

REGULAR CITY COUNCIL MEETING

JULY 20, 2010

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, July 20, 2010 at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

COUNCILMEMBER #1 HAL RICHARDS
COUNCILMEMBER #2 SANDRA WILSON
COUNCILMEMBER #3 RICKY JORDAN
COUNCILMEMBER #4 JACK JONES
COUNCILMEMBER #5 DON THURMAN

1. Call to order.

Mayor Hal Richards called the meeting to order.

2. Invocation.

Pastor Judy Castro of the First Church of the Nazarene gave the opening prayer.

3. Presentation of Proclamation to Terrell Share Center for “Terrell Share Center Day” – August 1, 2010 in Honor of Terrell Share Center’s 15th Anniversary.

Mayor Hal Richards presented a Proclamation to Terrell Share Center for “Terrell Share Center Day” on August 1, 2010 in Honor of Terrell Share Center’s 15th Anniversary.

4. Discuss and Consider Approval of Special City Council Meeting and Workshop Minutes of June 10, 2010 and Regular City Council Meeting Minutes of June 15, 2010.

Councilmember Don Thurman made a motion to approve the Special City Council Meeting and Workshop Minutes of June 10, 2010 and Regular City Council Meeting Minutes of June 15, 2010 with correction. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays –none. Motion carried.

A Regular Meeting of the Terrell City Council was held on Tuesday, June 15, 2010 at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

5. Discuss and Consider Appointment of Associate Municipal Judge.

Mayor Hal Richards presented Appointment of Associate Municipal Judge. Councilmember Sandra Wilson made a motion to appoint Mike Smith as Associate Municipal Judge. The motion as seconded by Councilmember Don Thurman. Ayes – all; Nays – none. Motion carried.

6. Administer Oath of Office to Associate Municipal Judge.

Mary Gayle Ramsey, City Attorney administered the Oath of Office to Mike Smith, Associate Municipal Judge.

18. Discuss and Consider Adoption on Second Reading of Ordinance No. 2457 - Rental Community Integrity Ordinance.

Mayor Hal Richards called for staff briefing regarding Ordinance No. 2457 – Rental Community Integrity Ordinance. City Manager Torry Edwards, Terry Capehart, Director of Municipal Development and Jody Lay, Chief of Police presented staff briefing regarding Ordinance No. 2457 – Rental Community Integrity Ordinance.

7. Hear Remarks from Visitors.

Gail Scott – Oak Ridge came before the City Council to express his opposition to Ordinance No. 2457.

Velton Funk – 18989 CR 243 came before the City Council to express his opposition to Ordinance No. 2457.

Doug Moore – 19591 Hwy. 34 North expressed concern about the frequency of inspections.

Edward Valdez – 801 N. Rockwall expressed concern about the minimum standard requirements of homes.

Jeff Woolverton – 520 Timberside came before the City Council to express his opposition to Ordinance No. 2457.

Jim Pickens – 10430 Comanche Street, Wills Point, TX came before the City Council to express his opposition to Ordinance No. 2457.

Greg Gober came before the City Council to express his opposition to Ordinance No. 2457.

Gilbert Willie came before the City Council to express his opposition to Ordinance No. 2457.

Jerry Jacobs – Oak Ridge came before the City Council to express his opposition to Ordinance No. 2457.

Johnnie E. Holmes – 302 Bradshaw Street came before the City Council to express his opposition to Ordinance No. 2457.

18. Discuss and Consider Adoption on Second Reading of Ordinance No. 2457 - Rental Community Integrity Ordinance.

Councilmember Sandra Wilson made a motion to adopt on Second Reading Ordinance No. 2457 – Rental Community Integrity Ordinance. The motion was seconded by Councilmember Don Thurman. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2457

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS AMENDING CHAPTER 4, SECTION 4-31, BUILDING REGULATIONS, TERRELL CITY CODE REVISED: ADOPTING A NEW RENTAL COMMUNITY INTEGRITY ORDINANCE; REPEALING ORDINANCE NO. 2385; PROVIDING FOR IMPLEMENTATION OF THE “CRIME-FREE RENTAL PROGRAM”; ESTABLISHING MINIMUM PROPERTY MAINTENANCE AND SAFETY STANDARDS FOR MULTI-FAMILY, SINGLE-FAMILY, MANUFACTURED HOUSING, DUPLEX AND TOWNHOUSE RENTAL STRUCTURES; PROVIDING FOR INSPECTIONS OF RESIDENTIAL RENTAL DWELLING UNITS AND RENTAL PROPERTY PREMISES; PROVIDING FOR THE ISSUANCE OF CERTIFICATES OF INSPECTION FOR RESIDENTIAL RENTAL DWELLING UNITS; AMENDING ORDINANCE 2374 – BUILDING PERMIT FEES TO ADD FEES FOR RESIDENTIAL RENTAL INSPECTIONS AND INCENTIVES FOR PARTICIPATION IN THE CRIME-FREE RENTAL PROGRAM; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Terrell City Council has determined that the establishing of minimum property maintenance and safety standards and methods to promote crime prevention for residential rental properties is necessary to promote the health, safety, and welfare of the citizens of the City of Terrell; and

WHEREAS, the City of Terrell City Council desires to enact an ordinance establishing minimum property maintenance and safety standards and methods to promote crime prevention for residential rental properties in the City of Terrell.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Terrell, Texas:

THAT CHAPTER 4, BUILDING REGULATIONS, TERRELL CITY CODE REVISED is hereby amended to revise Section 4-31 as follows, in all other respects, said Code to remain in full force and effect:

ARTICLE I. – General Provisions

Section 4-31. Rental Community Integrity Ordinance

- A. GENERAL.** - This ordinance consists of four (4) primary parts – Article I – General Provisions applies to all types of rental properties in the corporate city limits of Terrell; Article II shall apply only to multi-family, manufactured housing, duplex and townhouse rental structures, dwelling units, accessory buildings, club houses and other structures intended for tenant use; Article III shall apply only to single-family rental structures and property including accessory dwellings which are leased, rented or otherwise occupied by tenants who are unrelated to the owner of the primary single-family residence; and Article IV consists of the implementation of the “Crime Free Rental Program” which shall apply to all single-family, multi-family, manufactured housing, duplex and townhouse rental properties. Participation shall be voluntary; however, any rental structure, dwelling unit or property which participates in the Crime Free Rental Program shall be eligible for reduced inspection fees and other incentives as specified herein.

1. **Reference to Laws.** Any reference in this section to ordinance, section, statute, or other law or portion of law, includes the cited law as it exists at the time this section becomes effective and includes all the cited law's successors. The minimum standards set forth herein for crime prevention, health, safety, welfare, fire protection, sanitation, property maintenance, nuisance abatement, refuse management, high weeds and grass, and building codes are adopted and derived from the following as adopted or amended:
 - a. Terrell City Code Revised
 - b. 2003 International Building Code (IBC)
 - c. 2003 International Residential Code (IRC)
 - d. 2003 International Fire Code (IFC)
 - e. 2003 International Property Maintenance Code (IPMC)
 - f. 2003 International Plumbing Code (IPC)
 - g. 2003 International Mechanical Code (IMC)
 - h. 2003 International Fuel Gas Code (IFGC)
 - i. 2003 International Existing Building Code (IEBC)
 - j. 2005 National Electrical Code (NEC)
 - k. HUD Minimum Housing Standards (Form HUD-52580-A)
 - l. Texas Property Code – Title 8 – Landlords and Tenants
 - m. Texas Local Government Code (TLGC) – Chapters 54 and 214
 - n. National Fire Protection Association (NFPA) 101 Life Safety Code
 - o. International Crime Free Association “Crime Free Rental Program”

2. **Purpose.** The purpose of this code is to promote crime prevention and provide minimum standards to protect the health, safety, morals, and welfare of the citizens of the City of Terrell by establishing minimum property maintenance and safety standards applicable to the use, occupancy, and maintenance of all residential rental structures, dwelling units, and premises. These minimum standards are established to ensure all structures, facilities and properties are safe, sanitary, and fit for human use and habitation. It is not intended that this Code be interpreted or enforced to require the City to intervene in matters which are primarily personal, private in nature or civil disputes between landlords and tenants which may be appropriately resolved between or among private interests without material damage to the public health, safety, or welfare. This ordinance does not give the City the authority to conduct background checks on prospective or current tenants. This ordinance does not give landlords the authority to violate any Fair Housing laws. Compliance with the provisions of this ordinance is not contingent upon immigration or citizenship status. Information collected for the purpose of identification verification is not subject to public information requests.

3. **Compliance.** This code is found to be remedial and essential to the public interest, and it is intended that this code be liberally construed to effectuate its purposes. All existing multi-family, single-family, manufactured housing, duplex and townhouse rental structures, dwelling units, accessory structures, swimming pools, spas, fences and premises located within the corporate city limits of the

City of Terrell on the effective date of this code, or constructed or developed thereafter must comply with the provisions of this code.

- a. All applications for registration in the Crime Free Rental Program, as described herein, shall be submitted to the City no later than sixty (60) days after the effective date of this Ordinance or it will be assumed that the owner of the rental property does not intend to participate in the Crime Free Rental Program and thus will be subject to the annual inspection provisions and fees as set forth in Article I, II and III as applicable.
 - b. For those properties subject to annual inspections compliance shall be completed no later than December 31, 2010.
4. **FEES.** The following fee schedule shall be adopted by this ordinance as an amendment to Ordinance 2374 – Schedule of Fees for Building Permits:
- a. Multi-family, duplex, townhouse or manufactured housing rental units:
 - i. Annual Certificate of Inspection fee is twelve dollars (\$12.00) per dwelling unit.
 - ii. Failure to pass first re-inspection – thirty-six dollars (\$36.00) for Certificate of Inspection.
 - iii. Failure to pass second re-inspection - one hundred dollars (\$100.00) for Certificate of Inspection.
 - iv. Failure to renew the Certificate of Inspection of an occupied dwelling unit within thirty (30) days of its expiration date – one hundred dollars (\$100.00).
 - b. Single-family or accessory dwelling rental units:
 - i. Annual Certificate of Inspection fee is twenty-five dollars (\$25.00) per dwelling unit.
 - ii. Failure to pass first re-inspection – thirty-six dollars (\$36.00) for Certificate of Inspection.
 - iii. Failure to pass second re-inspection - one hundred dollars (\$100.00) for Certificate of Inspection
 - iv. Failure to renew the Certificate of Inspection of an occupied dwelling unit within thirty (30) days of its expiration date – one hundred dollars (\$100.00).
 - c. Adjusted fees for participation in the “Crime-Free Rental Program:
 - i. Annual Certificate of Inspection fee is eight dollars (\$8.00) per dwelling unit for single-family, multi-family, duplex, townhouse or manufactured housing rental units.
 - ii. Failure to pass first re-inspection – twelve dollars (\$12.00) for Certificate of Inspection.
 - iii. Failure to pass second re-inspection - fifty dollars (\$50.00) for Certificate of Inspection.

- iv. Failure to renew the Certificate of Inspection of an occupied dwelling unit within sixty (60) days of its expiration date – one hundred dollars (\$100.00).

