

**AN ORDINANCE**

**To provide for an amendment to Code Section 10-8 "Nuisances",**

WHEREAS, the duly elected governing authority of City of Marietta, Georgia is the City Council thereof; and

WHEREAS, the amendments contained herein would benefit the health, safety, morals and welfare of the citizens of the City of Marietta, Georgia.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA THAT:**

**Section 1. The Code of Marietta, Georgia, Section 10-8 "Nuisances" is hereby amended and shall read as follows:**

**10-8-010 Definitions.**

The following conditions may be declared to be nuisances when any one of them endangers the health, welfare or good order of the community:

- A. Stagnant water on premises;
- B. Any dead or decaying matter; weeds; vegetation; or any fruit, vegetable, animal or rodent, upon premises which is odorous or capable of causing disease or annoyance to the inhabitants of the city;
- C. The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the inhabitants of the city;
- D. The pollution of public water or the injection of matter into the sewerage system which would be damaging thereto;
- E. Maintaining a dangerous or diseased animal or fowl;
- F. Obstruction of a public street, right-of-way, highway or sidewalk without a permit;
- G. Loud or unusual noises which are detrimental or annoying to the public, including without limitation unusual loud disturbances in or around churches or multiple-family complexes such as loud music and other activities in swimming pool and clubhouse areas;
- H. All walls, trees, and buildings that may endanger persons or property;
- I. Any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to reasonably attempt to prevent the activities;
- J. Unused iceboxes, refrigerators and the like, unless the doors, latches or locks thereof are removed; and
- K. Any other condition constituting a nuisance under state law.

L. Exceeding the Crime Rate Threshold as determined by the Marietta Police Department's "Crime Reduction and Safety Enhancement Program for Designated Apartment Complexes" as adopted and amended from time to time with rules and regulations promulgated by the City of Marietta Police and ratified by the City of Marietta Governing authority.

**10-8-020 Complaint of nuisance.**

A. Any official or inhabitant of the city may direct a complaint of nuisance to the city police department, who shall investigate and may place the complaint on the municipal court docket for a hearing upon the basis of the investigation. The municipal court, after five days' notice to the party involved, shall hold a hearing thereon and upon finding that a nuisance does exist shall issue an order to the owner, agent in control of, or tenant in possession, stating that a nuisance has been found to exist and that the nuisance must be abated within so many hours or days as the judge shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.

B. Animal control officers or building and license inspectors of the city may also receive complaints, investigate the same and place on the court docket such complaints in the same manner as police officers.

**10-8-030 Abatement by city.**

A. In any case where the owner, agent or tenant fails to abate the nuisance in the time specified, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such, in the opinion of the judge, that it must be immediately abated, the judge may issue an order to the chief of police directing the nuisance to be abated. The chief of police, in such case, shall keep a record of the expenses and cost of abating same, and the costs shall be billed against the owner, agent or tenant for collection as for city revenues generally and shall become a lien on the property of such persons.

B. Other city departments shall assist the chief of police as is necessary in abating nuisances hereunder.

**10-8-040 Nuisance per se; exception; summary abatement.**

Nothing contained in this chapter shall prevent the mayor from summarily and without notice ordering the abatement of or abating any nuisance that is a nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

**10-8-050 Offense; penalty.**

A. It is declared to be an offense for any owner, agent or tenant to maintain a nuisance. Each day a nuisance is continued shall constitute a separate offense. Following five days after receipt of certified written notice to the property owner, agent or tenant, a citation may be issued by the city. Maximum penalties for violation of this Code section shall be a fine not to exceed \$1,000.00 and/or six months imprisonment.

B. Penalties for the first violation of this Code section shall be a minimum fine of \$100.00. The penalty for second violations of the same provisions of this Code section by the same owner or tenant shall be a minimum fine of \$500.00. Third or repeat violations of the same provisions of this Code section by the same owner or tenant shall be a minimum fine of \$1,000.00.

(c) For Violators who have been cited as a Designated Apartment Complexes ("DAC") pursuant to 10-8-010(L) above, said DAC's shall comply with said CRSEPDAC until such time as Crime Rate Threshold has been satisfactorily reduced and stabilized as determined at the sole satisfaction of the Marietta City Chief of Police.

