

AN ORDINANCE AMENDING, TITLE IX, CHAPTER 99 TO THE CARROLLTON CITY CODE ESTABLISHING A MANDATORY APARTMENT COMPLEX CRIME REDUCTION PROGRAM; DEFINING TERMS; REQUIRING APARTMENT COMPLEXES WITH EXCESSIVE CRIME RATES TO PARTICIPATE IN A MANDATORY CRIME REDUCTION PROGRAM; ESTABLISHING PROCEDURES, REQUIREMENTS, FORMULAE AND STANDARDS FOR THE PROGRAM; PROVIDING AN APPEAL PROCESS; PROVIDING A PENALTY NOT TO EXCEED \$2,000; PROVIDING FOR SAVINGS SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1:

That Title IX, Chapter 99 of the Carrollton City Code is amended as follows:

“Section 99.1. Mandatory Apartment Crime Reduction Program.

All apartments located in the City of Carrollton shall be required to participate in the Apartment Crime Reduction Program.

Section 99.2. Required Information.

- (a) An owner or manager of an apartment complex located in the City of Carrollton shall file a city-supplied form with the City Manager for each apartment complex. The following correct and current information is required to be supplied:
- (1) Names, current addresses, and telephone numbers of all owners, lien holders, and insurance companies.
 - (2) State-issued driver’s license or identification numbers and dates of birth of all owners;
 - (3) 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;
 - (4) Names, addresses, state-issued driver’s license or identification numbers, and dates of birth of all registered agents, presidents, and vice-presidents, if any, if the registered agents are corporations;

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- (5) The trade name of the apartment complex;
 - (6) Zoning district in which the property is located;
 - (7) The number of dwelling units within the applicable apartment complex broken down by the number of efficiencies, one bedroom, two-bedroom, and three-bedroom units.
- (b) It is the duty of an owner and manager to update all information provided in the form within 7 calendar days of any change.
 - (c) The City may, at any time, require additional relevant information of the owner or manager to clarify items on the form. The owner and manager shall provide the information the City requires within 7 calendar days of the City's request.
 - (d) When more than 50 percent of the ownership changes or there is a change of a general partner, the new owners and partners shall supply that information to the City within 30 calendar days.
 - (e) An apartment manager shall require each tenant to fill out a questionnaire in a form supplied by the City Manager.
 - (f) A designated apartment manager shall insert the following language in each new rental application or renewal agreement, if the complex does not use the standard Texas Apartment Association rental application:

“Failure to disclose the information in the form, or providing untruthful answers, shall be grounds for eviction.”

Section 99.3. Definitions.

Apartment Complex. A multi-family dwelling community that contains 12 or more dwelling units that are rented, leased or offered for lease. This term includes the property on which the apartment complex is located.

Board. The Carrollton Property Standards Board sitting as an appeals board.

Calls for Service. Calls for service include, but are not limited to, any and all calls to the Carrollton Police Department which result in a city employee being dispatched or directed to the apartment complex, and which results in the filing of a written offense report. This shall include any calls for service within the surrounding neighborhood that, through information or investigation, can be attributed or traced to the apartment complex premises. Calls for service include any self-initiated activity or investigation based on the observation(s) of a Carrollton Police Officer which results in a written offense report. Calls for service shall be measured by one event or occurrence at an apartment complex. Calls for service will not include arrests or

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offenses that result from transition onto an apartment complex from the street as a result of officer initiated traffic enforcement.

Apartment Complex Crime Index. The City Manager will calculate the Apartment Complex Crime Index on a semi-annual bases or at any time determined necessary by the City Manager. The Apartment Complex Crime Index is calculated by adding the total calls for service (a) and the number of arrests on the complex property (b) then dividing that sum by the total number of units in the complex (c), then multiplying that number by 100, giving a ratio of crimes per 100 units. This formula is expressed as:

$$(a)+(b)/(c) \times 100 = \text{Apartment Complex Crime Index}$$

Crime Risk Safety Threshold. The City Manager shall collectively calculate the Crime Risk Safety Threshold for all apartment complexes in the city on a semi-annual basis or at any time determined necessary by the City Manager. The Crime Risk Safety Threshold is calculated by taking the average of the Apartment Complex Crime Index of all apartment complexes in the city and multiplying the average by 1.50.

City Manager. City Manager shall mean the City Manager or City Manager's designee.

Designated Apartment Complex. An apartment complex whose Crime Index exceeds the Crime Risk Safety Threshold.

Section 99.4. Mandatory Crime Reduction Program.

- (a) An apartment complex must participate in the Mandatory Crime Reduction Program when the crime index for the apartment complex exceeds the Crime Risk Safety Threshold.
- (b) An apartment complex must remain in the Mandatory Crime Reduction Program until the crime index for the apartment complex falls below the Crime Risk Threshold.