B. DEFINITIONS.

1. Accessory building means a structure on the same lot as the main building.
2. Accessory dwelling means a detached dwelling unit on the same lot as the primary residence.
3. Apartment means a room or suite of rooms arranged or designed to be used as a residence by a single-family, individual, or group of individuals living as a single household.
4. Apartment building means any residential structure containing three (3) or more dwelling units for lease or rent.
5. Bathroom means an enclosed space containing one or more toilets, lavatories, bathtubs, showers, or any combination of fixtures serving similar purposes.
6. Bedroom means an enclosed space used or intended to be used for sleeping purposes and not as a kitchen, dining room, bathroom, living room, closet, storage space, hallway, utility space, entry way, garage, patio or breezeway. (Note: The square footage of a kitchen, living room, dining room, bathroom, closet, storage space, hallway, utility space, entry way, garage, patio or breezeway shall not be included as a sleeping area in determining the minimum occupancy area required for sleeping purposes.)
7. Building Code means the codes listed in Section A.1 above as adopted or amended.
8. Building Official means the duly appointed person authorized and directed to enforce all provisions of this code and the codes as referenced herein, to render interpretations of these codes and to adopt policies and procedures in order to clarify the implementation the provisions of these codes.
9. Certificate of Inspection means that the apartment dwelling unit, building, structure and/or premises meets the minimum property, health, safety and sanitation standards as set forth in this ordinance and other adopted codes of the City of Terrell.
10. Certificate of Occupancy means authorization to occupy or use a structure in accordance with the adopted or referenced codes listed herein issued by the Building Official of the City of Terrell.
11. City means the City of Terrell, Texas.
12. Dangerous or substandard building means a structure or building where conditions exist as outlined in Chapters 54 and 214 of the Texas Local Government Code (TLGC) and the Terrell City Code Revised which could possibly threaten the health, safety, general welfare or property of any person or persons.
13. Director of Municipal Development means the department head appointed to administer and direct the operations of the Building Inspections, Code Enforcement, Health and Planning and Zoning Divisions of the city.
14. Dwelling means a structure designed or intended to be used or occupied for residential purposes.

15. Dwelling unit means any room or group of rooms occupied, or which is intended or designed to be occupied as a single unit providing complete independent living facilities for one individual, group of individuals not to exceed six (6) unrelated persons, a single family, or single household which includes permanent provisions for living, sleeping, eating, cooking, and sanitation.
16. Efficiency unit means a dwelling unit containing only one habitable room with a maximum number of occupants of three (3) persons.
17. Egress means a safe and unobstructed means of exit from a structure leading to safe and open space at ground level.
18. Emergency escape and rescue opening means an opening (typically a window) facing directly to the outdoors of a structure which is capable of being easily opened by the occupant with a minimum height of twenty-four inches (24") and a minimum width of twenty inches (20") with a minimum total of 5.7 square feet in size. Required for each room used as a bedroom.
19. Extermination means the control and elimination of insect, rodent or vermin pests.
20. Family means one or more persons related by blood, affinity (marriage), or adoption to the second degree of consanguinity; or a group not to exceed six (6) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit. The definition of the second degree of consanguinity for the purpose of defining a single family is spouse, siblings, parents, grandparents, children, or grandchildren in accordance with Chapter 573 of the Texas Government Code.
21. Fire Marshall means the appointed official authorized to enforce all adopted fire codes of the city.
22. Floor area (net) means the total area of all habitable space used or designed for living, sleeping, eating, or cooking excluding bathrooms, toilet rooms, pantries, closets, halls, breezeways, storage, attics or utility spaces measured in square feet.
23. Floor area (gross) means the total area of a dwelling unit including both habitable and non-habitable space that is air-conditioned excluding garages, common areas, open porches, or areas which are not climate controlled measured to the inside walls of the unit and shown in square feet.
24. Garbage means animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
25. Guest, invitee, or visitor means any person(s) who stays with a tenant in a rental dwelling unit free of charge for thirty (30) days or less per calendar year with the landlord's consent. Persons staying longer than thirty (30) days in a twelve (12) month period shall be considered tenants for the purpose of occupancy loads and of this ordinance.
26. Infestation means the presence within or contiguous to a dwelling unit of insect, rodent, or vermin pests or visible evidence of their presence in the absence of the actual living organism.
27. Kitchen means a space at least sixty (60) square feet in size used cooking and the preparation of food.
28. Kitchenette means a space less than sixty (60) square feet in size used for cooking and the preparation of food.
29. Landlord means the owner, property manager, resident manager, agent or any other person held out by any owner or property manager as the appropriate person

with whom the tenant or public normally deals with, concerning leases, rental agreements, contracts, payment of rents, maintenance, complaints, emergencies, etc. of the apartment building as well as having budgetary authority to effect repairs in a timely manner as required to abate or correct violations of this ordinance.

30. Laundromat means a self service room or separate building accessible to all residents or tenants and which contains one (1) or more washers and dryers.
31. Life Safety Inspection – an inspection based on the NFPA 101 Life Safety Code.
32. Litter means garbage, refuse, rubbish, and all other waste material deposited on the ground or in any other place other than in an approved waste receptacle.
33. Manufactured Housing – any one of several types of prefabricated housing products (mobile home, HUD-Code manufactured home, or industrialized home) which are typically manufactured/assembled at a location other than the end user’s permanent site or lot, which are regulated by the Texas Manufactured Housing Standards Act (Article 5221 f and 5221 f-1, V.A.C.S.).
34. Multi-family complex or apartment complex (for the purpose of this ordinance) means:
 - a. Any building or group of buildings which provide three (3) or more dwelling units on a single platted lot or on a single tract or contiguous tracts of land under a common ownership if the land on which the building or buildings is located is unplatted; and
 - b. Any duplex, manufactured home or townhouse that is for rent or lease.
35. Occupancy load limit means the maximum number of tenants or persons who can safely occupy or reside in a dwelling unit.
36. Occupant means any person over one year of age living, sleeping, cooking, eating in, or having actual possession of a dwelling unit.
37. Owner means a person claiming, or in whom is vested, the ownership, dominion, or title to real property, or other responsible party or person who has authority to expend funds in relation to the property, including but not limited to:
 - a. The owner of fee simple title;
 - b. The holder of a life estate;
 - c. The holder of a leasehold estate for an initial term of five (5) years or more;
 - d. The buyer in a contract for deed provided said contract for deed has been filed and is of record in the Real Property Records of Kaufman County, Texas;
 - e. A mortgagee, receiver, executor, or trustee in control of real property; or
 - f. The landlord, property manager, registered agent, C.E.O. or officer of a corporation having fiduciary control of a rental dwelling, single-family dwelling, duplex, townhouse, manufactured house or apartment building.
37. Person means an individual, corporation, business trust, estate trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.
38. Plumbing means any system, appurtenance, fixture or appliance that is connected to, discharges to or utilizes gas, fuel, water, or sewage disposal including but not limited to toilets, lavatories, sinks, laundry tubs, catch basins, wash basins, bathtubs, showers, water heaters, water faucets, water lines, waste sewer pipes

and sewerage systems, septic tanks, drains, vents, traps, appliances or private fire hydrants.

39. Potable water means water duly approved as satisfactory and safe for drinking by the Water Utility Department of the city.
40. Premises means a lot, plot, parcel or tract of land including any structures located thereon.
41. Refuse means all solid wastes including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, dead vegetation, junk vehicles, trash, paper, wood, yard clippings, discarded man-made products, glass, etc.
42. Single-family rental property means any house, structure or building which provide no more than one dwelling unit on a single platted lot or a detached accessory dwelling unit which is rented or leased to tenants unrelated to the occupants or owners of the primary residence or on a single tract of land if the land on which the building or buildings is located is unplatted and is designed to be used as a residence by a single-family, individual or group of individuals living as a single household for rent or lease (this definition does not include duplexes, townhouses or manufactured housing which are considered to be multi-family rental properties for the purposes of this ordinance).
43. Structure means that which is built or constructed; an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
44. Swimming pool means any structure, basin, chamber, or tank containing an artificial body of water having a depth of twenty-four inches (24") or more at any point.
45. Tenant means any person who occupies a dwelling unit for living or dwelling purpose with the owner's or landlord's consent.
46. Unfit for human habitation means a condition exists which could possibly threaten the life, health, safety, property, or general welfare of the occupant including those occupants of other dwelling units in the same building or apartment structure. (see "Dangerous or substandard buildings")
47. Uninhabitable means the same as unfit for human habitation.

ARTICLE II. – Multi-Family, Manufactured Housing and Duplex, and Townhouse Rental Properties

A. APPLICABILITY

1. Article II shall apply to all multi-family, manufactured housing, duplex, and townhouse rental structures, dwelling units, accessory buildings, club houses, premises and other structures designed for tenant use.
2. Inspection standards shall be based upon HUD Minimum Housing Standards (Form HUD-52580-A).
3. Annual inspections – as specified in Section D below.

B. MINIMUM STANDARDS – Responsibilities of landlord.

1. **Property Standards.** A landlord shall:
 - a. Eliminate trip hazards, holes, sharp protrusions, and other objects or conditions that exist on the premises or in common areas that are reasonably capable of causing injury to a person;
 - b. Securely cover or close meter vaults or other structures to prevent entry and/or hazards created by open holes or exposed equipment;
 - c. Provide an adequate number of covered solid waste receptacles or containers on the premises;
 - d. Provide drainage to prevent standing water and flooding on the property;
 - e. Remove dead trees and tree limbs that are reasonably capable of causing injury to a person or damaging property;
 - f. Keep the doors and windows of a vacant dwelling unit or vacant portion of an apartment, duplex, townhouse or manufactured housing rental unit securely closed to prevent unauthorized entry;
 - g. Keep all areas of the buildings, grounds, facilities and appurtenances in a clean and sanitary condition and report illegal dumping on their premises by tenants or non-tenants to the city code enforcement officer or housing inspector in a timely manner.
 - h. Notify the city in writing of any change in ownership or management of an apartment complex, duplex, townhouse or manufactured housing rental unit stating the name, address and contact information of the new owner/agent within thirty (30) calendar days.
 - i. The maximum number of tenants/occupants for any residential dwelling unit shall not exceed the limits as stated below in accordance with the above referenced codes:
 - i. The maximum number of tenants who may reside in any dwelling unit shall be two (2) occupants per bedroom plus one person (i.e. efficiency unit – three (3) tenants; one bedroom – three (3) tenants; two bedroom – five (5) tenants; three bedroom – seven (7) tenants; etc.)
 - ii. The owner/landlord may impose a more restrictive occupancy limit if so stated in the lease/rental contract.

2. **Structural Standards.** A landlord shall:

- a. Protect the exterior surfaces of a structure which are subject to decay, by application of paint or other coatings;
- b. Provide and maintain railings for stairs, steps, balconies, porches, and elsewhere as specified in the city codes;
- c. Repair holes, cracks and other defects reasonably capable of causing injury to a person in stairs, steps, sidewalks, porches, balconies or breezeways;
- d. Maintain the roof and exterior walls of a dwelling unit or apartment building in a weathertight and watertight condition;
- e. Maintain floors, walls, ceilings, doorways, and all supporting structural members in a sound and proper functional condition, capable of bearing imposed loads safely;
- f. Maintain doors, windows, stairwells or other methods of egress free of obstructions, capable of being easily opened to the full extent required by city codes;
- g. Maintain chimney flues and vent pipes in sound and proper functional condition to prevent fumes from entering a habitable space and to preserve fire safety.

3. **Utility Standards.** A landlord shall:

- a. Provide and maintain in working order all toilets, sinks, bathtubs, showers, connections, cleanouts (including keeping access points covered) to discharge sewage from a structure or land into a public sewer system;
- b. Provide and maintain in working order (without leaks) all pipes, fixtures, and appurtenances connected to a potable water source with adequate water pressure to all dwelling units;
- c. Provide and maintain a device to supply hot water between 115 and 140 degrees Fahrenheit or provide scald protection within each dwelling unit;
- d. Provide, connect and maintain in proper working order a kitchen sink, bathtub or shower, and bathroom lavatory to hot and cold water source in each dwelling unit;
- e. Connect all plumbing systems, electrical systems and mechanical systems in accordance with the adopted codes;
- f. Provide and maintain heating equipment capable of maintaining a minimum inside temperature of sixty-eight (68) degrees Fahrenheit in each habitable space of a dwelling unit;
- g. If the owner furnishes a fixed air conditioning system, he or she shall ensure it is designed and capable of maintaining a maximum inside temperature of twenty (20) degrees cooler than any ambient outside temperature. If the owner furnishes window air conditioning units, fans or other ventilation devices, he or she shall maintain them in proper working order as with other appliances, equipment or fixtures. Note: if windows are the only source of ventilation then screens shall be required to be installed and maintained to prevent insects from entering dwelling unit, however, if screens are present they shall be maintained in proper condition;

- h. Provide and maintain a safe electrical supply line to each dwelling unit and ensure sufficient electrical circuits and outlets to safely carry a load imposed by normal use of appliances and fixtures;
- i. Pay all utility bills obligated by the landlord in timely manner to prevent disruption or disconnection of utilities by utility companies or the city and otherwise ensure that utilities are provided at all times in as much as possible.

