehold estate for an initial term of five years or more.

- (4) The buyer in a contract for deed.
- (5) A mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

*Part I Crimes* shall mean murder, rape, robbery, aggravated assault, burglary, theft and auto theft. The term does not include *Non-Applicable Crimes*.

*Part II Crimes* shall mean assaults other than those defined as *Part I Crimes*, narcotics offenses, arson, vandalism, weapons offenses, prostitution, gambling, and disorderly conduct. The term does not include *Non-Applicable Crimes*.

*Property manager* means a person who, for compensation, has managing control of an apartment complex for the owner.

**Sec. 26-452. Authority of the Chief of Police.**

The Chief of Police, or his/her designee, shall implement and enforce the provisions under this article.

**Sec. 26-453. Apartment complex crime index and residential crime index threshold.**

- (a) The Chief of Police will calculate the apartment community crime index on a semi-annual basis or at any time determined necessary by the Chief. Apartment complex crime index will be calculated by dividing the total Part I Crimes and Part II Crimes in a specific apartment complex by the total number of units in the apartment complex and multiplying that sum by 100, giving a ratio of crime per 100 units.
- (b) The Chief of Police shall calculate a comparative residential crime index threshold on an annual basis, or any time determined necessary, for single family dwellings within the corporate limits of the City. The residential crime index threshold shall be calculated utilizing the same method provided in subsection (a) and shall be based upon the total number of single family residences in the City.
- (c) All crime index numbers calculated in this article shall be rounded to the nearest tenth (e.g., an index number of 10.25 would be rounded up to 10.3 and an index number of 10.24 would be rounded down to 10.2).
- (d) An apartment complex that has a crime index equal to or less than the single family residence crime risk threshold for the same period shall not be included in the program.

**Sec. 26-454. [Intentionally deleted]**

**Sec. 26-455. Mandatory crime reduction program; when required.**

- (a) An apartment complex must participate in a mandatory crime reduction program whenever the apartment complex's crime index exceeds the residential crime index threshold calculated in accordance with formulas provided in section 26-453.
- (b) An apartment complex that is required to participate in a mandatory crime reduction program shall, at a minimum:
  - (1) Require all current and future tenants to sign a "Crime Free Lease Addendum";
  - (2) Hold at least one crime watch meeting per quarter on premises in cooperation with the Farmers Branch Police Department;
  - (3) Conduct (at their own expense) a criminal background check on all future residents;
  - (4) Permit a minimum of two (2) inspections of the apartment complex by the Chief. The first inspection to 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. The second inspection will be conducted for the purposes of determining whether the complex is in compliance with this article.
  - (5) Participate in the Farmers Branch Police Criminal Trespass Enforcement Program. An owner or manager of the apartment complex shall execute a trespass affidavit on a form provided by the 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. Trespass enforcement only applies to common areas of the property, including without limitation, all parking lots, parks, playgrounds and pools. 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.
  - (6) Residential Security Survey: The owner or manager of a designated apartment complex shall distribute a residential security survey, on a form provided by the Chief, to each resident of the apartment complex who is 18 years of age or older. Distribution shall be required within 30 days of being notified of a status as a designated apartment complex. The owner or manager of a designated apartment complex shall file all returned surveys with the office of the Chief of Police within 30 days after distribution.

- (c) An apartment complex must remain in the mandatory crime reduction program for six months or until the apartment complex's crime index falls below the crime risk/safety threshold.
- (d) An apartment complex that remains in the crime reduction program for a period exceeding twenty-four 24 consecutive months shall be considered a repeat offender under the program. Notice of an apartment complex's repeat offender status will be provided in accordance with section 26-456(c). Within 60 days of the mailing of notice, the following additional measures shall be implemented and/or completed by the owner or property manager at the apartment complex:
  - (1) Require the presence of on-site security personnel licensed by the Texas Private Securities Act, V.T.C.A., Occupations Code chapter 1702, or certified peace officers.
  - (2) Security lighting provided, maintained, and operated so that it adequately illuminates all parking areas, walkways, stairs, steps, doorways, and garbage storage areas to such a degree that the facial features of a person at least five feet tall are distinguishable from a distance of 35 feet.
  - (3) Landscaping. No bush or shrub on the premises of the apartment complex may be taller than 3½ feet. No tree on the premises of the apartment complex may have a canopy lower than six feet above the ground.
  - (4) 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.
  - (5) Key control plan. A description of the plan and procedures for storing and accessing keys, key cards, and key codes to dwelling units, enclosed common areas, and other facilities of the apartment complex must be filed with the chief of police.
  - (6) Fencing. The perimeter of the premises of a designated apartment complex must be enclosed with a fence that is at least six feet high, unless a lower height is required by city ordinance.
  - (7) Pay phones. All pay phones on the premises of the apartment complex must be blocked to incoming calls or removed from the premises.

