

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, AMENDING CHAPTER 5, ARTICLE III, APPENDIX H, INSPECTION, CERTIFICATE OF INSPECTION PERMIT FEES; AND CHAPTER 2: ADMINISTRATION, SECTION 2-201 OF THE LEWISVILLE CODE OF ORDINANCES BY ESTABLISHING A MULTI-FAMILY DWELLING INSPECTION PROGRAM WITH ASSOCIATED FEES; PROVIDING STANDARDS; PROVIDING FOR INSPECTION OF CERTAIN RECORDS AND THE PREMISES; PROVIDING FOR AN APPEAL TO THE CITY COUNCIL; PROVIDING A REPEALER; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Lewisville has a substantial number of residential dwelling units located within property zoned, developed and operated as multi-family residences; and

WHEREAS, the City has a concern about the Multi-Family complex and units being maintained according to all applicable City codes and ordinances; and

WHEREAS, the City finds that it is in the best interest of its citizens in the promotion and protection of the health, safety, morals and general welfare of the community that the City establish an inspection procedure applicable to multi-family residences;

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

SECTION 1. All the forgoing premises and findings are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

SECTION 2. TITLE This ordinance shall be known as the “Multi-Family Maintenance Inspection Ordinance,” and shall be an amendment to Chapter 5, Article III, Appendix H of the Lewisville Code of Ordinances.

SECTION 3. DEFINITIONS. For the purpose of this ordinance, the following words and phrases have the meanings respectively ascribed to them by this section:

(1) Apartment Complex Fire/Maintenance Inspection Permit. Certificate of Permit issued by the Fire Marshal pursuant to this ordinance and referred to as “Certificate of Maintenance Inspection Permit” in this ordinance.

(2) Bedroom. Room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, entry way, garage, patio or breezeway.

(3) Fire Inspector. Properly identified, Certified Fire Marshal of the City or his designated representative.

(4) Building Inspector. Properly identified Chief Building Official of the City or his designated representative.

(5) City. City of Lewisville.

(6) Dwelling Unit. Means a structure, or that part of a structure, which is used as a home residence, or sleeping place by one or more persons maintaining a common household to the exclusion of all others.

(7) Efficiency Unit. Efficiency unit is defined as the equivalent of a one-bedroom unit.

(8) Family. Any number of individuals living together as a single housekeeping unit in which not more than two (2) individuals are unrelated by blood, marriage, or adoption when residing in a dwelling containing one or two bedrooms, or not more than three (3) individuals unrelated by blood, marriage or adoption when residing in a dwelling unit containing three (3) or more bedrooms. Foster children shall be considered as a related member of the family.

(9) Multi-Family Dwelling Complex. Referred to as an Apartment Complex in the body of this ordinance. Any building or portion thereof which is rented, leased or let to be occupied for compensation as three (3) or more dwelling units or which is occupied as a home or place of residence by three (3) or more families living in independent dwelling units located in the City of Lewisville.

(10) Owner. Means a person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to:

- a) Holder of fee simple title;
- b) Holder of life estate;
- c) Holder of a leasehold estate for an initial term of five (5) years or more;
- d) The buyer in a contract for deed;
- e) A mortgagee, receiver, executor or trustee in control of real property; but including the holder of a leasehold estate or tenancy for an initial term of less than five years.

(11) Premises. Means a lot, plot or parcel of land, including any structure thereon, and furthermore, including a dwelling unit, appurtenances thereto, grounds and facilities held out

for the use of tenants generally and any other area or facility whose use is promised to the tenant.

(12) Property Manager. Means a person who for compensation has managing control of apartment complex for owner.

(13) Resident Manager. Means a property manager or agent of a property manager who resides in the apartment complex.

(14) Single Location. Single location is defined as property held in common ownership that is compact and contiguous property separated only by public streets.

(15) Tenant. Means any person who occupies a dwelling unit for living or dwelling purposes with the landlord’s consent.

SECTION 4. PERMIT REQUIRED.

- a) It shall be unlawful for any person to own, operate, manage, or maintain an apartment complex in the City without a current and valid Permit having been issued for said apartment complex. Any person owning, operating, managing or maintaining an apartment complex at more than one location shall obtain a Permit for each separate location.
- b) An owner or the owner’s authorized agent, of an apartment complex shall file with the Fire Marshal the trade name of his apartment complex and it shall be unlawful for any person to use or permit to be used more than one trade name at a single location.