4. Health and Safety Standards. A landlord shall:

- a. Make a reasonable effort to eliminate insect, rodent or vermin pests in or on the premises, in vacant structures or vacant portions of a structure, and in occupied dwelling units (a reasonable effort shall be evidence of a regular pest control program);
- b. Maintain the interior of a vacant structure or vacant portion of a structure free from rubbish and garbage;
- c. Provide and maintain appropriate covered receptacles and conveniences for the removal of ashes, rubbish, garbage and any other waste materials and to arrange for frequent removal of such waste materials (trash compacting units shall be fitted with a child-proof lockout device to prevent injury or death of children);
- d. Maintain in proper working order all lighting for parking lots, exterior security lighting, breezeways, stairwells, porch lights, or other common areas;
- e. Maintain in proper working order and free from obstruction all fire safety devices, fire alarms, exit signage, fire suppression systems, access, fire lanes, exits, locks or gates for access by the Fire Department;
- f. Maintain clearly visible street and unit addresses for each building and dwelling unit;
- g. If applicable, maintain swimming pool and spa safety devices in accordance with city codes including child safety lockout devices on gates and fences.
- h. Maintain and ensure proper installation of insect proof screens for every window or other opening used for ventilation purposes from a dwelling unit directly to or from an outdoor space when air-conditioning is not being used.
- i. Provide tenants with a 24 hour emergency number for the landlord, owner's agent, employee or property manager.
- j. Notify the city when the landlord/owner evicts a tenant for criminal activity, vandalism or willful destruction of property, creating a nuisance, or other illegal acts.

C. MINIMUM STANDARDS – Responsibilities of tenant.

1. General Duties. A tenant shall:

- a. Maintain the interior of a dwelling unit occupied by the tenant in a clean and sanitary condition free from rubbish and garbage;
- b. Remove pets or other animals from a dwelling unit if the presence of the animal or animals is a health hazard or creates a nuisance;

- c. Connect tenant supplied appliances, fixtures, devices, equipment, or other appurtenances in accordance with standard safe practices and codes so as not to overload electrical, mechanical or plumbing systems;
- d. Not disable, remove batteries from a smoke detector, or otherwise allow any occupant of the unit to cause a smoke detector to not function properly. It shall be the tenant's responsibility to replace the batteries in their unit's smoke detectors a minimum of once a year.
- e. Place all ashes, rubbish, garbage and other waste materials in the appropriate covered receptacles provided for same by the landlord (receptacles must not be capable of being overturned or accessed by dogs or other animals);
- f. Not alter, remodel, construct, or repair any structure or interior of a dwelling unit without the express consent of the landlord and with proper permits issued by the city. All work shall be done in accordance with the adopted codes of the city;
- g. Not install any deadbolt or door lock that does not comply with state or city codes;
- h. Not exceed the maximum safe occupancy load limits of the dwelling unit as required by the city codes;
- i. Not conduct any business from the dwelling unit in violation of the home occupation regulations as stated in the city codes;
- j. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, in the premises;
- k. Not deliberately or intentionally destroy, deface, vandalize, damage, impair or remove any part of the premises or knowingly permit any person to do so;
- l. Conduct himself, and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises. For the purpose of this article, such unpermitted conduct includes, but is not limited to, any loud playing of music, television, radio, instrument or any other mechanical device;
- m. When vacating the apartment, duplex, townhouse or manufactured housing rental unit, remove all trash and debris.

NOTE: The above list of responsibilities of a tenant is not to be construed to be comprehensive or exhaustive, wherein, the tenant's rights and responsibilities as well as the duties and remedies of the landlord are covered by contractual lease agreements, other city codes and by the Texas Property Code – Title 8 – Chapters 91 and 92.

D. INSPECTIONS

1. **Inspections Authorized.** The Municipal Development Department Director, Building Official, Housing Inspector, Health Inspector, Fire Marshall or their designees are authorized to make inspections to determine the condition of dwelling units and premises located within the city to determine their compliance with the minimum standards as adopted.

2. **Inspections.** The Municipal Development Department Director, Building Official, Housing Inspector, Health Inspector and Fire Marshall or their designated representatives are authorized to routinely perform inspections, and the owner/landlord shall grant irrevocable consent and agree to allow inspections, upon any and all portions of the apartment complex, duplex, townhouse or manufactured housing rental unit premises including the right to inspect individual dwelling units, as deemed necessary, as a condition of receiving a valid certificate of inspection, at least once every year of:
 - a. The exterior of the structures and all of the common grounds of all apartment complexes, duplex, townhouse or manufactured housing rental dwelling units;
 - b. Any or all unoccupied dwelling units;
 - c. Any or all occupied dwelling units;
 - d. Any or all storage areas, community buildings, swimming pools, athletic facilities, club rooms, equipment rooms, playgrounds, and all other portions of the premises not constructed as dwelling units that are intended for common use by tenants;
 - e. Any dwelling unit, common grounds, or other structures upon receipt of a complaint from any person, city department or division that any dwelling unit, common grounds, or other structure may be in violation of this chapter. Complaints shall be in writing, signed and dated by the complainant, as required by the Texas Property Code, Section 92.052 and delivered to the owner/ landlord and to the Municipal Development Department if the owner or his representative fails to remedy the complaint in accordance with Chapter 92 of the Texas Property Code.

3. **Inspection Scheduling.**
 - a. The Director of Municipal Development or his designee and the owner/landlord may agree on a reasonable date and time for the initial inspection and annual inspections thereafter. However, in the event the parties cannot agree on an inspection time or if scheduling, time constraints or other factors are likely to prevent the city from inspecting the property in a timely manner on or before deadlines expire the inspections shall be scheduled by the city after giving the owner/landlord written notice of the date and time of each inspection no less than fifteen (15) days prior to the scheduled inspection.
 - b. In the event that the city designated inspector is denied admittance or entry to conduct an inspection, said denial shall not be a violation of this chapter, however, the landlord/owner shall be required to reschedule the inspection within ten (10) days. A second denial of admittance may result in additional inspection fees or securing right of entry by obtaining an administrative search warrant.
 - c. An inspection may occur at any time between the hours of 8:00 a.m. and 5:00 p.m. on the date of the scheduled inspection.
 - d. All future annual inspections shall be scheduled within thirty (30) days of the anniversary date in which the previous year's inspection was conducted.

- e. Tenants of occupied units scheduled for inspection shall have the right to be present during such inspections. The owners/landlord shall notify tenants of occupied dwellings of scheduled inspections not less than seven (7) days prior to the scheduled date of the inspection.

E. ENFORCEMENT

1. **Re-inspections.** The owner/landlord shall have thirty (30) days to remedy all conditions identified as a violation of this ordinance during the routine annual inspection and call for a re-inspection. If the dwelling unit, building, structure, or other area on the premises fails a second time the owner/landlord will be granted one additional thirty (30) day period in which to remedy the violations and call for a second re-inspection. If the violations still exist at the time of the second re-inspection the city may exercise one or more of the following options:
 - a. Grant further extensions if the owner/landlord can provide evidence that the delay is beyond the owner's or agent's control and/or provide evidence of a contract for services to abate the violation within a reasonable time in which a definite completion schedule is provided along with a detailed work plan indicating the scope of work.
 - b. Assess additional fees as prescribed in the adopted fee schedule.
 - c. Contact the various utility companies or city departments to have the utilities disconnected to the individual dwelling unit or to the entire structure if necessary to ensure the safety of the tenants or the public.
 - d. If an imminent danger exists to the tenants of a dwelling unit, adjacent units, or the entire building the landlord/owner may be ordered to vacate portions of the building or the entire structure as determined by the Building Official or Fire Marshall until the violation is abated.
 - e. Building official may revoke the Certificate of Occupancy of any structure deemed unsafe for occupancy until the structure is brought into compliance with the building codes and inspected.
 - f. Refer the unsafe, dangerous, or substandard structure to the Buildings and Standards Commission for adjudication.
 - g. File a complaint through the city attorney's office or otherwise cause a civil suit to be brought against the owner for injunctive relief and/or the assessment of civil penalties.
2. **Certificates of Inspection/Occupancy.**
 - a. **Initial Certificate of Inspection.** Every dwelling unit located within an existing multi-family apartment complex (three or more dwelling units), apartment, duplex, townhouse or manufactured housing rental unit located in the City of Terrell not previously inspected in calendar year 2009 as of the effective date of this ordinance shall be required to be inspected prior to December 31, 2010 in order to obtain an initial certificate of inspection which will be valid for one (1) year from the date of issue. No certificate shall be

issued for a dwelling unit which has any code violations which have not been corrected.

- b. **Certificate of Inspection.** A Certificate of Inspection shall be issued to the landlord/owner (or their designated agent) after the unit has been determined to meet all the minimum standards as set forth herein. Said certificate shall have the issue date, unit address, inspector's signature and expiration date.
- c. **Annual renewal of Certificate of Inspection required.** Every dwelling unit receiving a valid initial Certificate of Inspection in any calendar year shall be required to be inspected once a year thereafter in order to renew the certificate. The annual inspection shall occur within thirty (30) days of the anniversary date of the issue date of the certificate in order to facilitate an orderly inspection schedule by the city and to ensure compliance with this ordinance. Failure to renew the certificate within thirty (30) days of its expiration date may result in revocation of the certificate, assessment of extra fees as stated in the fee schedule, or subject the owner to other remedies as listed herein. No certificate shall be renewed for a dwelling unit which has any code violations which have not been corrected.
 - 1. After an annual inspection in which 90% of the units have successfully passed the inspection the property will receive exemplary status and shall receive a two year Certificate of Inspection.
 - 2. A failed inspection of more than 10% of the units shall require the units to be inspected annually.
- d. **New construction.** All newly constructed multi-family, duplex, townhouse or manufactured housing rental units will obtain an initial Certificate of Occupancy (C.O.) upon completion of construction and passing a final building permit inspection and will also receive a Certificate of Inspection which will remain valid for the remainder of the calendar year in which the units were constructed plus all of the following calendar year after which time the units will be required to receive annual inspections in accordance with this ordinance.
- e. **HUD subsidized units.** Any multi-family dwelling unit, apartment, duplex, townhouse or manufactured housing rental unit that is occupied by a tenant who is receiving housing assistance through the Terrell Department of Housing and HUD which is subject to an annual HUD required inspection shall receive a Certificate of Inspection after having passed the HUD inspection. Any dwelling unit receiving a HUD inspection will be exempt from the requirement for a city initiated inspection during the same calendar year and the fee for the certificate shall be waived. However, if the city initiated inspection is conducted prior to a subsidized tenant occupying a dwelling unit and the certificate has already been issued this does not exempt the unit from the required HUD annual inspection which is a Federal mandate.

Other State or Federal mandated inspections which require dwelling units to meet or exceed the minimum standards as required in this ordinance shall be similarly credited towards a Certificate of Inspection upon delivery of bona fide documentation to the city.

