

ORDINANCE NO. 2194

AN ORDINANCE AMENDING CHAPTER 5 ENTITLED "BUILDING REGULATIONS" OF THE CITY OF HURST, TEXAS; BY AMENDING 5-1 CONCERNING THE CODE APPEALS AND ADVISORY BOARD AND BY ADDING ARTICLE XI. MANDATORY MULTI-FAMILY DWELLING CRIME REDUCTION PROGRAM (COMPOSED OF ARTICLES 5-397 THROUGH 5-420); DEFINING TERMS; REQUIRING LEVEL ONE TRAINING AND OFFERING CERTIFICATION FOR ALL MULTI-FAMILY DWELLING COMMUNITIES; REQUIRING MULTI-FAMILY DWELLINGS 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; PROVIDING A PENALTY NOT TO EXCEED \$2,000; SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Hurst, Texas Police Department, has reviewed the need for an apartment crime reduction ordinance and has reviewed the entire ordinance; and

WHEREAS, there are some multi-family dwellings in the city that have disproportionate crime rates as compared to other multi-family dwellings in the city; and

WHEREAS, tenants at these multi-family dwellings 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 multi-family dwellings and the residents of Hurst from the crime occurring at these complexes; and

WHEREAS, there are measures that these multi-family dwellings should take to address the crime at their property; and

WHEREAS, The Code Appeals and Advisory Board met on November 3, 2011 and recommended the revisions and additions to the ordinance; and

WHEREAS, after receiving positive comments and support from the multi-family stakeholder community at a public hearing on January 23, 2012, the Neighborhood and Community Advisory Committee recommended the ordinance to City Council for approval.

WHEREAS, to protect the health, safety, welfare, and morals of the residents of the City of Hurst, the City is amending Chapter 5 to ensure that the multi-family dwellings with excessive crime rates are addressing crime at their properties by mandating that these multi-family dwellings participate in a crime reduction program, requiring that multi-family dwellings 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 HURST, 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 the City of Hurst, Texas Code of Ordinances be amended by amending Section 5-1 to read as follows:

Section 5-1 Code, appeals and advisory board

(a) *Membership, qualifications, terms.* There is hereby created a seven-member board to be known as a codes, appeals and advisory board which shall be composed of two (2) members holding certificates of registration as an electrical contractor or master electrician, two (2) persons holding licenses as plumbing contractors or master plumbers, two (2) persons with building construction experience and one (1) member of the general public. Three (3) members shall have terms expiring in even numbered years and four (4) shall have terms expiring in odd numbered years. Terms shall be for two (2) years except for initial appointments. Members may be reappointed after expiration of the terms. Members shall be appointed by the governing body and shall elect a chairman from their membership who shall have the same voting rights as any other member. There shall be two (2) alternate lay members who shall have the right to vote in the absence of regular members. Alternate members shall have terms of one (1) year. Four (4) members of the codes, appeals and advisory board shall constitute a quorum for the transaction of business. Any action at any meeting shall require the affirmative vote of at least four (4) members.

(b) *Appeals.*

(1) Any person may appeal an interpretation of the electrical, building, residential, energy, mechanical, plumbing, fuel gas, property maintenance or fire codes or the disapproval or refusal of any permit authorized by any of such codes by filing a written notice of appeal with the official who made the interpretation or who refused or disapproved a permit. Such notice of appeal must be filed within fifteen (15) days of the decision being appealed. The board shall hear such appeal within thirty (30) days of the filing of the notice of appeal. Both the official whose decision is being appealed and the party appealing the decision shall be notified of the date and time of such hearing at least seventy-two (72) hours before such hearing. Such notice may be by mail, telephone or facsimile. The board shall decide such matter within fourteen (14)

calendar days of such hearing. The board is authorized to exercise those powers granted to the board of appeals for the particular code relevant to the matter being appealed.

(2) The Code Appeals and Advisory Board shall also have jurisdiction to hear appeals concerning the designation by the Police Chief of a multi family dwelling community as a Required Participant in the Mandatory Crime Reduction Program. The process shall be as set out in the sections in this chapter, Article XI, Mandatory Multi-Family Dwelling Crime Reduction Program.