**10-8-060 Demolition of unsafe buildings or structures.**

A. Whenever the city housing inspector determines that there exists an unsafe building or structure within the city, the city housing inspector shall serve or cause to be served upon the record owner of such structure or building at the address shown on the city's current ad valorem tax records, and upon any other person or entity known to have a vested interest in such building or structure, a written notice containing the following:

1. The street address or legal description of the building, structure, or premises upon which the same is located;
2. A statement indicating that the building or structure has been declared unsafe by the city housing inspector, specifying the conditions determined to have rendered the building or structure unsafe;
3. Said statement shall further specify the section or sections of the building code, gas code, mechanical code, plumbing code, electrical code, housing code, comprehensive development code or other code or ordinance alleged to be violated by such building or structure; and
4. Notification that a hearing will be held before the municipal court judge of the City of Marietta to consider whether such building or structure constitutes an unsafe building or structure and the remedial action which shall be required of the owner to render such building or structure safe, including the demolition and removal of such building or structure. The owner and any other parties known to have a vested interest in such building or structure shall be advised that they may be represented by counsel at such hearing and shall be permitted to present any relevant evidence and will be given an opportunity to cross examine all witnesses.

B. The notice specified in subsection A. of this section, shall be mailed to such owner and any other persons known to have a vested interest in such building or structure at least 15 days prior to such hearing and shall be posted in a conspicuous place on the premises to which it relates.

C. At such hearing, the judge of the municipal court shall determine whether such building or structure is unsafe, and if so, the judge shall enter an order setting forth:

1. The specific conditions and deficiencies rendering such building or structure unsafe.
2. If the judge determines that such building or structure can be repaired and restored to a safe condition within a reasonable period of time, such order shall also state the specific conditions and deficiencies to be corrected and the period of time during which such corrections are to be made and that if such conditions and deficiencies are not corrected during said period of time and the owner has not demolished and removed such building or structure within such period of time, the city will demolish and remove such building or structure, at the owner's expense.
3. If the judge determines that such building or structure cannot be repaired and restored to a safe condition within a reasonable period of time, such order shall state that the owner shall demolish and remove such building or structure within ten days thereafter, and upon the failure of the owner to do so, the city will demolish and remove such building or structure, at the owner's expense.

D. If the city demolishes and removes any such building or structure pursuant to subsection C. of this section, then the city shall bill the owner of such building or structure for the reasonable cost thereof, and such cost shall constitute a lien on the real property upon which such building or structure was located, and the city clerk shall issue execution therefore, and such execution shall be made in the same manner as execution for delinquent taxes.

E. The term "unsafe buildings or structures" shall apply to buildings or structures or portions thereof, existing or hereafter erected, as follows:

1. Those deemed structurally unsafe; unstable; unsanitary; constituting a hazard to life because of inadequate exit facilities or otherwise; constituting a fire hazard; unsuitable or improper for the use or occupancy to which it is put; constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or otherwise dangerous to life or property; or

2. Vacant building or structures or portions thereof deemed to constitute a hazard to health, safety or property or deemed to constitute a nuisance.

F. When a building or structure or portion thereof is in an unsafe condition so that life is in imminent danger, the city housing inspector shall order and require the occupants thereof to vacate the same forthwith or as soon as practicable. The housing inspector shall, when necessary for the public safety, temporarily close sidewalks, streets, buildings, structures and places adjacent to such buildings or structures, and prohibit the same from being used.

#### **10-8-070 Abatement of garbage nuisance and assessment of costs.**

During the term of the city's volume-based garbage program, the city sanitation division is authorized, after receipt of certified written notice and an opportunity to the owner, agent or tenant to terminate the nuisance within a five-day period, to abate all public health nuisances created by the acts of owners, agents or tenants who do not comply with the city garbage collection and disposal service and allow garbage and trash to accumulate on their properties in violation of City Code Section 5-8-140. The cost of abatement, which shall include a \$100.00 administrative fee, is to be billed against the responsible owner, agent or tenant in addition to the normal monthly base rate, or trash pickup rate schedule.

#### **10-8-080 Crime Reduction Program for Designated Apartment Complexes**

##### **A. PURPOSE.**

(1) A correlation exists between high crime rates at an apartment complex and an apartment complex's failure to meet minimum property standards. High crime rates contribute to the deterioration, decay, disrepair, and substandard appearance and condition of the structures and premises of an apartment complex. The purpose of this ordinance is to protect the health, safety, morals, and welfare of the occupants of apartment complexes and other citizens of the City of Marietta 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.