- f. **Revocation of a Certificate of Inspection.** Upon failure to comply with the provisions of this ordinance by December 31, 2010 or if the owner of an apartment complex, duplex, townhouse or manufactured housing rental unit fails to remedy or abate violations of this ordinance after proper notice of violations has been given the certificate of inspection for a dwelling unit may be revoked by the Building Official. Notice of revocation of the certificate shall be given to the tenant (if occupied) and landlord/owner of record by personal delivery, U.S. Postal Service certified mail return receipt requested on or before the tenth day prior to having utilities disconnected. If the U.S. Postal Service returns the notice as “refused” or “unclaimed” the validity of the notice is not affected, and the notice is considered delivered. Revocation of the Certificate of Inspection may also result in the ultimate revocation of the entire structure’s Certificate of Occupancy, additional fees, penalties or civil action being initiated by the city.
- g. **Emergency revocation of a Certificate of Occupancy (C.O.).** If an occupied dwelling unit(s) or building is found to have such extreme hazards as to pose such imminent danger to the tenants or public at large as to render the unit(s) or building unsafe for human habitation the Building Official shall have the authority to immediately revoke the C.O. and order the building, structure or dwelling unit(s) to be vacated until said hazards are abated or remedied.
- h. **Reinstatement of the Inspection Certificate/Certificate of Occupancy.** The suspended certificate may be reinstated or reissued by the Building Official upon verification of compliance with the violation notice and payment of a double fee on written request by the owner/landlord.
- i. **Temporary Certificate.** A temporary certificate may be issued for the purpose of having the necessary utilities connected for repairs or construction work to be accomplished.
- j. **Fees.** Fees for a Certificate of Inspection shall be according to the Fee Schedule Ordinance 2374 as adopted or amended.

ARTICLE III. – Single-Family Rental Properties

A. APPLICABILITY

1. Article III shall apply to all single-family rental structures and property including accessory dwellings which are leased, rented or otherwise occupied by tenants who are unrelated to the owner of the primary single-family residence, accessory buildings, premises and other structures designed for tenant use.
2. Inspection standards shall be based upon NFPA 101 Life Safety Standards if property is officially registered in the “Crime Free Rental Program”, otherwise the HUD Minimum Housing Standards (Form HUD-52580-A) mandatory annual inspections (essentially the same as multi-family inspections – see D. below) shall apply.
3. A basic Life/Safety inspection shall be conducted upon vacancy or prior to occupancy, however, a Life/Safety inspection shall be conducted a minimum of once every four (4) years whether vacant or not if property is participating in the “Crime Free Rental Program”. Otherwise regular annual inspections shall be required– as specified in Section D below.

B. MINIMUM STANDARDS – Responsibilities of landlord.

1. **Property Standards.** A landlord shall:
 - a. Securely cover or close meter vaults or other structures to prevent entry and/or hazards created by open holes or exposed equipment;
 - b. Maintain proper drainage to prevent standing water and flooding on the property;
 - c. Remove dead trees and tree limbs that are reasonably capable of causing injury to a person or damaging property;
 - d. Keep the doors and windows of a dwelling unit capable of being securely closed to prevent unauthorized entry;
 - e. Insure tenants keep all areas of the rental house, premises, and accessory buildings in a clean and sanitary condition and report illegal dumping on their premises by tenants or non-tenants to the city code enforcement officer or housing inspector in a timely manner;
 - f. Notify the city in writing of any change in ownership or management of a single-family rental property stating the name, address and contact information of the new owner/agent within thirty (30) calendar days;
 - g. The maximum number of tenants/occupants for any residential dwelling unit shall not exceed the limits as stated below in accordance with the above referenced codes:
 - i. The maximum number of tenants who may reside in any dwelling unit shall be two (2) occupants per bedroom plus one person (i.e. efficiency unit – three (3) tenants; one bedroom – three (3) tenants; two bedroom – five (5) tenants; three bedroom – seven (7) tenants; etc.)

- ii. The owner/landlord may impose a more restrictive occupancy limit if so stated in the lease/rental contract.

2. **Structural Standards.** A landlord shall:

- a. Protect the exterior surfaces of a structure which are subject to decay, by application of paint or other coatings;
- b. Provide and maintain safe railings for stairs, steps, balconies, porches, and elsewhere as specified in the city codes;
- c. Repair holes, cracks and other defects reasonably capable of causing injury to a person in stairs, steps, sidewalks, porches, balconies or breezeways;
- d. Maintain the roof and exterior walls of a dwelling unit in a weathertight and watertight condition;
- e. Maintain floors, walls, ceilings, doorways, and all supporting structural members in a sound and proper functional condition, capable of bearing imposed loads safely;
- f. Maintain doors, windows, stairwells or other methods of egress free of obstructions, capable of being easily opened to the full extent required by city codes;
- g. Maintain chimney flues and vent pipes in sound and proper functional condition to prevent fumes from entering a habitable space and to preserve fire safety.

3. **Utility Standards.** A landlord shall:

- a. Provide and maintain in working order all toilets, sinks, bathtubs, showers, connections, cleanouts (including keeping access points covered) to discharge sewage from a structure or land into a public sewer system;
- b. Provide and maintain in working order (without leaks) all pipes, fixtures, and appurtenances connected to a potable water source with adequate water pressure to all dwelling units;
- c. Provide and maintain a device to supply hot water between 115 and 140 degrees Fahrenheit or provide scald protection within each dwelling unit;
- d. Provide, connect and maintain in proper working order a kitchen sink, bathtub or shower, and bathroom lavatory to hot and cold water source in each dwelling unit;
- e. Connect all plumbing systems, electrical systems and mechanical systems in accordance with the adopted codes;
- f. Provide and maintain heating equipment capable of maintaining a minimum inside temperature of sixty-eight (68) degrees Fahrenheit in each habitable space of a dwelling unit (owner may provide approved portable heater after unit is occupied to prevent theft);
- g. If the owner furnishes a fixed air conditioning system, he or she shall ensure it is designed and capable of maintaining a maximum inside temperature of twenty (20) degrees cooler than any ambient outside temperature. If the owner furnishes window air conditioning units, fans or other ventilation devices, he or she shall maintain them in proper working order as with other

appliances, equipment or fixtures. Note: if windows are the only source of ventilation then screens shall be required to be installed and maintained to prevent insects from entering dwelling unit, however, if screens are present they shall be maintained in proper condition;

- h. Provide and maintain a safe electrical supply line to each dwelling unit and ensure sufficient electrical circuits and outlets to safely carry a load imposed by normal use of appliances and fixtures.

4. **Health and Safety Standards.** A landlord shall:

- a. Maintain in proper working order all exterior lighting, such as: for parking lots, exterior security lighting, breezeways, stairwells, porch lights, or other common areas;
- b. Maintain clearly visible street addresses for each dwelling unit;
- c. If applicable, maintain swimming pool and spa safety devices in accordance with city codes including child safety lockout devices on gates and fences;
- d. Maintain and ensure proper installation of insect proof screens for every window or other opening used for ventilation purposes from a dwelling unit directly to or from an outdoor space when air-conditioning is not being used;
- e. Provide tenants with a 24 hour emergency number for the landlord, owner's agent, employee or property manager.

C. **MINIMUM STANDARDS – Responsibilities of tenant.**

1. **General Duties.** A tenant shall:

- a. Maintain the interior of a dwelling unit occupied by the tenant in a clean and sanitary condition free from rubbish and garbage;
- b. Make a reasonable effort to eliminate insect, rodent or vermin pests in or on the premises;
- c. Remove pets or other animals from a dwelling unit if the presence of the animal or animals is a health hazard or creates a nuisance;
- d. Connect tenant supplied appliances, fixtures, devices, equipment, or other appurtenances in accordance with standard safe practices and codes so as not to overload electrical, mechanical or plumbing systems;
- e. Not disable, remove batteries from a smoke detector, or otherwise allow any occupant of the unit to cause a smoke detector to not function properly. It shall be the tenant's responsibility to replace the batteries in their unit's smoke detectors a minimum of once a year;
- f. Place all ashes, rubbish, garbage and other waste materials in the appropriate covered receptacles (receptacles must not be capable of being overturned or accessed by dogs or other animals);
- g. Not alter, remodel, construct, or repair any structure or interior of a dwelling unit without the express consent of the landlord and with proper permits issued by the city. All work shall be done in accordance with the adopted codes of the city;

- h. Not install any deadbolt or door lock that does not comply with state or city codes;
- i. Not exceed the maximum safe occupancy load limits of the dwelling unit as required by the city codes;
- j. Not conduct any business from the dwelling unit in violation of the home occupation regulations as stated in the city codes;
- k. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, in the premises;
- l. Not deliberately or intentionally destroy, deface, vandalize, damage, impair or remove any part of the premises or knowingly permit any person to do so;
- m. Conduct himself, and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises. For the purpose of this article, such unpermitted conduct includes, but is not limited to, any loud playing of music, television, radio, instrument or any other mechanical device;
- n. When vacating the house, remove all trash and debris.

NOTE: The above list of responsibilities of a tenant is not to be construed to be comprehensive or exhaustive, wherein, the tenant's rights and responsibilities as well as the duties and remedies of the landlord are covered by contractual lease agreements, other city codes and by the Texas Property Code – Title 8 – Chapters 91 and 92.

D. ANNUAL INSPECTIONS (only applies to rental units not participating in the Crime-Free Rental Program)

1. **Inspections Authorized.** The Municipal Development Department Director, Building Official, Housing Inspector, Health Inspector and Fire Marshall are authorized to make inspections to determine the condition of single-family rental dwelling units (including accessory rental dwellings) and premises located within the city to determine their compliance with the minimum standards as adopted.
2. **Inspections.** The Municipal Development Department Director, Building Official, Housing Inspector, Health Inspector and Fire Marshall or their designated representatives are authorized to routinely perform inspections, and the owner/landlord shall grant irrevocable consent and agree to allow inspections, upon any and all portions of the multi-family premises including the right to inspect individual dwelling units, as deemed necessary, as a condition of receiving a valid certificate of inspection, at least once every year of:
 - a. The exterior of the structures and yards of all single-family rental housing units (including rental accessory dwelling units);
 - b. Any or all unoccupied dwelling units;
 - c. Any or all occupied dwelling units;

- d. Any or all storage areas, accessory buildings, swimming pools, and all other portions of the premises not constructed as dwelling units that are intended for common use by tenants;
- e. Any dwelling unit, yard, or other structures upon receipt of a complaint from any person, city department or division that any dwelling unit, yard, or other structure may be in violation of this chapter. Complaints shall be in writing, signed and dated by the complainant, as required by the Texas Property Code, Section 92.052 and delivered to the owner/ landlord and to the Municipal Development Department if the owner or his representative fails to remedy the complaint in accordance with Chapter 92 of the Texas Property Code.

3. **Inspection Scheduling.**

- a. The Director of Municipal Development or his designee and the owner/landlord may agree on a reasonable date and time for the initial inspection and annual inspections thereafter. However, in the event the parties cannot agree on an inspection time or if scheduling, time constraints or other factors are likely to prevent the city from inspecting the property in a timely manner on or before deadlines expire the inspections shall be scheduled by the city after giving the owner/landlord written notice of the date and time of each inspection no less than fifteen (15) days prior to the scheduled inspection.
- b. In the event that the city designated inspector is denied admittance or entry to conduct an inspection, said denial shall not be a violation of this chapter, however, the landlord/owner shall be required to reschedule the inspection within ten (10) days. A second denial of admittance may result in additional inspection fees or securing right of entry by obtaining an administrative search warrant.
- c. An inspection may occur at any time between the hours of 8:00 a.m. and 5:00 p.m. on the date of the scheduled inspection.
- d. All future annual inspections shall be scheduled within thirty (30) days of the anniversary date in which the previous year's inspection was conducted.
- e. Tenants of occupied units scheduled for inspection shall have the right to be present during such inspections. The owners/landlord shall notify tenants of occupied dwellings of scheduled inspections not less than seven (7) days prior to the scheduled date of the inspection.