(c) *Amendments.* The board shall review all proposed code amendments to the building, residential plumbing, fuel gas, mechanical, energy, fire, electrical and property maintenance codes prior to their consideration by the City Council.

SECTION 3 That the City of Hurst, Texas Code of Ordinances be amended by adding Article XI, Sections 5-397 through 5-420 to Chapter 5, as follows:

ARTICLE XI. MANDATORY MULTI-FAMILY DWELLING CRIME REDUCTION PROGRAM

Sec. 5-397 Definitions.

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

Board. The City of Hurst, Code Appeals and Advisory Board sitting as 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 as prohibited by the Penal Code. The term does not include Non-applicable Crimes.

Community Per Capita Crime Index or Crime Index. A statistically-determined level of criminal activity in a multi-family dwelling community in the City during a 12-month period that is expressed on a per capita basis and calculated in accordance with section 5-401.

Crime Risk Threshold. A statistically-determined level of criminal activity in Multi-family dwellings in the City during a 12-month period, adjusted for the occupancy of the Multi-family dwellings surveyed and expressed on a per capita basis and that is calculated in accordance with section 5-401.

Designated Multi-family dwelling . A multi-family dwelling community that is required to participate in a mandatory crime reduction program under this Chapter.

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.

Final non-appealable judgment shall mean a judgment for which all appeals have been exhausted or a judgment in which the time limits for appeal have run.

Licensed Multi-family dwelling. A multi-family dwelling community holding a license pursuant to 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.

Maintenance supervisor. Primary employee or person responsible for physical condition of property, usually a full time employee responsible for physical condition of the property. If more than one full time employee holds such a position, this definition would refer to the employee with primary authority.

Manager. The owner or the person appointed or hired by the owner to be responsible for the daily operation of a multi-family dwelling community.

Multi-family dwelling community. Any building or group of buildings which provide more than four (4) dwelling units on single platted lot, or if the land on which the building or buildings is un-platted, then any building or group of buildings which provide more than four (4) dwelling units on contiguous tracts of land under a common ownership. Condominiums shall not be included in this definition unless 40% or more of the units are not owner occupied units.

Owner. The person(s), corporation, partnership, or other legal entity who holds title to a multi-family dwelling community.

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.

Police chief. The police chief of the City of Hurst or designated representative.

Registered agent. The person identified by the owner of a Multi-family dwelling community in the registration filed pursuant to this article authorized to receive any legal process and/or notice required or provided for in this article on behalf of the owner.

Section 5-398 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. 5-399 Crime free multi-housing training

Level 1 –Training – for multi-family personnel.

(a) The owner of each multi-family dwelling community in the city shall ensure that the manager and maintenance supervisor of their multi-family dwelling community has attended an eight hour crime free multi-housing class provided by the police chief. There shall be no charge for the class. Upon completion of this class, the police chief shall issue to the attendee a crime free multi-housing Certificate.

(b) It shall be unlawful for an owner to own a multi-family dwelling community in the city for longer than three months if the manager and maintenance supervisor of the multi-family dwelling community has not obtained Level 1 Training. It shall be an affirmative defense for an owner of a multi-family dwelling community if the owner fails to ensure that the manager and maintenance supervisor of their multi-family dwelling fails to obtain Level 1 training if the multi-family dwelling community is completely vacant in order to allow the owner to complete a full scale renovation and repair of the facilities in the multi-family dwelling community.

(c) It shall be unlawful for a manager or maintenance supervisor to continue to function as a manager or maintenance supervisor of any multi-family dwelling community for a period of longer than three (3) month without obtaining Level 1 training.

(d) The training may also be open to other members of the community.

Sec. 5-400 Multi-Family Certifications

Certification of Multi-Family Community.

(a) In addition to the training required for multi-family personnel, as set forth above, the City of Hurst will provide certifications to multi-family communities. Certifications are available on a voluntary basis and recognize the spirit of cooperation and partnership the City of Hurst wishes to extend to its multi-family communities seeking to be good corporate citizens.

(b) Basic Certification: In order for a multi-family community property to receive a basic certification, the following steps must be accomplished:

(1) Multi-family dwelling community Manager and Maintenance Supervisor must attend Basic Training.