SECTION 5. PERMIT APPLICATION, PLACE OF BUSINESS, ISSUANCE, RENEWAL AND EXPIRATION.

- a) An applicant for a Permit shall file with the Fire Marshal a written application upon a form provided for that purpose which shall be signed by the owner, or his agent, and the property manager. Should an applicant own an apartment complex at more than one location, a separate application shall be filed for each location. The following information shall be required in the application:
Name, address, telephone number of owner, property manager, resident manager, mortgagee (if there is a mortgage against property); trade name of apartment complex; names and addresses of all registered agents of the owner; number of dwelling units broken down as to number of efficiencies, one-bedroom, two-bedroom and three-bedroom; acknowledgement of receipt of copy of “Multi-Family Maintenance Inspection Ordinance” and agreement to abide by same as a condition to receiving and maintaining a Permit.
- b) For new apartment complexes, a Permit shall be obtained prior to the occupancy of any dwelling unit.
- c) All Permits will expire one year from the issue date or upon change of ownership of property. If annual inspection is delayed by the Fire Inspector, the expiration date will be the date of the next inspection.
- d) The Fire Inspector may, at any time, require additional relevant information of the owner or property manager to clarify items on the application.

- e) Upon changing ownership of the apartment complex, a new Permit shall be obtained within thirty (30) days of the change with the fee charged for the change on a prorated basis. The owner shall notify the City within thirty (30) days of the change of ownership, property manager or resident manager.

SECTION 6. PERMIT DISPLAY, REPLACEMENT AND TRANSFERABILITY.

- a) Each Permit issued pursuant to this ordinance shall be posted and displayed in the apartment complex office in a conspicuous place to which tenants have access.
- b) A replacement Permit may be issued for one lost, destroyed or mutilated upon application on the form provided by the Fire Marshal. A replacement Permit shall have the word "Replacement" stamped across its face and shall bear the same number as the one it replaces.
- c) An apartment complex Permit is not assignable or transferable.
- d) The form for the Permit shall be prepared by the Fire Marshal.

e) SECTION 7. PERMIT STANDARDS.

- a) Standards. Continued maintenance and observance of the standards contained in this section are conditions that shall be complied with in order to retain a Permit and to obtain any renewal of a Permit.
- b) All City, International Building, Fire, Plumbing, Mechanical, Residential, Energy Codes, Texas Department of Health Code, Zoning and other applicable codes and ordinances shall be complied with at all times.

- c) It shall be unlawful for any person to permit or allow more than one (1) family to reside in any apartment complex dwelling unit.
- d) Notwithstanding the provisions of all other City ordinances, the maximum number of persons per dwelling unit density for dwelling units in an apartment complex are as follows:
 - 1. No more than two (2) persons per each bedroom are permitted to reside in a unit, plus one additional person. For example: in a one-bedroom or efficiency unit, the density shall not exceed three (3) persons; in a two-bedroom unit, the density shall not exceed five (5) persons; in a three (3) bedroom unit, the density shall not exceed seven (7) persons.
 - 2. To assist compliance with this requirement, all Applicants shall display, in a conspicuous place, contiguous to the displayed Permit, the following notice, the form of which shall be furnished by the City:

**THE LEWISVILLE CITY CODE IMPOSES THE FOLLOWING
MAXIMUM DENSITY REQUIREMENTS:**

- 1-Bedroom or Efficiency Unit – No more than three (3) persons per unit.
- 2-Bedroom – No more than five (5) persons per unit.
- 3-Bedroom – No more than seven (7) persons per unit.

Or in the alternative, a Permit may display a similar notice, contiguous to the displayed Permit that states Applicant's density requirements provided said requirements are as strict as or stricter than the standards set forth herein.

3. Applicants shall keep records that reflect the following information:

- Names of all tenants in each unit.
- Head of household.

Said records shall be available for review by the Fire Inspector or the Building Inspector during regular working hours and upon receipt of reasonable notice.