E. **ENFORCEMENT**

- 1. **Re-inspections.** The owner/landlord shall have thirty (30) days to remedy all conditions identified as a violation of this ordinance during the routine annual inspection and call for a re-inspection. If the dwelling unit, building, structure, or other area on the premises fails a second time the owner/landlord will be granted one additional thirty (30) day period in which to remedy the violations and call for a second re-inspection. If the violations still exist at the time of the second re-inspection the city may exercise one or more of the following options:

- a. Grant further extensions if the owner/landlord can provide evidence that the delay is beyond the owner's or agent's control and/or provide evidence of a contract for services to abate the violation within a reasonable time in which a definite completion schedule is provided along with a detailed work plan indicating the scope of work.
- b. Assess additional fees as prescribed in the adopted fee schedule.
- c. Contact the various utility companies or city departments to have the utilities disconnected to the individual dwelling unit or to the entire structure if necessary to ensure the safety of the tenants or the public.
- d. If an imminent danger exists to the tenants of a dwelling unit, adjacent units, or the entire building the landlord/owner may be ordered to vacate portions of the building or the entire structure as determined by the Building Official or Fire Marshall until the violation is abated.
- e. Refer the unsafe, dangerous, or substandard structure to the Buildings and Standards Commission for adjudication.
- f. File a complaint through the city attorney's office or otherwise cause a civil suit to be brought against the owner for injunctive relief and/or the assessment of civil penalties.

2. **Certificates of Inspection/Occupancy.**

- a. **Initial Certificate of Inspection.** Every single-family rental dwelling unit located in the City of Terrell as of the effective date of this ordinance which does not participate in the "Crime-Free Rental Program" shall be required to be inspected prior to December 31, 2010 in order to obtain an initial certificate of inspection which will be valid for one (1) year from the date of issue. No certificate shall be issued for a dwelling unit which has any code violations which have not been corrected.
- b. **Certificate of Inspection.** A Certificate of Inspection shall be issued to the landlord/owner (or their designated agent) after the unit has been determined to meet all the minimum standards as set forth herein. Said certificate shall have the issue date, unit address, inspector's signature and expiration date.
- c. **Annual renewal of Certificate of Inspection required.** Every dwelling unit receiving a valid initial Certificate of Inspection in any calendar year shall be required to be inspected once a year thereafter in order to renew the certificate. The annual inspection shall occur within thirty (30) days of the anniversary date of the issue date of the certificate in order to facilitate an orderly inspection schedule by the city and to ensure compliance with this ordinance. Failure to renew the certificate within thirty (30) days of its expiration date may result in revocation of the certificate, assessment of extra fees as stated in the fee schedule, or subject the owner to other remedies as listed herein. No certificate shall be renewed for a dwelling unit which has any code violations which have not been corrected.

- d. **New construction or existing single-family dwellings which are newly rented/leased.** All newly constructed single-family units which are rented or leased in lieu of owner occupancy will obtain an initial Certificate of Occupancy (C.O.) upon completion of construction and passing a final building permit inspection and will also receive a Certificate of Inspection which will remain valid for the remainder of the calendar year in which the units were constructed plus all of the following calendar year after which time the units will be required to receive annual inspections in accordance with this ordinance. Existing single-family houses which are subsequently rented or leased in lieu of owner occupancy after the adoption of this ordinance shall be required to obtain an initial inspection and receive a Certificate of Inspection which shall be valid for the remainder of the calendar year and will be valid for the following calendar year if the inspection is after September 1st.
- e. **HUD subsidized units.** Any single-family dwelling unit that is occupied by a tenant who is receiving housing assistance through the Terrell Department of Housing and HUD which is subject to an annual HUD required inspection shall receive a Certificate of Inspection after having passed the HUD inspection. Any dwelling unit receiving a HUD inspection will be exempt from the requirement for a city initiated inspection during the same calendar year and the fee for the certificate shall be waived. However, if the city initiated inspection is conducted prior to a subsidized tenant occupying a dwelling unit and the certificate has already been issued this does not exempt the unit from the required HUD annual inspection which is a Federal mandate. Other State or Federal mandated inspections which require dwelling units to meet or exceed the minimum standards as required in this ordinance shall be similarly credited towards a Certificate of Inspection upon delivery of bona fide documentation to the city.
- f. **Revocation of a Certificate of Inspection.** Upon failure to comply with the provisions of this ordinance or if the owner of a single-family rental property fails to remedy or abate violations of this ordinance after proper notice of violations has been given the certificate of inspection for a dwelling unit may be revoked by the Building Official. Notice of revocation of the certificate shall be given to the tenant (if occupied) and landlord/owner of record by personal delivery, U.S. Postal Service certified mail return receipt requested on or before the tenth day prior to having utilities disconnected. If the U.S. Postal Service returns the notice as “refused” or “unclaimed” the validity of the notice is not affected, and the notice is considered delivered. Revocation of the Certificate of Inspection may also result in the ultimate revocation of the entire structure’s Certificate of Occupancy, additional fees, penalties or civil action being initiated by the city.
- g. **Emergency revocation of a Certificate of Occupancy (C.O.).** If an occupied dwelling unit(s) or building is found to have such extreme hazards as to pose such imminent danger to the tenants or public at large as to render the unit(s) or building unsafe for human habitation the Building Official shall have the

authority to immediately revoke the C.O. and order the building, structure or dwelling unit(s) to be vacated until said hazards are abated or remedied.

- h. Reinstatement of the Inspection Certificate/Certificate of Occupancy.** The suspended certificate may be reinstated or reissued by the Building Official upon verification of compliance with the violation notice and payment of a double fee on written request by the owner/landlord.
- i. Temporary Certificate.** A temporary certificate may be issued for the purpose of having the necessary utilities connected for repairs or construction work to be accomplished.
- j. Fees.** Fees for a Certificate of Inspection shall be according to the Fee Schedule Ordinance 2374 as adopted or amended.

ARTICLE IV. – Crime Free Rental Program

A. Purpose.

- 1. The purpose of this article is to establish a method by which the city may measure certain types of criminal activity occurring in rental communities in the City and to create a program to address within those rental communities methods proven to reduce such criminal activity.
 - a. It is the intent of this article to identify the parties to whom the City will hold responsible for compliance with and violations of this article, rather than to determine the rights and liabilities of persons under agreements to which the City is not a party. The terms of this article shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this article by any person.
 - b. Additionally, a violation of this article shall not in and of itself create a negligence per se standard or otherwise expand existing liability in tort for either a landlord or tenant.
 - c. This ordinance does not give the City the authority to conduct background checks on prospective or current tenants.
 - d. Compliance with the provisions of this ordinance is not contingent upon immigration or citizenship status.
 - e. This ordinance does not give Owners the authority to violate any Fair Housing laws.

B. General.

1. Definitions.

- a. Crime-Free Rental Program means the copyrighted program created and administered by the International Crime Free Association, Inc. a 501 (c)3 nonprofit corporation.
- b. Owner means all of the definitions as listed in Article I-B.36 above and referred to herein as “Owner(s)”.

2. Registration.

- a. An Owner shall file a City-supplied registration application with the Municipal Development Department and list each separately addressed rental property. The following correct and current information is required in the application:
 - i. Names, current addresses, and telephone numbers of all Owners and lien holders;
 - ii. An emergency telephone number shall be provided to the City of the person designated by the Owner to respond to emergencies at the subject rental property, such as, a maintenance person, etc.
 - iii. A color copy of a State issued driver’s license or State issued identification card (other forms of valid identification may be accepted upon approval of the Director) for all owners, registered agents, landlords, property managers, presidents or C.E.O.’s (if any of the responsible parties are corporations).
 - iv. Signature of the Owner or person having primary fiduciary responsibility for the subject property and authorized to sign the application;
 - v. Trade name or D.B.A. if property is owned or managed by a corporation;
 - vi. Legal address of subject property as listed in the Kaufman County Central Appraisal District tax records;
 - vii. Name(s), telephone number, address of person(s) responsible for paying utility bills;
 - viii. Whether unit is a primary single-family structure or an accessory dwelling such as a garage apartment;
 - ix. Number of bedrooms and/or occupancy load.
- b. By signing the registration application the Owner is entering into an agreement to abide by all of the requirements of the Article IV – Crime Free Rental Program.
- c. Participation in the Crime Free Program shall continue for the subject address until such time that participation is terminated in writing by either the Owner or the City.

- d. Termination of participation in the Crime-Free Program by either party shall then require the Owner to comply with either Article II or Article III – Annual Inspections as appropriate and be subject to additional fees.
- e. The City shall reserve the right to terminate the Registration Certificate of the Crime-Free Rental Program for non-compliance with the requirements of this Article, such properties shall be subject to other requirements specified in Articles I, II, and III as applicable.
- f. Registration Certificates may cover rental properties at more than one location or address, however, a separate Crime Free Lease Addendum shall be completed for each address and a separate annual registration fee shall apply for each address.
- g. It is the duty of an Owner to update all information provided in the application within seven (7) business days of any change.
- h. When more than 50 percent of the ownership changes or there is a change of a general partner of a corporation, the new owners or partners shall complete a new application within thirty (30) days of the change. There are no fees associated with any update of information on an application.
- i. The City may, at any time, require additional relevant information of the Owner to clarify items on the application. Additional information requested shall be provided to the city within seven (7) business days of the City's request.

C. Inspections.

1. Any single-family rental property which is not officially registered in the Crime Free Rental Program shall be required to comply with Article III of this ordinance.
2. For those single-family rental properties who register to participate in the Crime Free Program, an initial Life/Safety inspection shall be scheduled by the Owner within thirty (30) days of filing the application for vacant single-family rental properties or upon change of occupancy for currently occupied dwelling units. Subsequent inspections of single-family dwelling units shall occur at change of occupancy while units are vacant but no more than once in a calendar year.
3. Upon completing the registration requirements, passing the Life/Safety Inspection and payment of fees a Certificate of Registration shall be issued which is valid for one (1) calendar year from the date of issuance.
4. If occupancy is long term then a Life/Safety inspection shall be conducted on occupied units a minimum of once every four (4) years upon the anniversary date of the application.
5. Unresolved complaints in which tenants have exhausted remedies allowed under the Texas Property Code Title 8 may result in the City taking appropriate actions, such as, additional inspections, etc. to insure the protection of the health, safety and welfare of the public.
6. Single-family rental units where tenants are receiving housing assistance from the Terrell Housing Department and are subject to HUD annual inspections and tenant background checks are exempt from the requirements of this Article.

7. A checklist of items to be inspected during a Life/Safety Inspection shall be provided to each single-family rental registration applicant of the Crime Free Rental Program. Items relating to public health, safety, welfare, security and crime prevention, but are not limited to the following:
 - a. Door locks – dead bolts to secure exterior doors, doors should be of solid core or metal construction.
 - b. Front door viewers.
 - c. Points of egress (exterior doors and windows) are not blocked or locked in such a way that occupants cannot escape during an emergency.
 - d. Smoke alarms and/or carbon monoxide detectors if gas or fireplaces are used in the dwelling unit. (hard wired detectors preferred).
 - e. Security lighting provided to illuminate parking areas, walkways, stairs, steps, doorways, and accessory buildings or common areas utilized by tenants at night.
 - f. Window latches – windows must be capable of being locked to prevent entry from intruders but also be capable of being opened in each bedroom as a means of escape during a fire, etc.
 - g. Burglar bars, if installed, must meet the code requirements for escape or egress.
 - h. Visible address or building and apartment unit numbers.
 - i. Electrical fixtures, switch covers, panels, outlets are in safe working condition without broken or missing covers or bare wires exposed. Electrical panels are kept clear for a distance of thirty inches (30”) for access.
 - j. Plumbing is working with hot and cold water without leaks.
 - k. Sewage disposal system functions properly without leaks, stoppages or sewer gas detectable.
 - l. Heating and cooling units function properly as applicable.
 - m. Gas appliances function properly and gas test is conducted at such times as required by the International Fuel Gas Code or International Plumbing Code as applicable.
 - n. Owners should also consider trimming all shrubs to maximum thirty six inches (36”) in height and trim tree canopy up to a minimum of seven (7’) feet in height above the ground to prevent hiding places.
 - o. Locked common areas such as laundry rooms, club houses, fitness rooms are kept locked and only accessible by key or key pad, key card or similar device by tenants or employees of Owner.
 - p. Exterior of structure and roof are properly maintained and weather tight.
 - q. Yard is maintained and free of high weeds and grass, junk and debris or junk vehicles.
 - r. Fencing, if present, should be maintained to control access onto the property.
 - s. This list is for general information only and may not include all of the life safety issues that will be required to be addressed during an actual inspection.