Section 99.5. Notice of Designation to Participate in the Mandatory Crime Reduction Program.

- (a) The City Manager 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;

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- (2) A statement that the apartment complex is required to participate in the Mandatory Crime Reduction Program, including a description of the fee and other requirements of the Program;
 - (3) The Apartment Complex Crime Index and Crime Risk Safety Threshold used to calculate the apartment complex's designation for the Mandatory Crime Reduction Program;
 - (4) The actual number of dwelling units 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 City Manager at a scheduled date and time; and
 - (6) The process of appealing the City Manager's decision requiring an apartment complex to participate in the 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 Chapter are binding upon all subsequent owners or other transferees of an ownership interest in the apartment complex.

Section 99.6. Delivery of Notices.

Any written notice that the City Manager is required to give a Designated Apartment Complex under this Chapter is deemed to be delivered:

- (a) On the date the notice is hand delivered to the owner or manger of the Designated Apartment Complex, or
- (b) 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 Designated Apartment Complex at the most recent address provided in accordance with Section 99.2(a) or on the most recent certified tax roll.

Section 99.7. Appeal from Designation.

- (a) If the City Manager designates an apartment complex for participation in the Mandatory Crime Reduction Program pursuant to this Chapter, such action is final unless the owner or manager of the Designated Apartment Complex files a written appeal to the Board not later than 10 calendar days after receiving notice of being a Designated Apartment Complex.

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- (b) The Board shall sit as an appeal board for the purposes of hearing appeals under this Chapter.
- (c) If a written request for an appeal is filed timely under Section 99.7(a), the Board shall hear the appeal. The Board shall set a date for the hearing within 60 calendar 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 the evidence presented at the hearing.
- (f) In deciding the appeal, the Board is limited to the issue of whether the apartment complex's Crime Index was greater than the Crime Risk Safety Threshold calculated for all apartment complexes in the City for the particular types of crime that qualified the Designated Apartment Complex for such designation. The Board shall affirm the decision of the City Manager if the Board finds that the apartment complex's Crime Index exceeded the applicable Crime Risk Safety Threshold at the time of designation and shall reverse the City Manager's decision if the Board finds that the apartment complex's Crime Index did not exceed the applicable Crime Risk Safety 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 City Manager unchanged. The decision of the Board is final, and no rehearing may be granted.

Section 99.8. Apartment Complex Inspections.

- (a) After an apartment complex has been designated to participate in the Mandatory Crime Reduction Program the City Manager shall inspect the apartment complex to:
 - (1) Determine whether the Designated Apartment Complex is in compliance with applicable City ordinances relating to public safety and security, including, but not limited to, requirements for locks, door viewers, signage, building numbering, and additional crime prevention measures as applicable.
 - (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 Chapter.
- (b) The City Manager is authorized at a reasonable time to inspect:
 - (1) The exterior of the apartment complex; and

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- (2) The interior of the apartment complex, if the permission of the owner, manager, or other person in control is given, or if a search warrant is obtained.
- (c) The City Manager 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 Section 99.8(a)(1) and 99.8(a)(2), and the second inspection must be conducted for the purposes of Section 99.8(a)(3). Other inspections may be conducted as the City Manager deems necessary for the administration and enforcement of this Chapter.
- (d) The owner, operator, manager, or person in control of a Designated Apartment Complex commits an offense by, either personally or through an agent or employee, refusing to permit a lawful inspection of the apartment complex as required by this Chapter.
- (e) Whenever a Designated Apartment Complex is inspected by the City Manager and a violation of this Chapter or any other City ordinance 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 City Manager to determine if the violation has been eliminated.

Section 99.9. Conference with the City Manager.

- (a) At least once during each period that a Designated Apartment Complex is required to participate in the Mandatory Crime Reduction Program the City Manager shall require a conference with the owner or manager of the apartment complex to review:
 - (1) The requirements of the Mandatory Crime Reduction Program;
 - (2) The results of the City Manager's inspection of the Designated Apartment Complex;
 - (3) Any voluntary recommendations for reducing crimes on or near the Designated Apartment Complex; and
 - (4) Any other information the City Manager wishes to discuss at the conference.
- (b) An owner or manager of a Designated Apartment Complex commits an offense if he or she fails to attend a scheduled conference after receiving notice of the conference from the City Manager.

Section 99.10. Mandatory Requirements for Designated Apartment Complexes.