4. It shall be unlawful and a violation of this ordinance for an owner, property manager, or resident manager, to knowingly permit or allow a violation of any of the terms of this Section 7. It shall be unlawful for a tenant to violate any of the terms of this Section 7 or to permit or allow any persons to reside in the unit in violation of this Section 7.

5. An owner or property manager shall require an apartment lease contract to be executed between the Apartment Complex and the tenant or tenants who will occupy a dwelling unit. The lease shall contain a provision which allows the owner or property manager to show the apartment or dwelling unit to City inspectors. If the Apartment Complex's standard lease form does not contain the above stated provision, the owner or property manager shall require the tenant to sign, as a condition for occupancy of a dwelling unit, a document provided by the City which will allow the

owner or property manager to show the apartment or dwelling unit to the Fire or Building Inspector.

SECTION 8. INSPECTIONS, REINSPECTIONS AND ENFORCEMENT.

- a) The owner, resident manager, and property manager, as a condition to the issuance of the Permit required by this ordinance, shall consent and agree to permit and allow the City's Fire or Building inspector to make the following inspections of the apartment complex when and as needed to ensure compliance with this ordinance:
- 1) Right of access to inspect all portions of the premises and structures located on the premises that are not dwelling units. This includes all storage areas, community buildings, swimming pools, athletic facilities, club rooms, equipment rooms and all other portions of the facilities not constructed as dwelling units, upon reasonable advance notice being given to the owner, property or resident manager; and
 - 2) Right of access to inspect all unoccupied dwelling units upon giving reasonable notice to owner, resident or property manager; and
 - 3) Right of access to inspect all occupied dwelling units when, upon reliable information, the Fire Inspector or Building Inspector has reason to believe that violations of the ordinances of the City or State law exist that involve serious threats to life, safety, health and property; and

- 4) Once per year, the owner, resident manager, or property manager shall make all dwelling units in the Apartment Complex available for inspection by the Fire Inspector. The Fire Inspector and the owner, resident manager, or property manager shall agree on a reasonable date and time between January 1 and December 31 of each year. One or more units may be inspected at random. If violations exist, the Fire Inspector has the option of inspecting more than one unit per building in order to determine if violations exist in more units. If no violations are apparent or violations are minor, only one unit per building will be inspected.
- 5) Qualified personnel shall perform the full testing procedure for the particular system or device (fire sprinkler, fire alarm, standpipes, etc.) being tested and shall conduct all required annual inspections of fire protection systems. An inspection tag shall be placed on the system according to the International Fire Code. Such Inspections may be witnessed and conducted in the presence of a representative from the Fire Prevention Division. The Fire Prevention representative has the option of only checking current service tags for compliance.
- 6) If at the time of inspection, a Multi-Family Complex is found not to be in compliance with all applicable codes and ordinances, an application for a Certificate of Inspection/Maintenance Permit will not be issued. After notification of violations which were detected, the owner, manager or

resident manager shall be required to remedy the conditions of the violation. Written notice shall be given by the Fire Inspector of a time at which re-inspection shall occur. The date for the first re-inspection shall not be more than thirty (30) days from the time of the original inspection. The date for any subsequent re-inspections shall be not more than ten (10) days from the time of the last inspection.

- b) The Fire Inspector may enforce the provisions of this ordinance and upon presentation of proper identification and notification to the property manager or resident manager may enter, any unit between the hours of 9:00 a.m. and 4:00 p.m; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life or severe property damage, the Fire Inspector or Building Inspector may enter the aforementioned dwellings at any time and the requirement of presentation of identification and notification to the management shall not apply. Whenever the Fire Inspector is denied admission to inspect any premises under this provision, inspection shall be made under authority of a warrant, issued by a magistrate authorizing the inspection. In applying for such warrant, the Fire Inspector shall submit to the magistrate an affidavit stating his/her belief that a violation of this ordinance exists with respect to the place sought to be inspected and the reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the occupant thereof. If the magistrate finds

that probable cause exists for an inspection of the premises in question, he may issue a warrant authorizing the inspection, such warrant describing the premises with sufficient certainty to identify the same. Any warrants issued will constitute authority for the Fire Inspector to enter upon and inspect the premises described therein.