8. Multi-family, duplex, townhouse or manufactured housing rental dwelling units shall follow their regular annual inspection schedule as described in Article II above.

D. Training.

1. The Owner or their representative of each rental property shall be required to attend an annual Crime Free training seminar conducted and scheduled by the City.
2. Each Owner or their representative shall be required to attend at least six (6) hours of training during the first year of participation and one (1) hour of annual training in subsequent years. Additional training may be required if violations of this section occur after initial training.
3. Training shall consist of fire prevention, safety, crime prevention, code enforcement and other such relevant topics.
4. Literature written in English and Spanish for distribution to their tenants will be available upon request.

E. Crime Free Lease Addendum.

1. The Owner(s) shall be required to use the official Crime Free Lease Addendum (Parts 1 and 2) to be signed and executed by the Owner and each and every tenant over the age of seventeen (17) residing in the subject rental dwelling unit (sample copies will be provided by the City to the Owner written in English and Spanish).
2. Owners shall provide a copy of each Crime Free Lease Addendum to the Municipal Development Director within seven (7) business days of its execution. A color copy of a valid State driver's license or State issued Identification Card (other forms of valid identification may be accepted upon approval of the Director) of each tenant listed on the addendum shall accompany the submission to the city.
3. It is strongly recommended that Owners carefully screen prospective tenants and/or employees, in as much as is not in conflict with the Fair Housing Act or other such laws regarding privacy, implement other means to reduce crime and improve safety on their rental properties utilizing one or more of the following:
 - a. Check current credit reports.
 - b. Obtain a current criminal history report issued by the Texas Department of Public Safety.
 - c. Utilize a third party background checking company.
 - d. Check personal references.
 - e. Check employment history.
 - f. Check previous rental history.
 - g. Require positive identification.
 - h. Membership in a Rental Property Owners Association.

- i. Encourage tenants to participate in a Neighborhood Crime Watch.

NOTE: Prior personal history issues such as credit, criminal offenses or other incidents which have been properly adjudicated or resolved should not automatically disqualify a prospective tenant from renting a crime free rental unit. The decision to rent or lease to any particular individual(s) is solely at the discretion of the owner. The City's primary interest is in the prevention of crime and protecting the public health, safety and welfare of the rental communities.

4. The Owner(s) and/or tenant(s) shall be required to report any suspicious or criminal activity (Category I or II Crimes as listed below) on the premises of their rental property immediately upon discovery to the police, likewise, suspicious activities or persons and/or criminal activities reported to the City will be passed on to the landlord or owners for appropriate action.
5. The Owner(s) shall be required to notify the City when the landlord/owner evicts a tenant for criminal activity, vandalism or willful destruction of property, creating a nuisance, or other illegal acts.
6. The Owner(s) shall be required to notify the City when there is a change in tenants at any address that is registered in the Crime Free Rental Program.

F. Administration and Enforcement.

1. All calls for Police service to an address listed as a Crime Free Rental Program participant shall be tracked for crime statistical purposes and also reported to the Municipal Development Director for investigation and consideration if the activity reported is a violation of this Ordinance and subject to enforcement actions.
2. Noncompliance with the requirements of this Article.

An owner is considered to be in noncompliance with Article VI – Crime Free Rental Program if:

- a. The Owner fails to execute the Crime Free Lease Addendum as required herein and provide a copy thereof to the City within seven (7) business days with copies of valid forms of identification of tenants who signed the addendum.
- b. The Owner fails to evict residents who violate the terms of the Crime Free Lease Addendum.
- c. The Owner fails to report criminal activity on their rental property immediately upon discovery of such activity.
- d. The Owner allows persons over the age of 17 to reside in a dwelling unit who has not signed the Crime Free Addendum.
- e. The Owner fails to attend the mandatory annual Crime Prevention Training Seminar.

- f. The Owner fails to report a change in tenancy to the City as required herein.
- g. The Owner fails to remedy Life/Safety issues identified during inspections in accordance to the inspection requirements listed herein.
- h. An owner is considered to be in noncompliance with this Article if an Owner or Tenant willfully submits or enters false or misleading information on any Crime Free Registration Application or Crime Free Lease Addendum.

CRIME FREE LEASE ADDENDUM – Part 1

In consideration of the execution or renewal of a lease of the dwelling unit identified in the lease, Owner and Resident agree as follows:

1. Resident, any members of the resident's household or a guest or other person under the resident's control shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance (as defined in the Texas Health and Safety Code).
2. Resident, any member of the resident's household or a guest or other person under the resident's control shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the said premises.
3. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity, regardless or whether the individual engaging in such activity is a member of the household, or a guest.
4. Resident, any member of the resident's household or a guest, or another person under the resident's control shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance as defined by the Texas Health and Safety Code, at any locations, whether on or near the dwelling unit premises or otherwise.
5. Resident, any member of the resident's household, or a guest or another person under the resident's control shall not engage in any illegal activity, including threatening or intimidating, assault, the unlawful discharge of firearms, on or near the dwelling unit premises, or any breach of the lease agreement that otherwise jeopardizes the health, safety and welfare of the landlord, his agent or other tenant or involving imminent or actual serious property damage.
6. **VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY.** A single violation of any of the provisions of this added addendum shall be deemed a serious violation and a material and irreparable non-compliance. It is understood that a single violation shall be good cause for immediate termination of the lease under Texas Property Code, Section 91.001, subsection (e). Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by a preponderance of the evidence.
7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of the addendum shall govern.
8. This **LEASE ADDENDUM** is incorporated into the lease executed or renewed this day between Owner and Resident.

Resident Signature

Date: _____

Resident Signature

Date: _____

Resident Signature

Date: _____

Property Manager's (Owner) Signature

Date: _____

CRIME FREE LEASE ADDENDUM – Part 2

Addendum to Rental Application

Have you or **ANYONE** (regardless of age) who will be residing with you **EVER**:

1. Been arrested, cited, prosecuted, plead guilty to or been convicted of any crime?
[] Yes [] No
2. Been placed on probation, parole, or effected by the Megan Laws?
[] Yes [] No
3. Been in a gang, or are you currently a member of a gang?
[] Yes [] No
4. Been involved in, or are you currently are involved in any illegal activity?
[] Yes [] No
5. Been evicted or had a forcible detainer filed against you?
[] Yes [] No
6. Been a petitioner in a case at bankruptcy court?
[] Yes [] No
7. Had a warrant, or do you currently have a warrant for your arrest?
[] Yes [] No
8. Moved to avoid eviction or because of problems with a tenant or landlord?
[] Yes [] No

Please explain all "YES" answers in detail. (What happened, when, where and the results.)

Resident Signature

Date: _____

Resident Signature

Date: _____

Resident Signature

Date: _____

Property Manager's (Owner) Signature

Date: _____

3. Types of Criminal Activities.

a. Category I Crimes – Any crime in this category committed in violation of the Crime Free Lease Addendum shall require the landlord or owner to initiate immediate actions in accordance with the terms of the Crime Free lease Addendum including termination of the lease and eviction.

- i. Arson
- ii. Murder
- iii. Sexual offenses
- iv. Assaults: Class A or Felony
- v. Robbery
- vi. Felony possession of drugs
- vii. Burglary
- viii. Auto theft
- ix. Other crimes of violence

b. Category II Crimes – Any crime in this category committed by any tenant, person or guest of a tenant of a registered Crime Free rental property may, at the discretion of the Owner, be considered a violation of the Crime Free Lease Addendum and be subject to immediate termination of their lease resulting in eviction. More than one crime in this category committed by any tenant, person or guest of a tenant of a registered Crime Free rental property within a twelve (12) month period shall be considered an automatic violation of the Crime Free Lease Addendum which requires the owner to initiate immediate actions in accordance with the terms of the Crime Free Lease Addendum including termination of the lease and eviction.

- i. Driving while intoxicated or public intoxication
- ii. Theft
- iii. Embezzlement
- iv. Possession of a prohibited weapon
- v. Passing Bad or Hot Checks
- vi. Misdemeanor drug use
- vii. Vandalism
- viii. All other non-violent crimes

4. Remedial actions for noncompliance with the requirements of this Article.

a. An Owner found to be in noncompliance with the terms of this Article shall be provided written notice of such noncompliance and be given seven (7) business days to contact the City and provide a schedule and action plan to remedy the problem or issue. If the Owner fails to contact the City in the time allotted the City shall prescribe a schedule and remedial action necessary to correct the problem or issue. No remedy shall be considered

acceptable if not completed within thirty (30) calendar days of receiving notice of noncompliance.

- b. If the Owner fails to correct the problem or issue in a timely manner or if repeated violations of this Article have occurred at a particular rental property the City may prescribe additional training for the owners, landlord or other responsible persons, assess additional fees or fines, revoke their participation in the Crime Free Program at the subject address and require the Owner to comply with Article II or III as applicable under stricter inspections and guidelines.
- c. The City may take other actions as deemed necessary to insure compliance in order to protect the health, safety and welfare of the public.

ARTICLE V.

CONFLICTS. All ordinances or part of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

ARTICLE VI.

SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE VII.

PENALTY FOR VIOLATIONS. Violations of this ordinance are punishable as provided in Chapter 1, Section 1-1(g) *General penalty for violations of code; civil actions by city.*

- A.** Nothing contained herein shall prevent the City of Terrell from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE VIII.

This ordinance will take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

PASSED AND APPROVED THIS the 15th day of June, 2010
PASSED AND ADOPTED THIS the 20th day of July, 2010

PUBLIC HEARING

8. a.) **Conduct a Public Hearing to Receive Comment Regarding Amendments to the Comprehensive Zoning Ordinance No. 2444 Regarding Text Revisions to Sections 32, 33, 38, 40 and 44 in Order to Clarify Ambiguous or Conflicting Language, Amend or Revise Use Tables in Regards to Temporary Use Permits, Revise Parking Standards for Certain Uses, Revise Lighting and Glare Standards to Include “Dark Sky” Provisions and Add Definitions for New Uses.**

Terrell Capehart, Director of Municipal Development gave staff briefing to Council Regarding Amendments to the Comprehensive Zoning Ordinance No. 2444 Regarding Text Revisions to Sections 32, 33, 38, 40 and 44 in Order to Clarify Ambiguous or Conflicting Language, Amend or Revise Use Tables in Regards to Temporary Use Permits, Revise Parking Standards for Certain Uses, Revise Lighting and Glare Standards to Include “Dark Sky” Provisions and Add Definitions for New Uses. Mayor Hal Richards opened a Public hearing to Receive Comment Regarding Amendments to the Comprehensive Zoning Ordinance No. 2444 Regarding Text Revisions to Sections 32, 33, 38, 40 and 44 in Order to Clarify Ambiguous or Conflicting Language, Amend or Revise Use Tables in Regards to Temporary Use Permits, Revise Parking Standards for Certain Uses, Revise Lighting and Glare Standards to Include “Dark Sky” Provisions and Add Definitions for New Uses. No one spoke for or against the Amendments. Mayor Hal Richards closed the Public Hearing.