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(a) Within 30 calendar days after receiving notice of being a Designated Apartment Complex, the apartment complex must meet all of the requirements of this Chapter, except Sections 99.10(f) and (g). Sections 99.10(f) and (g) must be met within 60 calendar days after receiving notice of being a Designated Apartment Complex. The City Manager may extend the deadlines of this Section, in increments not exceeding 30 calendar 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) The exterior of the Designated Apartment Complex, including adjacent public sidewalks and parking lots under the control of the owner or manager of the apartment complex, shall be illuminated at least between one hour after sundown and one-half hour before sunrise. Such illumination shall be to such a degree that the facial features of a person at least 5 feet in height are distinguishable from a distance of 35 feet, and shall provide a minimum of four-tenths (0.4) of one (1) foot-candle of illumination on the premises of the Designated Apartment Complex.

(2) Security lighting must be in compliance with all applicable City ordinances. If there is any conflict between Section 99.10(b)(1) and another City ordinance, the more restrictive shall apply.

(c) *Landscaping.*

(1) No bush or shrub on the premises of a Designated Apartment Complex may be taller than 3 feet in height, except as follows:

a. The City Manager may allow the owner or manager to maintain a shrub or bush taller than 3 feet in height 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 City Manager within 10 calendar days of the first inspection of the property pursuant to section 99.8(a)(1);

c. Within 10 calendar days of receiving a written request from the owner or manager of the Designated Apartment Complex for a modification, the City Manager shall grant or deny the request in writing and deliver it to the owner or manager; and

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- d. A copy of the request by the owner or manager for a modification and the approval by the City Manager must be maintained by the City Manager while the Designated Apartment Complex remains in the Mandatory Crime Reduction Program.
- (2) No tree on the premises of a Designated Apartment Complex shall have any branch 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. If there is any conflict between section 99.10(c)(1) or (c)(2) and another City ordinance, the more restrictive requirements shall apply.
- (d) *Locked common areas.* All enclosed common areas of a Designated Apartment Complex (including, but not limited to, laundry rooms, club rooms, pools 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 a Designated Apartment Complex must be filed with the City Manager.
- (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 in height, 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 Section 99.10(g)(1), 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 shall 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. If there is any conflict between Section 99.10(g)(1) or (g)(2) and another City ordinance, the more restrictive requirements shall apply.
- (h) *Pay phones.* All pay phones on the premises of a Designated Apartment Complex must be blocked to incoming calls, or removed from the apartment complex unless otherwise required by law.
- (i) *Trespass affidavits.*

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- (1) An owner or manager of a Designated Apartment Complex shall execute a trespass affidavit, on a form provided by the City Manager for that purpose, which authorizes the City Manager 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 Designated 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 or criminal history information obtained from an on-line database approved by the Carrollton Police Department must be obtained on all current and prospective employees of a Designated Apartment Complex.
 - (2) A current official criminal history report issued by the Texas Department of Public Safety within the preceding 12 months or criminal history information obtained from an on-line database approved by the Carrollton Police Department must be obtained on all prospective tenants 17 years of age or older who apply for occupancy in a Designated 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 a Designated Apartment Complex.
 - (4) All records maintained on an employee or tenant in compliance with this Section must be retained at the Designated 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 a Designated Apartment Complex shall make all records maintained under this section 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 months at the Designated Apartment Complex.
 - b. The owner or manager must post written notice in the common areas of the Designated Apartment Complex in English and Spanish notifying the tenants of the crime watch meetings at least 10 calendar days prior to the meeting.

c. The City Manager must be given at least 10 calendar days' advance written notice of the meeting.

(2) *Neighborhood Crime Watch meetings.* The owner or manager of a Designated Apartment Complex shall attend at least 2 Crime Watch meetings each calendar year in addition to the meetings required by Section 99.10(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 apartment complexes, 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 Carrollton Police Department. The meetings must be attended in the neighborhood in which the Designated 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 Designated Apartment Complex must be submitted to the City Manager upon request.

In lieu of this requirement an owner, manager, or designee of a Designated Apartment Complex can, within each calendar year, attend at least 75 percent of the regular meetings of the Apartment Manager meetings sponsored by the Carrollton Police Department.

(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 Carrollton Police Department.

(l) *Residential security survey.*

(1) An owner or manager of a Designated Apartment Complex shall distribute a residential security survey, on a form provided by the City Manager, to each tenant 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.

(2) The owner or manager of a Designated Apartment Complex shall file all returned surveys with the City Manager within 30 calendar days after distribution.

(m) *On-Site Security.* An owner or manager of a Designated Apartment Complex may be required by the City Manager to provide 24-hour on-site security provided by commissioned security officers. All commissioned security officers must be in uniform while working on the premises of a Designated Apartment Complex and must be registered with the Private Security Bureau of the Texas Department of Public Safety.

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Commissioned security officers must have a Class B Security Contractor License issued from the Private Security Bureau of the Texas Department of Public Safety.