## **B. DEFINITIONS.**

In this ordinance:

(1) **APARTMENT COMPLEX** means a multifamily property that contains 10 or more dwelling units that are leased or offered for lease and are not independently owned.

(2) **CHAPTER 16 CRIMES** means 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; and other crimes listed in Chapter 16 of the Official Code of Georgia Annotated (O.C.G.A.), as amended.

(3) **CHIEF OF POLICE** means the chief of the police department of the city or the chief's authorized representative.

(4) **COMMUNITY PER CAPITA CRIME INDEX** or **CRIME INDEX** means a statistically-determined level of criminal activity in an individual apartment complex in the city during a 12-month period that is expressed on a per capita basis and calculated in accordance with this ordinance.

(5) **CRIME RISK THRESHOLD** means a statistically-determined level of criminal activity in apartment complexes in the city during a 12-month period, adjusted for the occupancy of the apartment complexes surveyed and expressed on a per capita basis that is calculated in accordance with this ordinance.

(6) **DESIGNATED APARTMENT COMPLEX** means an apartment complex that is to participate in a crime reduction program under this ordinance.

(7) **MULTI-TENANT PROPERTY REGISTRATION** means registration as a multi-tenant property under Ordinance VII of this chapter.

(8) **NON-APPLICABLE CRIMES** means 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.

(9) **PART 1 CRIMES** means 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.

(10) **PART 2 CRIMES** means 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.

(11) **REGISTERED APARTMENT COMPLEX** means an apartment complex holding a certificate of registration as a multi-tenant property under City of Marietta Code of Ordinances.

## **C. AUTHORITY OF THE CHIEF OF POLICE.**

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

**D. COMMUNITY PER CAPITA CRIME INDEX.**

(1) The Chief of Police shall calculate on a monthly basis the community per capita crime index for each registered apartment complex in the city.

(2) The community per capita crime index for an apartment complex is calculated as follows:

(a) Determine the total number of bedrooms in the apartment complex as designated in the most recent multi-tenant property registration application filed with the director for the property;

(b) Multiply the number of bedrooms by two (two occupants counted for each bedroom) to produce the ideal occupancy number for the property;

(c) Multiply the ideal occupancy number by the percent of units in the apartment complex that are occupied (as designated in the most recent multi-tenant property registration application filed with the director for the property) to produce the actual occupancy number;

(d) Divide the number of Part I crimes occurring on the property within the preceding 12 months by the actual occupancy number and multiply the result by 100 to produce the community per capita crime index for Part I crimes;

(e) Divide the number of Part II crimes occurring on the property within the preceding 12 months by the actual occupancy number and multiply the result by 100 to produce the community per capita crime index for Part II crimes.

(f) Divide the number of Chapter 16 crimes occurring on the property within the preceding 12 months by the actual occupancy number and multiply the result by 100 to produce the community per capita crime index for Chapter 16 crimes.

(3) Example of calculation of community per capita crime index.

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 16 crimes
Apartment-unit mix:	70 one-bedrooms; 30 two-bedrooms
Total bedrooms	130 (with two occupants counted for each bedroom)

$$\text{Ideal occupancy number} = 130 \times 2 = 260$$

$$\text{Actual occupancy number} = 260 \times 90\% = 234$$

$$\text{Crime index for Part I crimes} = (10 \div 234) \times 100 = 4.3$$

$$\text{Crime index for Part II crimes} = (20 \div 234) \times 100 = 8.5$$

$$\text{Crime index for Chapter 16 crimes} = (15 \div 234) \times 100 = 6.4$$

**E. CRIME RISK THRESHOLD.**

(1) The Chief of Police shall collectively calculate on a monthly basis the crime risk threshold for all registered apartment complexes in the city.

(2) The crime risk threshold for apartment complexes is calculated as follows:

(a) Determine the total number of registered apartment complexes in the city.

(b) Add together each apartment complex's crime index for Part I crimes and divide the sum by the total number of registered apartment complexes to produce the average crime index for Part I crimes.

(c) Subtract each apartment complex's crime index for Part I crimes from the average crime index for Part I crimes to get the apartment complex's deviation from the average crime index for Part I crimes.