**Sec. 26-456. Notice of designation to participate in program.**

- (a) The Chief of Police shall provide written notice to the owner or property 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 crime index;
  - (5) A statement that a mandatory inspection of the apartment complex premises will be conducted by the chief of police at a scheduled date and time; and
  - (6) A copy of the appeal process contained in section 26-457 of this article.
- (c) The Chief of Police shall provide written notice to the owner or property manager of each apartment complex designated a repeat offender in accordance with section 26-455(d). The notice shall contain, at a minimum, the following information:
  - (1) The name and address of the apartment complex;
  - (2) The current crime index and residential crime risk threshold used to calculate the apartment complex's qualification for the mandatory crime reduction program;
  - (3) A statement that the apartment complex has been required to participate in a mandatory crime reduction program for 24 or more consecutive months;
  - (4) A description of all program requirements that must be followed while the apartment complex is designated a repeat offender; and
  - (5) A copy of the appeal process contained in section 26-457 of this article.
- (d) 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. 26-457.**

**Appeals from designation and repeat offender status.**

- (a) All appeals authorized under this section 26-457 shall be in writing and timely filed with the city secretary. A copy of each designation issued by the Chief of Police that is the subject of the appeal shall be submitted at the same time. All appeals will be heard by the city's zoning board of adjustment.
- (b) If the Chief of Police designates an apartment complex for participation in the mandatory crime reduction program pursuant to this article, this action is final unless the owner or property manager of the apartment complex files a timely written appeal with the city secretary not later than ten days after receiving notice of being a designated apartment complex.
  - (1) If the appeal of the Chief's decision is based on changes in an apartment complex's occupancy rate, then the owner, operator, or property manager of the apartment complex shall, at the time of filing the appeal, also file with the city secretary and the chief of police a copy of a current and valid lease for every occupied dwelling unit in the apartment complex.
  - (2) In deciding an appeal under this subsection (b), the board is limited to the issue of whether the apartment complex's crime index is greater than the residential crime risk threshold calculated under section 26-453(b) for the applicable period. The board shall affirm the decision of the Chief if it finds that the apartment complex's crime index exceeds the applicable threshold and shall reverse the Chief's decision if it finds that the crime index does not exceed the applicable threshold.
- (c) If the Chief of Police designates an apartment complex a repeat offender pursuant to section 26-455(d), this action is final unless the owner or property manager of the apartment complex files a timely written appeal with the city secretary not later than ten days after receiving notice of being a designated a repeat offender. An appeal under this subsection (c) may be filed to appeal the designation of repeat offender status and/or the requirement that the apartment complex implement one or more of the additional requirements under section 26-455(d).
  - (1) In deciding an appeal of the designation of repeat offender status under this subsection (c), the city council is limited to a determination of whether the apartment complex's crime index is greater than the residential crime risk threshold, as calculated under section 26-453(b), for the applicable 24-month period.
  - (2) In deciding an appeal of the requirement that an apartment complex implement one or more additional program requirements under section 26-455(d), the board may consider all evidence relevant to the stated grounds for appeal, including an appeal for a variance to an additional program requirement. The board's decision on appeal for a variance to an additional

program requirement required while on repeat offender status shall be based upon unique conditions affecting the apartment complex. Economic hardship alone shall not constitute a unique circumstance sufficient to grant a variance upon appeal.

- (d) The city secretary shall schedule an initial date for each appeal hearing to occur within sixty calendar days after the date the written appeal is timely filed.
- (e) A hearing on appeal by the board may proceed if a quorum of the board is present. If a quorum is not present to conduct an appeal under this section on the date scheduled, the hearing shall be reset to next regular meeting of the board.
- (f) The board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply, provided that the evidence presented shall be limited to evidence as relevant to the scope of the issue on appeal as determined by the board. Any dispute of fact will be decided on the basis of a preponderance of the evidence presented at the hearing.
- (g) The board's decision must be by a majority vote of the members present. Failure to reach a majority vote will leave the Chief's designation unchanged. The decision of the board is in all things final and no rehearing shall be granted.

**Sec. 26-458. Program fee.**

A program fee of two thousand dollars (\$2,000) will be assessed to each apartment complex designated to participate in the program to defray the costs incurred by the Chief of Police in administering and enforcing the mandatory crime reduction program adopted under this article. An additional program fee of two thousand dollars (\$2,000.00) is required each time an apartment complex is designated to participate in the mandatory crime reduction program.

**Sec. 26-459. Penalty.**

A violation of any provisions of this article shall be deemed to be a misdemeanor and, upon conviction of such violation, such violation shall be punishable by a fine not to exceed five hundred dollars (\$500.00); provided that a violation of a provision of this article governing fire safety, zoning, or public health and sanitation, may not exceed the sum of two thousand dollars (\$2,000.00). Each and every day any such violation shall continue shall be deemed to constitute a separate offense.

**Secs. 26-460 — 26-470. Reserved.”**

**SECTION 4.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 5.** All provisions of the ordinances of the City of Farmers Branch reconcilably in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 6.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

**SECTION 7.** That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense; provided that a violation of a provision of this Ordinance governing fire safety, zoning, or public health and sanitation, may not exceed the sum of two thousand dollars (\$2,000.00). Each and every day any such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 8.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE \_\_\_\_\_ OF \_\_\_\_\_, 2017.**

ATTEST:

APPROVED:

\_\_\_\_\_  
Amy Piukana, City Secretary

\_\_\_\_\_  
Bob Phelps, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Peter G. Smith, City Attorney  
(2.8.17:102.000:83078v3)