- b.) **Discuss and Consider Approval of Ordinance No. 2459 – Approving Amendments to the Comprehensive Zoning Ordinance No. 2444 Regarding Texas Revisions to Sections 32, 33, 38, 40 and 44 in Order to Clarify Ambiguous or Conflicting Language, Amend or Revise Use Tables in Regards to Temporary Use Permits, Revise Parking Standards for Certain Uses, Revise Lighting and Glare Standards to Include “Dark Sky” Provisions and Add Definitions for New Uses.**

Mayor Pro tem Jack Jones made a motion to approve Ordinance No. 2459 - Approving Amendments to the Comprehensive Zoning Ordinance No. 2444 Regarding Texas Revisions to Sections 32, 33, 38, 40 and 44 in Order to Clarify Ambiguous or Conflicting Language, Amend or Revise Use Tables in Regards to Temporary Use Permits, Revise Parking Standards for Certain Uses, Revise Lighting and Glare Standards to Include “Dark Sky” Provisions and Add Definitions for New Uses on first reading. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

9. c.) **Conduct Public Hearing to Receive Comment Regarding a Request for a Zone Change from Single-Family Residential -7.5 (SF-7.5) to Neighborhood Services (NS) on Property Located at 107 E. Brin, Described as Lot 2, Block 46, Terrell Original, Conveyed to First Christian Church as Recorded in Volume 1868, Page 128, Deed of Records of Kaufman County, Texas. (ZC-10-03)**

Terry Capehart, Director of Municipal Development gave staff briefing to Council regarding a Request for a Zone Change from Single-Family Residential -7.5 (SF-7.5) to Neighborhood Services (NS) on Property Located at 107 E. Brin, Described as Lot 2, Block 46, Terrell Original, Conveyed to First Christian Church as Recorded in Volume 1868, Page 128, Deed of Records of Kaufman County, Texas. (ZC-10-03). Mayor Hal Richards opened a Public Hearing regarding a Request for a Zone Change from Single-Family Residential -7.5 (SF-7.5) to Neighborhood Services (NS) on Property Located at 107 E. Brin, Described as Lot 2, Block 46, Terrell Original, Conveyed to First Christian Church as Recorded in Volume 1868, Page 128, Deed of Records of Kaufman County, Texas. (ZC-10-03). No one spoke for or against the Zone Change. Mayor Hal Richards closed the Public Hearing.

d.) Discuss and Consider Approval of Ordinance No. 2460 – Approving a Request for a Zone Change from Single-Family Residential -7.5 (SF-7.5) to Neighborhood Services (NS) on Property Located at 107 E. Brin, Described as Lot 2, Block 46, Terrell Original, Conveyed to First Christian Church as Recorded in Volume 1868, Page 128, Deed of Records of Kaufman County, Texas. (ZC-10-03)

Councilmember Don Thurman made a motion to approve Ordinance No. 2460 – Approving a Request for a Zone Change from Single-Family Residential -7.5 (SF-7.5) to Neighborhood Services (NS) on Property Located at 107 E. Brin, Described as Lot 2, Block 46, Terrell Original, Conveyed to First Christian Church as Recorded in Volume 1868, Page 128, Deed of Records of Kaufman County, Texas (ZC-10-03). The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

ORDINANCE No. 2460

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING FROM SINGLE-FAMILY RESIDENTIAL-7.5 (SF-7.5) TO NEIGHBORHOOD SERVICES (NS) ON PROPERTY LOCATED AT 107 E. BRIN STREET, DESCRIBED AS LOT 2, BLOCK 46, TERRELL ORIGINAL, CONVEYED TO FRIST CHRISTIAN CHURCH AS RECORDED IN VOLUME 1868, PAGE 128, DEED OF RECORDS OF KAUFMAN COUNTY, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

10. e.) Conduct a Public Hearing to Receive Comment Regarding a Request for a Zone Change from Townhouse Residential -12 (TH-12) to Retail (R) on Property Located at 803 W. Nash Street Described as Lot 1A, Block 116, Western Addition, City of Terrell, Kaufman County, Texas.

Terry Capehart, Director of Municipal Development gave staff briefing to Council regarding a Request for a Zone Change from Townhouse Residential -12 (TH-12) to Retail (R) on Property Located at 803 W. Nash Street Described as Lot 1A, Block 116, Western Addition, City of Terrell, Kaufman County, Texas. Mayor Hal Richards opened a Public Hearing regarding a Request for a Zone Change from Townhouse Residential -12 (TH-12) to Retail (R) on Property Located at 803 W. Nash Street Described as Lot 1A, Block 116, Western Addition, City of Terrell, Kaufman County, Texas. Lee Schaeffer – 102 Grace Lane spoke for the Zone Change. No one spoke against the Zone Change. Mayor Hal Richards closed the Public Hearing.

- f.) **Discuss and Consider Approval of Ordinance No. 2461 – Approving a Request for a Zone Change from Townhouse Residential -12 (TH-12) to Retail (R) on Property Located at 803 W. Nash Street Described as Lot 1A, Block 116, Western Addition, City of Terrell, Kaufman County, Texas.**

Councilmember Sandra Wilson made a motion to approve Ordinance No. 2461 - Approving a Request for a Zone Change from Townhouse Residential -12 (TH-12) to Retail (R) on Property Located at 803 W. Nash Street Described as Lot 1A, Block 116, Western Addition, City of Terrell, Kaufman County, Texas on first reading. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2461

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING FROM TOWNHOUSE RESIDENTIAL-12 (TH-12) TO RETAIL (R) ON PROPERTY LOCATED AT 803 W. NASH STREET, DESCRIBED AS LOT 1A, BLOCK 116, WESTERN ADDITION, CITY OF TERRELL, KAUFMAN COUNTY, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NEW BUSINESS

11. **Discuss and Consider All Matters Incident and Related to the Issuance and Sale of City of Terrell, Texas Tax and Waterworks and Sewer Systems (Limited Pledge) Revenue Certificates of Obligation Series 2010 Including the Adoption of an Ordinance Authorizing the Issuance of Such Certificates of Obligation.**

Councilmember Don Thurman made a motion to place this item on the September 21, 2010 Council agenda. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

12. **Discuss and Consider Approval of Environmental Cooperative Annual Agreement.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Environmental Cooperative Annual Agreement. Councilmember Don Thurman made a motion to authorize the City Manager to execute the Environmental Cooperative Annual Agreement. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

13. **Discuss and Consider Approval of Agreement for Professional Services with Freese and Nichols, Inc.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Agreement for Professional Services with Freese and Nichols, Inc. Deputy Mayor Pro tem Ricky Jordan made a motion to authorize the City Manager to execute an Agreement for Professional Services with Freese and Nichols, Inc. in an amount not to exceed \$46,714.00. The motion was seconded by Councilmember Don Thurman. Ayes – all; Nays – none. Motion carried.

14. Discuss and Consider Approval of 4th Amendment for IESI.

Steve Rogers, City Engineer presented to Council for discussion and consideration 4th Amendment for IESI. Mayor Pro tem Jack Jones made a motion to authorize the City Manager to execute the 4th Amendment for IESI. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

15. Discuss and Consider Approval of Terrell Police Department Application for the Bureau of Justice Assistance Grant (JAG) for 2010-2011.

Jody Lay, Chief of Police presented to Council for discussion and consideration Terrell Police Department Application for the Bureau of Justice Assistance Grant (JAG) for 2010-2011. Councilmember Sandra Wilson made a motion to approve the Terrell Police Department Application for the Bureau of Justice Assistance Grant (JAG) for 2010-2011. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

16. Discuss and Consider Approval of Ordinance No. 2458 - Budget Amendment.

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Ordinance No. 2458 – Budget Amendment. Councilmember Don Thurman made a motion to approve Ordinance No. 2458 – Budget Amendment. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2458

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010, AS PASSED AND ADOPTED ON SEPTEMBER 15, 2009 TO PROVIDE FOR INCREASES IN CERTAIN ACCOUNTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

CONSENT AGENDA

17. Discuss and Consider Adoption on Second Reading of No. 2456 - Amending Chapter 3, Animal Control.

Deputy Mayor Pro tem Ricky Jordan made a motion to adopt on second reading Ordinance No. 2456 – Amending Chapter 3, Animal Control. The motion was seconded by Councilmember Don Thurman. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2456

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING CHAPTER 3, ANIMAL CONTROL OF THE REVISED CODE OF ORDINANCES OF THE CITY OF TERRELL; PROVIDING FOR

THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL TEXAS:

ARTICLE I.

That the Revised Code of Ordinances of the City of Terrell, Chapter 3, Animal Control, Section 1 through 26 shall be deleted in its entirety and replaced with the following:

Section 1: Purpose and Scope

A. It is the purpose of this chapter:

- 1 To provide regulations by which the transmission of rabies to human beings and domestic animals can be prevented and controlled within the city;
- 2 To decrease the number of unwanted and stray dogs and cats within the city;
- 3 To encourage responsible animal ownership;
- 4 To protect the public health, safety and welfare of the city;

B. The provisions of this chapter shall not be construed to authorize the keeping of any animal in violation of any other city ordinance, state or federal statute or law.

Section 2: Definitions

When used in this chapter the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

A. **Animal Control** means the animal control division of the police department.

B. **Animal control officer** means any person designated by the Chief of Police, or his designated representative within the police department, to represent and act for the city in impounding animals, controlling animals running at large, and, to enforce all regulations including as authorized by the state under the provisions of, but not limited to, the Rabies Control Act.

- C. **Animal nuisance** means the keeping of any animal in such a manner as to endanger the public health, to annoy neighbors through the accumulation of animal wastes which cause foul and offensive odors, is a hazard to any other animal or human being, or any animal that by its presence interrupts or otherwise interferes with the quality of life of those individuals in its proximity.
- D. **Animal shelter** means the city facility that keeps or legally impounds stray, homeless or abandoned animals picked up within the city limits by an Animal Control Officer.
- E. **Cruelty** means to inflict pain or suffering and includes any act of neglect or abandonment.
- F. **Dangerous Animal** means any animal that:
1. Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or
 2. Commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person; or
 3. Has attacked and bitten another animal without provocation on one (1) previous occasion.
- G. **Estray act** means the state requirements relating to livestock control.
- H. **Exotic Animal** means any and all species of animals which commonly exist in a natural, unconfined state, are usually not domesticated and can pose a potential physical threat to the public or that is protected by international, federal or state regulations. This definition shall apply regardless of state or duration of captivity.
- I. **Fowl** means all of those birds commonly called poultry, but not limited to chickens, ducks, geese, guinea fowl, turkeys, pigeons, and all the relatives of those birds which can be kept in pens, coops, cages, or enclosures of any kind.
- J. **Humanely destroy** means to cause the death of an animal by a method which:
1. Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
 2. Utilizes anesthesia produced by an agent, which causes painless loss of consciousness with death following such loss of consciousness.
- K. **Kennel** means any place or premises wherein any person boards, breeds, buys, lets for hire, trains for a fee, trades, or sells dogs or cats. This term shall not be construed to include an owner who sells a single dog or cat one year or older or an owner who sells a single litter of dogs or cats in

any one calendar year which belongs to such owner as a private individual.

L. **Observation period** means the ten (10) days following a biting incident during which an animal's health status must be monitored.

M. **Owner** means any person having title to any animal, or a person who has, harbors, or keeps, or who causes or permits to be harbored or kept, any animal in his care, or who permits an animal to remain on or about his premises.

N. **Pet shop** means any establishment where dogs and cats are bought, sold or traded. The terms includes all establishments selling dogs or cats exclusively or buying, selling or trading dogs or cats along with other animals or fowls.