(2) The multi-family dwelling community must have passed an inspection by the City of Hurst police department.

(3) This certificate shall expire after two years or at the time the manager or maintenance supervisor holding a certification ceases to function as the multi-family dwelling community manager or maintenance supervisor. It shall be unlawful for any multi-

family dwelling community to display a Hurst Crime Free Multi-housing Basic certificate if said multi-family dwelling community has not met the requirements of this section.

(c) Advanced Certifications

The Police Chief is hereby authorized to create additional tiers of voluntary multi-housing certifications.

(1) Gold Certification – Requirements and Display

(i) Basic certification must be current in order to qualify for an advanced Gold certificate.

(ii) Multi-Family Community Applicants for Gold Certification shall have the Manager or Owner and any other employees of the multi-family community attend additional training as required by the police chief.

(iii) In order to qualify for Gold certification, the final step shall be for the Manager or Owner to announce the certification at a social or other event for the Multi-Family Community.

(iv) Gold Certification shall expire two (2) years after issuance. If the Multi-Family Community no longer employs any of the persons who attended Gold Certification training, the certification shall expire at that time.

(v) Upon meeting the requirements, the police chief shall issue to the Multi-Family Community a Hurst Crime Free Multi-Family Community Gold Certification which may be displayed by the multi-family community

(2) Unlawful display

It shall be unlawful for any multi-family dwelling community to display any certificate or certification after the certification has expired or been revoked.

(d) Renewal Process – A Basic or Gold certification may be renewed upon inspection and completion of any requirements

Section 5-401 Community per capita crime index.

(a) The Police Chief shall calculate on a monthly basis the community per capita crime index for each licensed multi-family dwelling community in the city.

(b) The community per capita crime index for a multi-family dwelling community is calculated as follows:

- (1) Determine the total number of bedrooms in the multi-family dwelling community 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 multi-family dwelling by two (two occupants are counted for each bedroom) to produce the ideal occupancy number for the multi-family dwelling;
- (3) Multiply the ideal occupancy number by the occupancy rate of the multi-family dwelling to produce the actual occupancy number;
- (4) Divide the number of Part I crimes occurring at the multi-family dwelling within the preceding twelve (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 multi-family dwelling within the preceding twelve (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 multi-family dwelling within the preceding twelve (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.

Numbers for Example

Apartment size: 100 units

Apartment occupancy rate: 90% occupied

Apartment crime in 12-month period: 10 Part I Crimes;
20 Part II Crimes
15 Chapter 125 Crimes

Apartment-unit mix: 70 one-Bedrooms; 30 two-Bedrooms

Total Bedrooms 130

Example Calculations:

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 = $(10 \div 234=0.0427) \times 100 = 4.3$

Community Per Capita Crime Index for Part II Crimes = $(20 \div 234=0.08547) \times 100 = 8.5$

Community Per Capita Crime Index for Chapter 125 Crimes = $(15 \div 234=0.0641) \times 100 = 6.4$

Sec. 5-402 Crime risk threshold.

(a) The Police Chief shall collectively calculate on a monthly basis the crime risk threshold for all licensed multi-family dwelling in the city.

(b) The crime risk threshold for multi-family dwelling is calculated as follows:

- (1) Determine the total number of licensed multi-family dwellings in the city.
- (2) Add together each multi-family dwelling's community per capita crime Index for Part I crimes and divide the sum by the total number of licensed multi-family dwelling to produce the average crime index for Part I crimes.
- (3) Subtract each multi-family dwelling's community per capita crime index for Part I crimes from the average crime index for Part I crimes to get the multi-family dwelling's deviation from the average crime index for Part I crimes.
- (4) Add the square of each multi-family dwelling's deviation from the average crime index for Part I crimes together and divide the sum by the total number of licensed multi-family dwelling 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 adds it to the average crime index for Part I crimes to produce the crime risk threshold for Part I crimes.
- (6) Repeat the process using each multi-family dwelling'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 repeat the formula using the number of Part II Crimes. For Chapter 125 Crimes, repeat the formula using the number for Chapter 125 crimes.)

Sec. 5-403 Mandatory crime reduction program; when required.