- c) Inspection Fee: Fees for permits associated with annual certificates of maintenance inspection permit shall be in accordance with the current adopted fee ordinance for the city.
- d) Re-inspection Fee. A re-inspection fee for each re-inspection of each noted violation in a dwelling unit or an exterior violation item shall be assessed for inspections that are required to verify that a violation has been repaired or corrected. Failure of a reinspection fee to be paid shall be considered a violation of this ordinance and subject to penalties herein.
- e) If no hazardous conditions or violations of the codes listed in Section 8 are detected at the time of the inspection, or re-inspection, the owner, manager or resident manager of the apartment complex as provided above shall be issued an application for a Certificate of Maintenance Inspection Permit. The application shall include the name and address of each owner, the location of the Multi-Family Complex and the owner's, manager or resident manager signature.
- f) Each owner, manager or resident manager, shall within forty-five (45) days after such inspection, deliver to the City of Lewisville, the application and permit fee.

Thereafter, the City of Lewisville shall mail a Certificate of Fire/Maintenance Inspection Permit to said applicant. Failure by the owner, manager or resident manager to obtain the Certificate of Maintenance Inspection Permit by reason of refusal or delay in tendering the application or fee within the prescribed time, shall, upon conviction in a Court of competent jurisdiction, be guilty of a misdemeanor and each day that such owner, manager, or resident manager shall fail to obtain said Permit shall constitute a separate offense.

- g) Citations. If there is failure to comply with the terms of this ordinance after receipt of written notice of the violation from the Fire Inspector setting out the violations and the time allowed to rectify the violations, the owner, manager or resident manager of the Apartment Complex may be issued a citation for non-compliance with this ordinance.

SECTION 9. CHAPTER 2: ADMINISTRATION, SECTION 2-201. Fee schedule of the Code of Ordinances of the City of Lewisville is hereby amended by deleting the following fees:

FIRE PREVENTION DIVISION

Certificate of Annual Inspection Permit

0-3,000 square feet \$ 25.00

AMENDMENTS. Chapter 2: ADMINISTRATION, SECTION 2-201. Fee schedule of the Code of Ordinances of the City of Lewisville is hereby amended by the addition of the following fees:

FIRE PREVENTION DIVISION

Certificate of annual inspection permit.

0-6,000 square feet	\$ 50.00
Multi-Family Inspection One Unit/Building	\$ 75.00
Re-inspection Fee	\$ 40.00 per building

SECTION 10. APPEALS.

- a) The owner, resident or property manager of such property may appeal any decision or order of the Fire Inspector or Building Inspector to the City Council of the City of Lewisville by filing at the office of the City Secretary, within five (5) working days of such decision or order, a written appeal to the City Council on a form to be supplied by the City Secretary.
- b) As soon as practicable after receiving the written appeal, the City Secretary shall fix a date, time and place of the hearing of the appeal by City Council. Written notice of such time, date and place of the hearing shall be given to each appellant by the City Secretary, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the written appeal.
- c) Failure of any person to file an appeal in accordance with the provisions of this Code shall constitute a waiver of his right to a hearing by the City Council and the Fire Inspector's decision shall be final.
- d) Orders of the Fire Inspector are stayed pending appeal.

e) The decision of the City Council on the appeal is final.

SECTION 11. PENALTY. That any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction in the Municipal Court shall be subject to a fine not to exceed the sum of \$2,000.00 for each offense, and each and every day that such violation continues shall constitute a separate offense.

SECTION 12. REPEALER. Every ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION 13. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, but they shall remain in effect.

SECTION 14. EFFECTIVE DATE. This ordinance shall become effective immediately upon its passage and publication as required by law.

SECTION 15. EMERGENCY. It being for the public welfare that this ordinance be passed creates an emergency and public necessity, and the rule requiring this ordinance be read on three separate occasions be, and the same is hereby waived, and this ordinance shall be in full force and effect from and after its passage and approval and publication, as the law in such cases provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, BY A VOTE OF _____ TO _____, ON THIS THE 13th DAY OF SEPTEMBER, 2004.

ORDINANCE NO. _____

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APPROVED:

Gene Carey, MAYOR

ATTEST:

Julie Heinze, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

Ronald J. Neiman, CITY ATTORNEY