Sec. 99.11. 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 99.10(g) by filing a written request with the City Manager not later than 10 calendar days after receiving notice of:
 - (1) Being designated as a Designated Apartment Complex for participation in the Mandatory Crime Reduction Program and notified of the requirement for fencing after an inspection by the City Manager; or
 - (2) Having a previously granted fencing modification revoked by the City Manager under Section 99.11(h).
- (b) The owner or manager of a Designated Apartment Complex may appeal the decision of the City Manager not to grant a landscaping modification as set forth in this Section by filing a written request with the Board not later than 10 calendar days after receiving notice of the City Manager's decision of denial.
- (c) If a written request is filed with the Board within the 10-day limit, the Board shall consider the request. The Board shall set a date for the hearing within 45 calendar days after the date the written request was filed.
- (d) 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 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 Designated Apartment Complex will serve to defer and reduce crime at the apartment complex to the same extent as the fence required under Section 99.10(g); and
 - (2) The existing fence or barrier, or the proposed fence or barrier, complies with all other applicable City ordinances.
- (f) The Board shall grant the owner's or manager's request to maintain a shrub or bush taller than 3 feet in height 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

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- (2) Such modification will serve to defer and reduce crime at the Designated Apartment Complex to the same extent as the requirement that shrubs or bushes not exceed 3 feet in height pursuant to section 99.10(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 the apartment complex is designated for participation in the Mandatory Crime Reduction Program, unless the City Manager 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 Designated Apartment Complex to the same extent as the landscaping or fence or other barrier required under Sections 99.10(c) or 99.10(g) respectively; or
 - (2) Fails to comply with a City ordinance applicable to fences and landscaping.
- (i) Upon revocation of a landscaping or fencing modification the City Manager shall notify the owner and manager of the Designated Apartment Complex in writing of such revocation. The notice must include the reason for the revocation, the date the City Manager 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 Section (a). The City Manager may not revoke a landscaping or fencing modification under Section (h) sooner than 6 months after the modification has been granted by the Board.
- (j) The grant of a request for modification of the landscaping or fencing requirements of Sections 99.10(c) or (g) does not exempt a Designated Apartment Complex from any other provision of this Chapter or other applicable City ordinances.

Section 99.12. Adoption of Rules by the Board Serving as an Appeals 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 Manager.

Section 99.13. Appeals to District Court.

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Once the decision of the Board is final under Section 99.11 the decision may be appealed to the State District Court by the City, the owner or manager of the Designated Apartment Complex, or by any other person aggrieved by the decision. An appeal to the State District Court must be filed within 30 calendar days after the date of the Board's final decision. An appeal to the State District Court is limited to a hearing to determine whether or not the Board abused its discretion.

Section 99.14. No Private Cause of Action.

This Chapter 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 a Designated Apartment Complex.

Section 99.15. 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. 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.
- (b) Violations that govern fire safety, zoning, or public health and sanitation include, but are not limited to, those violations in buildings, dwelling units, manufactured home and recreational vehicle communities, apartment complexes, and on the premises.
- (c) Each day any violation of any provision of this Chapter continues shall constitute a separate offense. Each structure or premises which is in violation of any part of this Chapter is a separate offense. Each violation in any structure or premises is a separate offense.
- (d) That Sections 10.99 (A)(1) and (A)(2) of the Carrollton Code of Ordinances are amended by adding Chapter 99.

Section 99.16. Signs

All apartment complexes in the city shall be issued two signs indicating whether the apartment complex is or is not subject to the requirements of the Mandatory Crime Reduction Program.

One such sign shall be located at the entrance to the leasing office of the complex and another shall be located inside the leasing office. Both signs shall be clearly visible to anyone who enters the premises. Signs must be properly displayed within five calendar days of receipt.

Section 99.17. Program Fees

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- (a) A program fee of \$500 will be charged to each Designated Apartment Complex to defray the costs incurred by the City in administering the requirements of this Chapter. A separate program fee shall be required each time that an apartment complex is determined to be a Designated Apartment Complex and required 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 City within 30 calendar days after receiving notice of being a Designated Apartment Complex. No refund of a program fee will be made.”

SECTION 2:

That the provisions of this ordinance are severable in accordance with Section 10.07 of the Carrollton Code of Ordinances.

SECTION 3:

To the extent that any prior ordinance of the City of Carrollton (or any provision, clause, phrase, sentence or paragraph contained therein) conflicts with this ordinance, said conflicting ordinance, provision, clause, phrase, sentence or paragraph is hereby repealed.

SECTION 4:

That this ordinance shall become and be effective on and after its adoption and publication.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS, ON JUNE 21, 2011.

CITY OF CARROLLTON



[Handwritten Signature]

Matthew Marchant
Mayor

ATTEST:
[Handwritten Signature]

Ashley Mitchell

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City Secretary

APPROVED AS TO FORM:

R. Clayton Hutchins
City Attorney