(d) Add the square of each apartment complex's deviation from the average crime index for Part I crimes together and divide the sum by the total number of registered apartment complexes to produce the average squared deviation for Part I crimes.

(e) Take the square root of the average squared deviation for Part I crimes and add it to the average crime index for Part I crimes to produce the crime risk threshold for Part I crimes.

(f) Repeat the process using each apartment complex's crime index for Part II crimes and Chapter 16 crimes to determine the crime risk threshold for Part II crimes and Chapter 16 crimes, respectively.

(3) Example of calculation of crime risk threshold.

Apartment Complex No.	1	2	3	4	5	6	7	8	9	10	SUM
Crime Index for Part I Crimes	12	9	3	10	12	22	7	11	15	19	120
Deviation from Average 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 crime index for Part I crimes =  $120 \div 10 = 12$

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

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

Crime risk threshold for Part I crimes =  $12 + 5.27 = 17.27$

*(Note: To calculate the crime risk threshold for Part II crimes and Chapter 16 crimes, repeat the formula using the crime indexes for Part II crimes and then for Chapter 16 crimes.)*

## F. CRIME REDUCTION PROGRAM

(1) An apartment complex may participate in a crime reduction program, whenever the apartment complex has:

(a) a crime index for Part I crimes that is greater than the crime risk threshold for Part I crimes for all registered apartment complexes in the city or a crime index for Part II crimes that is greater than the crime risk threshold for Part II crimes for all registered apartment complexes in the city; or

(b) a crime index for Chapter 16 crimes that is greater than the crime risk threshold for Chapter 16 for all registered apartment complexes in the city.

(2) An apartment complex may remain in the crime reduction program for six months or until the apartment complex's crime index falls below the crime risk threshold for the applicable types of crime, whichever occurs later.

## **G. NOTICE OF DESIGNATION TO PARTICIPATE IN PROGRAM.**

1) The Chief of Police shall provide written notice to the owner, operator, or property manager of each apartment complex designated to participate in the crime reduction program.

(2) The notice must include the following information:

(a) The name and address of the apartment complex.

(b) A statement that the apartment complex is required to participate in a crime reduction program, including a description of the fee and other requirements of the program.

(c) The community per capita crime index and crime risk threshold used to calculate the apartment complex's qualification for the crime reduction program.

(d) The actual occupancy number used to calculate the apartment complex's crime index.

(e) The number of Part I, Part II, and Chapter 16 crimes used to calculate the apartment complex's crime index, including the date, time, and location of each offense.

(f) A statement that a inspection of the apartment complex premises will be conducted by the Chief of Police at a scheduled date and time.

(g) The process for appealing the Chief of Police's decision requiring an apartment complex to participate in a crime reduction program.

(3) Designation of an apartment complex for participation in the crime reduction program and application of the requirements of this ordinance are binding upon all subsequent owners or other transferees of an ownership interest in the apartment complex.

## **H. DELIVERY OF NOTICES.**

Any written notice that the Chief of Police is required to give to an apartment complex under this ordinance is deemed to be delivered:

(1) on the date the notice is hand delivered to the owner, operator, or property manager of the apartment complex; or

(2) three days after the date the notice is placed in the United States mail with proper postage and properly addressed to the owner, operator, or property manager of the apartment complex at the address provided for in the most recent multi-tenant property registration application.

## **I. APPEAL FROM DESIGNATION.**

(a) If the Chief of Police designates an apartment complex for participation in the crime reduction program pursuant to this ordinance, this action is final unless the owner, operator, or property manager of the apartment complex files a written appeal to the City Manager, or his designee, not later than 10 days after receiving notice of being a designated apartment complex.

(b) 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 Manager and the Chief of Police a copy of a current and valid lease for every occupied dwelling unit in the apartment complex.

(c) If a written request for an appeal hearing is filed under Subsection (a) with the City Manager within the 10-day limit, the City Manager shall hear the appeal and shall set a date for the hearing within sixty (60) days after the date of the notice of appeal and shall give the appellant at least twenty (20) day's notice of the appeal hearing. (d) A hearing before the City Manager shall not require the formal evidence rules to apply. The decision of the City Manager shall be governed by a preponderance of the evidence presented by the appellant.

(e) In deciding the appeal, the City Manager 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 (a). The board shall affirm the decision of the Chief of Police if the board 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 board finds that the crime index does not exceed the applicable crime risk threshold.