(a) A multi-family dwelling community must participate in the mandatory crime reduction program when the multi-family dwelling 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 multi-family dwelling 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 multi-family dwelling 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 multi-family dwelling in the city.

(b) A multi-family dwelling community must remain in the mandatory crime reduction program for six (6) months or until the multi-family dwelling's community per capita crime index falls below the crime risk threshold for the applicable types of crime, whichever occurs later.

Sec. 5-404 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 multi-family dwelling designated to participate in the mandatory crime reduction program.
- (b) The notice must include the following information:
 - (1) The name and address of the multi-family dwelling;
 - (2) A statement that the multi-family dwelling 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 multi-family dwelling's qualification for the mandatory crime reduction program;
 - (4) The actual occupancy number used to calculate the multi-family dwelling's community per capita crime index;
 - (5) The number of Part I, Part II, and Chapter 125 crimes used to calculate the multi-family dwelling's community per capita crime index, including the date, time, and location of each offense;
 - (6) A statement that a mandatory inspection of the multi-family dwelling 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 a multi-family dwelling community to participate in a mandatory crime reduction program.
- (c) Designation of a multi-family dwelling community 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 multi-family dwelling.

Sec. 5-405 Delivery of notices.

Any written notice that the police chief is required to give to a multi-family dwelling community under this article is deemed to be delivered:

- (1) On the date the notice is hand delivered to the owner or manager of the multi-family dwelling; 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 multi-family dwelling at the address provided for in the most recent multi-family dwelling community license application.

Sec. 5-406 Appeal from designation.

(a) If the Police Chief designates a multi-family dwelling community for participation in the mandatory crime reduction program pursuant to this article, this action is final unless the owner or manager of the multi-family dwelling files a written appeal to the Board with the Police Chief not later than fifteen (15) calendar days after receiving notice of being a designated multi-family dwelling.

(b) The Board 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 a multi-family dwelling community's occupancy rate, then the owner or manager of the multi-family dwelling shall, at the time of filing the appeal, also file with the Police Chief and the police chief a copy of a current and valid license for every occupied dwelling unit in the multi-family dwelling.

(d) If a written request for an appeal is filed timely under subsection (a), the Board shall hear the appeal. The Police Chief shall set a date for the hearing within sixty (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 multi-family dwelling's community per capita crime index was greater than the crime risk threshold calculated for all registered multi-family dwellings in the city for the particular types of crime that qualified the multi-family dwelling for designation under section 5-403 at the time of designation. The Board shall affirm the decision of the police chief if the Board finds that the multi-family dwelling'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 of the members present. 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. 5-407 Requirements for Multi-family Dwelling Community Mandatory Participants; Multi-family Dwelling inspections.

(a) After a multi-family dwelling community has been designated to participate in the mandatory crime reduction program, the Police Chief shall inspect the multi-family dwelling to:

- (1) Determine whether the multi-family dwelling 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 multi-family dwelling will assist in reducing the occurrence of crimes at the multi-family dwelling; and
- (3) Determine whether the multi-family dwelling is in compliance with this article.

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

- (1) The exterior of the multi-family dwelling; and
- (2) The interior of the multi-family dwelling, 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 multi-family dwelling at least twice during each period that the multi-family dwelling 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 a multi-family dwelling community commits an offense if, either personally or through an agent or employee, he refuses to permit a lawful inspection of the multi-family dwelling as required by this section.

(e) Whenever a multi-family dwelling community is inspected by the police chief and a violation of this article or any other city ordinance or state law applicable to the multi-family dwelling is found, the multi-family dwelling will, after the expiration of any time limit for compliance given in a notice or order issued because of the violation, be re-inspected by the Police Chief to determine if the violation has been eliminated.

Sec. 5-408 Requirements for Multi-family Dwelling Community Mandatory Participants; Conference with the Police Chief.

(a) At least once during each period that a multi-family dwelling community 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 multi-family dwelling to review:

- (1) The requirements of the mandatory crime reduction program;
- (2) The results of the police chief's inspection of the multi-family dwelling;
- (3) Any recommendations for reducing crimes on or near the multi-family dwelling; and
- (4) Any other information the police chief wishes to discuss at the conference.

