



ORDINANCE NO. XXXX

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 ENTIRITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; 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:

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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:

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- (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 that are leased or offered for lease and are not independently owned.

Chief of police 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, without limitation, any events occurring within the surrounding neighborhood that, through information or investigation, can be traced to the apartment complex premises. Crime shall not include offenses or arrests that result from transition onto an apartment complex as a result of traffic enforcement initiated by the Farmers Branch Police Department from a street, roadway and/or drive not owned by, or under the control of, the apartment complex.

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.

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.

- (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 of police. The apartment complex crime index will be calculated by dividing the total crime 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 on an annual basis, or any time determined necessary, for single family dwellings within the corporate limits of the City. The residential crime index calculation shall be based upon the total number of single family residences and shall be calculated utilizing the same methods provided in subsection (a) and in section 26-454(b).
- (c) An apartment complex that has a crime-risk safety threshold equal to or less than the single family residence crime threshold shall not be included in the program.

Sec. 26-454. Crime risk/safety threshold.

- (a) The chief of police shall collectively calculate the crime risk/safety threshold for all registered apartment complexes in the city on an annual basis or at any time determined necessary by the chief of police.
- (b) The crime risk/safety threshold is calculated by taking the average of the apartment complex crime indices of all apartment complexes in the city and multiplying the average by 1.5.

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 determined in

accordance with section 26-453 exceeds the crime risk/safety threshold determined in accordance section 26-454 for all registered apartment complexes in the city, subject to exclusion under section 26-453(c).

- (b) An apartment complex that exceeds crime risk/safety threshold 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 current and future residents;
 - (4) Conduct a credit check on all current and future residents; and
 - (5) Permit a minimum of two inspections of the apartment complex by the chief of police. 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.
 - (6) 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 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. Trespass enforcement only applies to common areas of the property such as: 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.
 - (7) 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 of police, 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 chief of police within 30 days after distribution.

- (c) At the discretion of the chief of police additional remedial measures may be required of the apartment complex. In the case of a designated apartment complex reaching the status of repeat offender, the complex shall be required hire on site security as outlined below. The additional measures will be reasonable and based on various crime risks. Additional measures may include any or all of the following:
- (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.

- (d) 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.

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

- (a) The chief of police shall provide written notice to the owner, operator, 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) The process for appealing the chief of police'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. 26-457. Repeat Offender Status; Probation; Suspension of License

- (a) An apartment complex that is required to participate in a mandatory crime reduction program under this article for a period of twenty four consecutive months shall be deemed a repeat offender under this article. The period of consecutive time accrued by any apartment complex currently participating in a mandatory crime reduction program under this article upon the adoption of this section 26-457 shall count and be included in calculating a twenty four consecutive month period.

- (b) In addition to any other authority granted by this article or any other provision of the Code of Ordinances of the City of Farmers Branch, the building inspector or his/her designee may place the license of an apartment complex issued under chapter 26, section 26-112 of the Code of Ordinances on a probationary status if an apartment complex is deemed a repeat offender under section 26-457(a).
- (c) The duration of the probationary status shall begin upon the mailing of a notice by the building inspector or by his/her designee of the initiation of the probationary status and shall continue until the apartment complex's crime index falls below the applicable crime risk/safety threshold established under this article and remains below the threshold for a period of not less than thirty consecutive days after the initiation of probation.
- (d) Suspension of registration.
 - (1) If a complex fails to complete its probationary status within ninety days from initiation, the building inspector or his/her designee may place the license of such complex on suspended status. While under suspension, no unoccupied dwelling in the complex may be occupied and no occupied unit shall be occupied by the new tenants until the complex maintains a crime index below the crime risk/safety threshold established under this article for a minimum of ninety consecutive days after the initiation of suspension.
 - (2) If an apartment complex has been on suspended status one or more previous times within the thirty-six months immediately preceding the complex being placed on suspended status, no unit in the complex may be occupied by new tenants until the complex maintains a crime index below the crime risk/safety threshold established under this article for a minimum of one hundred and eighty consecutive days after the initiation of suspension.

Sec. 26-458. Appeals from designation; suspension.

- (a) 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, operator, 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 of police'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 (a), the city council is limited to the issue of whether the apartment complex's crime index is 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 26-456. The city council shall affirm the decision of the chief of police if the council finds that the apartment complex's crime index exceeds the applicable crime risk threshold and shall reverse the chief of police's decision if the council finds that the crime index does not exceed the applicable crime risk threshold.
- (b) If the building inspector or his/her designee places an apartment complex's license on probationary or suspended status, this action is final unless the owner, operator, or property manager of the apartment complex files timely a written appeal with the city secretary not later than ten days after receiving notice of being a placed on said status.
 - (1) In deciding an appeal under this subsection (b), the city council is limited to the issue of whether the apartment complex's crime index has remained below the applicable crime risk/safety threshold established under this article for a minimum of thirty consecutive days after the initiation of the current probation and within ninety days following said initiation.
- (c) If a written request for an appeal hearing is timely filed under this section with the city secretary within the ten-day limit, the city council shall hear the appeal. The city secretary shall set a date for the hearing within sixty calendar days after the date the appeal is filed.
- (d) A hearing on appeal by the city council may proceed if a quorum of the city council 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 city council.
- (e) The city council 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 city council. Any dispute of fact will be decided on the basis of a preponderance of the evidence presented at the hearing.

- (f) The city council's decision must be by a majority vote of the members present. Failure to reach a majority vote will leave the decision to the chief of police unchanged. The decision of the council is final, and no rehearing may be granted.

Sec. 26-459. Program fee.

A program fee of two thousand dollars (\$2,000) will be charged to those complexes that are above the crime risk threshold to defray the costs incurred by the chief of police in 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.

Sec. 26-460. 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 two thousand dollars (\$2,000). Each day on the provisions of this article are violated shall constitute a separate offense.

Secs. 26-461—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. Except as otherwise provided herein, any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Five Hundred (\$500) for each offense; and each and every day 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 _____, 2016.**

ATTEST:

APPROVED:

Amy Piukana, City Secretary

Bob Phelps, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(WLW:11/30/2016:TM81059v2)