(f) The decision of the City Manager shall be final unless an appeal shall be filed by either party with the Mayor and City Council with the City of Marietta. Any appeal to the Mayor and City Council shall be filed within ten (10) days of the decision of the City Manager. The City Council shall hold a hearing within sixty (60) days after the date of the notice of appeal filed hereunder. The hearing before the Mayor and Council shall be consistent with the rules set forth in this appeal section.

(g) Any appeal from the decision of the Mayor and City Council for the City of Marietta shall be by certiorari to the Superior Court of Cobb County filed within thirty (30) days of the decision of the Mayor and City Council.

## **J. PROPERTY INSPECTIONS.**

(1) After an apartment complex has been designated to participate in the crime reduction program, the Chief of Police may inspect the apartment complex to:

(a) determine whether the apartment complex is in compliance with applicable city ordinances and state laws relating to public safety and security, including but not limited to requirements for locks, door viewers, signage, building numbering, and crime prevention addenda;

(b) 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

(c) determine whether the apartment complex is in compliance with this ordinance.

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

(a) the exterior of the apartment complex; and

(b) the interior of the apartment complex, if the permission of the owner, operator, property manager, or other person in control is given or a search warrant is obtained.

(3) The Chief of Police may inspect a designated apartment complex at least twice during each period that the apartment complex is required to participate in the crime reduction program. The first inspection must be conducted for the purposes of Subsections (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 Chief of Police deems necessary to the administration and enforcement of this ordinance.

(4) Whenever an apartment complex is inspected by the Chief of Police and a discrepancy with the crime prevention program or a violation of any other city ordinance or state

law applicable to the apartment complex is found, the apartment complex will, after the expiration of any time limit for compliance given in a notice or order issued because of the violation, be re-inspected by the Chief of Police to determine that the violation has been eliminated.

#### **K. CONFERENCE WITH POLICE.**

(1) At least once during each period that an apartment complex participates in the crime reduction program, the Chief of Police may conduct a conference with the owner, operator, or property manager of a designated apartment complex to review:

- (a) the provisions of the crime reduction program;
- (b) the results of the Chief of Police's inspection of the apartment complex;
- (c) any voluntary recommendations for reducing crimes on and near the apartment complex; and

(2) An owner, operator, or property manager of a designated apartment complex forfeits his ability to participate in the crime prevention program if he fails to attend a scheduled conference after receiving notice of the conference from the Chief of Police.

(3) At least one individual with legal authority to act on behalf of the apartment complex must attend each conference required by this section.

#### **L. PROGRAM FEE.**

(1) A program fee of \$250 will be charged to each designated apartment complex to defray the costs incurred by the Chief of Police in conducting inspections of the apartment complex, attending conferences with the owner, operator, or property manager of the apartment complex, and administering and enforcing the crime reduction program. A separate program fee is required each time an apartment complex is designated to participate in the crime reduction program.

(2) The owner, operator, or property manager of a designated apartment complex shall pay the program fee to the Chief of Police within 30 days after receiving notice of being a designated apartment complex.

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

#### **M. COMPLIANCE GUIDELINES**

(1) Within 30 days after receiving notice of being a designated apartment complex, the apartment complex must meet the provisions of this section to remain in the program, except Subsection (h) (fencing requirements). Subsection (h) (fencing requirements) must be met within 60 days after receiving notice of being a designated apartment complex. The Chief of Police may extend the deadlines of this subsection, in increments not exceeding 30 days each, upon a showing that the work cannot be performed within the required time period because of its scope and complexity.

(2) Trespass affidavits.

(a) An owner, operator, or property manager of the apartment complex may execute a property inspection affidavit, on a form provided by the Chief of Police for that purpose, that authorizes the police department to allow entry, on behalf of the apartment complex, on the premises of the apartment complex.

(b) 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.

(3) Background checks.

(a) A current official criminal history report (issued by the Georgia Bureau of Investigation within the preceding 12 months) must be obtained on all current and prospective employees of the apartment complex.

(b) All records maintained on an employee or tenant in compliance with this subsection must be retained at the apartment complex for at least 90 days following the date of any termination of the employee's employment or the tenant's occupancy at the apartment complex.

(c) The owner, operator, or property manager of the apartment complex shall make all records maintained under this subsection available for inspection by a police officer at reasonable times upon request.