(b) An owner or manager of a designated multi-family dwelling commits an offense if he fails to attend a scheduled conference after receiving notice of the conference from the police chief.

Sec. 5-409 Requirements for Multi-family Dwelling Community Mandatory Participants; Program fee.

(a) A program fee of \$250 will be charged to each designated multi-family dwelling to defray the costs incurred by the Police Chief in requiring the inspections of the multi-family dwelling, attending conferences with the owner or manager of the multi-family dwelling, and administering and enforcing the mandatory crime reduction program. A separate program fee is required each time a multi-family dwelling community is designated to participate in the mandatory crime reduction program.

(b) The owner or manager of a designated multi-family dwelling shall pay the program fee to the Police Chief within thirty (30) days after receiving notice of being a designated multi-family dwelling.

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

Sec. 5-410 Requirements for Multi-family Dwelling Community Mandatory Participants; Premises Requirements; Trespass Affidavits; Crime Watch meetings; Apartment Manager Meetings; Background Checks; Seminar; Survey.

(a) Within thirty (30) days after receiving notice of being a designated multi-family dwelling, the designated multi-family dwelling 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 sixty (60) days after receiving notice of being a designated multi-family dwelling. The Police Chief may extend the deadlines of this subsection, in increments not exceeding thirty (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 Multi-family dwelling 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 multi-family dwelling may be taller than three (3) feet, except as follows:
 - a. The Police Chief may allow the owner or manager to maintain a shrub or bush taller than three (3) feet if the owner or manager cuts the foliage three (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 fifteen (15) days of the first inspection of the property pursuant to section 5-407(a)(1);
 - c. Within fifteen (15) days of receiving a written request from the owner or manager of the multi-family dwelling 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 multi-family dwelling remains in the mandatory crime reduction program.
- (2) No tree on the premises of the multi-family dwelling 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 multi-family dwelling (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 multi-family dwelling 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 multi-family dwelling must be enclosed with a fence that is at least six (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 fifteen (15) 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 multi-family dwelling must be blocked to incoming calls or removed from the multi-family dwelling.
- (i) *Trespass affidavits.*
 - (1) An owner or manager of the multi-family dwelling willingly executes 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 multi-family dwelling, all applicable trespass laws on the premises of the multi-family dwelling.
 - (2) A true and correct copy of the trespass affidavit must be posted at the multi-family dwelling 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 twelve (12) months) must be obtained on all current and prospective employees of the multi-family dwelling.
 - (2) A current official criminal history report (issued by the Texas Department of Public Safety within the preceding twelve (12) months) must be obtained on all prospective tenants seventeen (17) years of age or older who apply for occupancy in the multi-family dwelling .
 - (3) A current credit report must be obtained on all prospective tenants eighteen (18) years of age or older who apply for occupancy in the multi-family dwelling.
 - (4) All records maintained on an employee or tenant in compliance with this subsection must be retained at the multi-family dwelling for at least ninety (90) days following the date of any termination of the employee's employment or the tenant's occupancy at the multi-family dwelling.

- (5) The owner or manager of the multi-family dwelling 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 multi-family dwelling.
 - a. At least one (1) crime watch meeting must be held every six (6) weeks at the multi-family dwelling.
 - b. The owner or manager must post notice in the common areas of the multi-family dwelling in English and Spanish notifying the tenants of the crime watch meetings at least fifteen (15) days prior to the meeting.
 - c. The police chief must be given at least fifteen (15) days advance, written notice of the meeting.
 - (2) *Apartment manager meetings.* The owner or manager of the multi-family dwelling each calendar year shall attend at least seven (7) Hurst Police Department apartment manager meetings.
 - (3) *Multi-family Crime Free Management Seminar.* The owner or manager and maintenance supervisor shall attend training provided by the City of Hurst Police Department within 90 calendar days of being designated.
 - (l) *Residential security survey.*
 - (1) An owner or manager of the multi-family dwelling shall distribute a residential security survey, on a form provided by the Police Chief, to each tenant of the multi-family dwelling who is eighteen (18) years of age or older.
 - (2) The owner or manager of the multi-family dwelling shall file all returned surveys with the police chief within thirty (30) days after distribution.

Sec. 5-411 Modification of landscaping and fencing requirements.

(a) The owner or manager of a designated multi-family dwelling may request a modification of the fencing requirements set forth in section 5-409 "Requirements for Multi-family Dwelling Community Mandatory Participants" subsection (g) by filing a written request with the Police Chief not later than fifteen (15) calendar days after receiving notice of:

- (1) being designated for participation in a mandatory crime reduction program under this Article; 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 multi-family dwelling may appeal the decision of the police chief not to grant a landscaping modification as set forth in section 5-409 "Requirements for Multi-family Dwelling Community Mandatory Participants; Premises" to the board by filing a written request with the Police Chief not later than fifteen (15) calendar 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 Police Chief within the fifteen (15) calendar day limit, the board shall consider the request. The Police Chief shall set a date for the hearing.

(d) A hearing by the board may proceed if a quorum of the code of appeals advisory 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 a preponderance of the evidence presented at the hearing.

- (e) The board may 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 multi-family dwelling will serve to deter and reduce crime at the multi-family dwelling to the same extent as the fence required under section 5-410(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 may grant the owner's or manager's request to maintain a shrub or bush taller than three (3) feet and cut the foliage three (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 deter and reduce crime at the multi-family dwelling to the same extent as the requirement that shrubs or bushes not exceed three (3) feet pursuant to section 5-409 "Requirements for Multi-family Dwelling Community Mandatory Participants; Premises" subsection (c).
- (g) The board shall grant or deny the request for a landscaping or fencing modification by a majority vote of those members present. 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 a multi-family dwelling community is designated for participation in the mandatory crime reduction program, unless the Police Chief applies to the board to revoke their prior decision in regard to the landscaping or fencing modification. The prior decision may be revoked, after notice and hearing as set out above, upon a determination that the modified landscaping or fence or other barrier:
 - (1) Fails to deter and reduce crime at the multi-family dwelling to the same extent as the landscaping or fence or other barrier required under subsections (c) or (g) respectively of section 5-409 "Requirements for Multi-family Dwelling Community Mandatory Participants; Premises" ; or
 - (2) Fails to comply with a city ordinance or state law applicable to fences and landscaping.
- (i) Upon the board's revocation of a landscaping or fencing modification, the Police Chief shall notify the owner and manager of a designated multi-family dwelling 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 file a new request for a landscaping or fencing modification in accordance with subsection (a).
- (j) The grant of a request for modification of the landscaping or fencing requirements of sections 5-409 "Requirements for Multi-family Dwelling Community Mandatory Participants; Premises" (c) or (g) does not exempt a designated multi-family dwelling from any other provision of this chapter or other applicable city ordinances or state law.

Sec. 5-412 Adoption of rules by code of appeals advisory 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 Police Chief.

Sec. 5-413 Appeals to district court.

Once the decision of the board is final under this Article, the decision may be appealed to the state district court by the City, the owner or manager of the multi-family dwelling, or by any other person aggrieved by the decision. An appeal to the state district court must be filed within thirty (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. 5-414 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 multi-family dwelling.

Sec. 5-415 Further action by police department

The Police Chief may seek assistance in accordance with Texas Civil Practice and Remedies Code; Title 6 Miscellaneous Provisions; chapter 125 Common Public Nuisances for action against a multi-family dwelling if needed.

Section 5-416 Penalty.

A person who violates this Article, hereof is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed two thousand dollars (\$2,000.00).

Sec 5-417 ----- 5-420 Reserved

SECTION 4. THAT save and except as amended by this ordinance, the provisions of Chapter 5 of the City of Hurst, Texas, Building Regulations 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 and shall be in full force and effect from and after the final date of passage and adoption by the City Council of the City of Hurst, Texas.

PASSED on the first reading on the 14th day of February, 2012 by a vote of 6 to 0.

PASSED on the second reading on the 28th day of February, 2012 by a vote of 5 to 0.

CITY OF HURST

By: Richard Ward

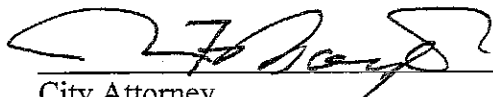
Richard Ward, Mayor

ATTEST:



Rita Frick, City Secretary

Approved as to form and legality:



City Attorney