(4) Lighting.

(a) Security lighting must be provided, maintained, and operated so that it adequately illuminates all parking areas, walkways, stairs, steps, doorways, and garbage storage areas of the apartment complex to such a degree that the facial features of a person at least five feet tall are distinguishable from a distance of 35 feet.

(b) Security lighting must be in compliance with all applicable city ordinances and state law. If there is any conflict between Subsection (d)(1) of this section and another city ordinance or state law, the other law will prevail.

(5) Landscaping.

(a) No bush or shrub on the premises of the apartment complex may be taller than three and one-half feet.

(b) No tree on the premises of the apartment complex may have a canopy lower than six feet above the ground.

(c) 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 (e)(1) or (e)(2) of this section and another city ordinance or state law, the other law will prevail.

(6) 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.

(7) 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.

(8) Fencing.

(a) The perimeter of the premises of a designated apartment complex must be enclosed with a fence that is at least six feet high, except that if a lower height is required by another city ordinance, the fence must be the maximum height allowed under the other city ordinance.

(b) Notwithstanding Subsection (h)(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 for vehicular driveways and pedestrian walkways may not exceed 10 percent of the perimeter of the area of the property required to be fenced.

(c) All fencing must be maintained in compliance with applicable city ordinances and state law. If there is any conflict between Subsection (h)(1) or (h)(2) of this section and another city ordinance or state law, the other law will prevail.

(9) Pay phones. All pay phones on the premises of the apartment complex must be blocked to incoming calls or removed from the premises.

(10) Crime watch meetings.

(a) At least one crime watch meeting must be held each month on the premises of the apartment complex.

(b) The Chief of Police must be given at least 10 days advance notice of the meeting.

(11) Residential security survey.

(a) An owner, operator, or property manager of the apartment complex shall distribute a residential security survey, on a form provided by the Chief of Police, to each tenant of the apartment complex who is 18 years of age or older.

(b) The owner, operator, or property manager of the apartment complex shall file all returned surveys with the Chief of Police within 30 days after distribution.

#### **N. MODIFICATION OF FENCING REQUIREMENTS.**

(1) The owner, operator, or property manager of a designated apartment complex may request a modification of the fencing requirements set forth herein by filing a written request with the Chief of Police not later than 10 days after receiving notice of:

(a) being designated for participation in a crime reduction program; or

(b) having a previously-granted fencing modification revoked by the Chief of Police under Subsection (f) of this section.

(2) If a written request is filed under Subsection (a) within the 10-day limit, the Chief of Police shall consider the request. The Chief of Police shall set a date for the hearing within 45 days after the date the written request is filed.

(3) The Chief of Police 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.

(4) The Chief of Police shall grant the request for a fencing modification if it finds that:

(a) an existing fence or other barrier, or a proposed fence or other barrier, on the premises of the apartment complex will serve to deter and reduce crime at the apartment complex to the same extent as the fence required under (h); and

(b) the existing fence or barrier, or the proposed fence or barrier, complies with all other applicable city ordinances and state law.

(5) The Chief of Police shall grant or deny the request for a fencing modification by a majority vote. The decision of the Chief of Police is final.

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

(a) fails to deter and reduce crime at the apartment complex to the same extent as the fence required under (h); or

(b) fails to comply with a city ordinance or state law applicable to fences.

(7) Upon revoking a fencing modification, the Chief of Police shall notify the owner, operator, or property manager of a designated apartment complex in writing of the revocation. The notice must include the reason for the revocation, the date the Chief of Police orders the revocation, and a statement informing the owner, operator, or property manager of the right to

appeal the decision by filing a new request for a fencing modification in accordance with Subsection (a). The Chief of Police may not revoke a fencing modification under Subsection (f) sooner than six months after the modification is granted by the Chief of Police.

(8) The grant of a request for modification of the fencing requirements of (h) does not exempt a designated apartment complex from any other provision of this chapter or other applicable city ordinances or state law.

**Section 2.** It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

**Section 3.** All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

**Section 4.** This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: 6-11-14

APPROVED:

R. Steve Tumlin  
Steve Tumlin, Mayor

ATTEST:

Stephanie Guy  
Stephanie Guy, City Clerk

Approved as to Form:

Douglas R. Haynie  
Douglas R. Haynie, City Attorney