O. **Provoke** means to arouse or stir up purposely, to incite or to invoke attack.

P. **Restraint** means secured by a leash, lead, or enclosure.

Q. **Running at large** means:

(1) Off premises. Any animal which is not restrained by means of a leash or chain of sufficient strength not more than six feet (6') in length, to control the actions of such animal while off the owner's property.

(2) On premises. Any animal not confined on premises of owner by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom, or secured on the premises by a metal chain or leash of sufficient strength to prevent the animal from escaping therefrom.

R. **Vaccination** means an injection of United States Department of Agriculture approved rabies vaccine administered in accordance with applicable state regulations by a licensed veterinarian.

S. **Victim** means a person or any domestic animal that has been attacked by any animal.

T. **Working dog** means a dog which is

(1) Registered as a guard dog with the City.

(2) Under the control of a person working as a law enforcement officer or commissioned security officer; or

(3) An assistance dog as defined under §121.002 of the Texas Human Resources Code.

Section 3: Enforcement of Animal Control Regulations

The chief of police, any police officer of the city, and the animal control officers shall have the right to enforce any of the provisions of this chapter. The chief of police is hereby

delegated the authority to appoint any person to aid and assist him in carrying out such enforcement.

Section 4: Livestock Running at Large Prohibited

It shall be unlawful for any person to permit any horse, donkey, mule, sheep, cow, hog or goat owned or kept by him to run at large within the corporate limits of the city.

Section 5: Keeping of Livestock

It shall be unlawful, subject to the provisions of Sections 7 and 8 of this Chapter, for any person to keep a cow, horse, donkey, mule, goat, sheep, or other livestock on any premises of which the overall area is less than one-third (1/3) of an acre for each livestock kept or to keep more than can be cared for under sanitary conditions so as not to create a public nuisance, and in no event exceed the permitted number of adults and their young up to six (6) months of age. The number of livestock permitted shall not exceed one (1) adult per one-third (1/3) acre for the first acre and two (2) adults per acre for each additional acre unless a specific use permit has been granted by the city council in accordance with the city's zoning regulations. When such livestock is kept on unplatted and undeveloped land within the city limits and such land exceeds three (3) acres in size, then no maximum number of livestock is established.

In addition, it shall be unlawful to keep or maintain any livestock within two hundred feet (200') of any dwelling or public place within the city limits unless a specific use permit has been granted by the city council.

Section 6: Fowl Running At Large Prohibited

It shall be unlawful for any person to permit chickens or any other fowl owned or kept by him or under his control to run at large within the corporate limits of the city.

Section 7: Keeping of Poultry, Fowl, and/or Small Fur-Bearing Animals

It shall be unlawful for any person to keep or have on his premises more than two (2) or one (1) litter of chickens, turkeys, ducks, geese, pigeons or other poultry or domestic fowl or more than two (2) or one (1) litter of rabbits, guinea pigs, hamsters, gerbils, mink, ferrets or other small fur-bearing animals within one hundred feet (100') of any dwelling or public place within the city limits unless a specific use permit has been granted by the city council in accordance with the city's zoning regulations. This provision does not apply to undeveloped land within the city limits that exceeds three (3) acres in size.

Section 8: Keeping of Swine

A. It shall be unlawful subject to the provisions of subsection B below, for any person to keep or have on his premises any hogs or pigs within the city limits unless a specific use permit has been granted by the city council in accordance with the city's zoning regulations.

B. Requirements for Keeping Potbellied Pigs

- (1) It shall be unlawful for any person to keep, harbor or raise more than two
- (2) adult potbellied pigs in any one (1) household within the city.
- (3) It shall be unlawful for any person to keep or maintain potbellied pigs outdoors. A person may permit potbellied pigs outdoors for brief periods, as necessary for exercise or for the elimination of waste. The outdoor area used for exercise and waste elimination must be a secure area from which the potbellied pig may not escape. Potbellied pigs are subject to all other sections of this chapter, including, but not limited to, the sections on restraint of animals.
- (4) All potbellied pigs kept within the city must be either spayed or neutered. Under no circumstances may a person engage in the propagation or breeding of potbellied pigs within the city limits.
- (5) All potbellied pigs kept within the city must be vaccinated against erysipelas, parvo virus and leptospirosis in accordance with all applicable state regulations.
- (6) All potbellied pigs kept within the city must be registered with the animal control officer within fourteen (14) days from the time the animal is taken to its place of residence. The following requirements shall apply to registration of all potbellied pigs;
 - (a) The filing of a health certificate from a licensed veterinarian;
 - (b) Payment of an annual fee of seventy-five dollars (\$75.00) to the City Secretary;
 - (c) Obtaining a registration tag from the animal control officer.
- (7) All locations where potbellied pigs are kept shall be kept in a clean and sanitary condition. Exercise areas shall be cleaned of swine excrement on a daily basis.

Section 9: Keeping of Bees

It shall be unlawful to keep bees in any residential, commercial or developed area of the city. This section does not apply to undeveloped land within the city limits that exceeds three (3) acres in size.

Section 10: Keeping of Wild and Exotic Animals/Reptiles Prohibited

It shall be unlawful to harbor, keep or maintain any wild or exotic animals within the city limits including, but not limited to, poisonous reptiles, bats, skunks, coyotes, foxes, wolves, alligators, lions, tigers, leopards, and monkeys. Further, the chief of police, or his designated representative within the police department, may declare any species of animal not listed in this section as "prohibited" if the confinement of the animal within the city can be shown to constitute a threat to the public health and safety. The city council, however, may grant exceptions from time to time, such as for special events.

Section 11: Dogs and Cats - Generally

- A. It shall be unlawful for the owner or harborer of any dog or cat to permit such dog or cat to run at large within the city limits.
- B. It shall be unlawful for any person to keep within the city limits more than three (3) adult dogs or cats and one (1) litter. For purposes of this subsection, an adult dog or cat shall be defined as any dog or cat of six (6) months of age or over or any dog weighing more than thirty (30) pounds. The provisions of this subsection shall not apply to any properly zoned veterinarian hospital, clinic, or kennel.
- C. No person shall willfully or knowingly keep or permit any dog on his premises or in or about his premises that, in the opinion of a Police Officer or Animal Control Officer, barks or howls repeatedly in such a manner as to disturb the peace and quiet of the neighborhood or the occupants of adjacent premises.

Section 12: Dog/Cat License Required

- A. The owner, keeper or harborer of any dog or cat within the city shall make application to the chief of police or his designated representative for a registration permit for such dog or cat. Such application shall contain information on the dog's or cat's description, date of vaccination, and name, address and telephone number of the owner. As a part of the above registration, the owner, keeper or harborer shall present to the chief of police or his designated representative a current certificate of vaccination.
- B. A fee established by the City Council shall accompany the above application.
- C. Upon the owner's compliance with the above provisions of this section, the chief of police or his designated representative shall register the dog or cat and issue a metal registration tag, which shall be attached to the dog's or cat's collar, and which shall be worn by the dog or cat at all times.
- D. Registration shall be valid for (1) year from the date of issue.
- E. If a tag issued under this section is lost or stolen, it may be replaced by payment of the appropriate fee established by the City Council and presentation of the registration record.
- F. Any false statement in a rabies certification or application for a permit under this section shall render null and void the permit issued for such dog or cat and shall subject the dog or cat to being impounded in accordance with the provisions of this chapter.

Section 13: Permits and Tags - Exceptions

The fees specified in section 12B above shall not be required for any animal specifically trained to assist any auditory or visually impaired or handicapped person nor for government police dogs.

Section 14: Permit/License Revocation

Animal control may revoke any permit or license of any person regulated by this chapter if the person holding the permit or license refuses or fails to comply with this chapter or any law governing the protection and keeping of animals.

Section 15: Vaccination of Animals

The owner of any animal capable of transmitting rabies shall have such animal vaccinated by the age of four (4) months and thereafter as prescribed by the Texas Board of Health against rabies with a vaccine approved by the United States Department of Agriculture and administered by a licensed veterinarian, who shall issue to the owner of the animal a vaccination certificate. The owner shall retain such certificate until the vaccination is renewed. At the time of vaccination, a metal tag shall be issued by the veterinarian showing the name of the veterinary clinic, the tag number, and the year of issuance.

Section 16: Rabies Control

It shall be the duty of the owner or harbinger of any animal or practicing veterinarian to report to animal control and to the Texas Department of Health all suspected cases of rabies. The report shall be made immediately upon diagnosis or suspicion of rabies in animals.

Section 17: Bites by Animals

- A. Animal control shall investigate reports in which animals have bitten, and/or scratched persons or animals. It shall be the responsibility of animal control to obtain details on the bite cases, and to conduct an investigation of the animal to determine if it is suffering from rabies.
- B. Any animal suspected of biting a person shall be placed under quarantine to determine if the animal is capable of transmitting or exposing humans or other persons and/or animals to rabies. This quarantine shall be for a period of not less than ten (10) days after the biting of such person.
- C. The owner of the animal required to be quarantined under subsection B shall surrender the animal to the animal control officer immediately, or otherwise arrange for the animal control officer to pick up and retain such animal, in a separate kennel at the animal shelter, or in quarters supervised by a veterinarian whose facility is located within the city limits of Terrell for the period of the quarantine. Should the animal be released to the animal control officer to be retained at the animal shelter, the owner of the animal held in quarantine shall be charged a fee for every day or fraction of a day the animal is at the animal shelter. This fee is in addition to any impoundment fee. Upon release from quarantine, the owner may redeem the animal from the animal shelter or other quarters by payment of the applicable fees.
- D. It shall be unlawful for any person to interfere with the enforcement of this section or fail or refuse to surrender to an animal control officer any animal involved or suspected of being involved in a bite case, or otherwise fail or refuse to provide for the quarantine of animals as may

be authorized by this chapter.

- E. If an owner fails or refuses to surrender an animal to the animal control officer for quarantine under this chapter, the animal control officer may apply to the judge of the municipal court of the city for a warrant to seize the animal. The officer executing the warrant shall cause the animal to be impounded at the city animal shelter.

Section 18: Dangerous Animals

- A. A person commits an offense if the person is the owner of a dangerous animal and the animal makes an unprovoked attack on another person or animal or attempts to attack a person or animal outside the animal's enclosure and causes bodily injury to the other person or animal.
- B. It shall be unlawful for any person to own, keep or harbor a dangerous animal within the city limits. For purposes of this chapter, a person learns that the person is the owner of a dangerous animal when the owner knows of an unprovoked attack committed by the animal that causes bodily injury to a person or another animal, or when the owner is informed by animal control that the animal is a dangerous animal.
- C. Once an animal has been determined to be dangerous it must be:
1. Removed from the city within twenty-four (24) hours of the owner learning that the animal is dangerous or upon quarantine clearance, whichever is later; or
 2. Surrendered for euthanasia to an animal control officer or a veterinarian, as approved by animal control within twenty-four (24) hours of the owner learning that the animal is dangerous or upon quarantine clearance, whichever is later.
- D. It is an affirmative defense to the determination that an animal is dangerous when it can be shown that:
1. The threat, injury or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the animal; or
 2. The person was teasing, tormenting, abusing, or assaulting the animal or has, in the past been observed or reported to have teased, tormented, abused, or assaulted the animal; or
 3. The person was committing or attempting to commit a crime; or
 4. The animal attacked or killed was at the time teasing, tormenting, abusing or attacking the alleged dangerous animal; or
 5. The animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault; or
 6. The animal was injured and responding to pain.

Section 19: Dangerous Animal Complaints

A. Should any person desire to file a complaint concerning an animal which is believed to be a dangerous animal, a sworn, written complaint must first be filed with a police officer or an animal control officer of the city as follows:

1. Name, address and telephone number of complainant and any witnesses;
2. Date, time and location of any incident involving the animal;
3. Description of the animal;
4. Name address and telephone number of the animal's owner if known;
5. A statement describing in detail the facts upon which such complaint is based; and
6. A statement describing in detail any incidents where the animal has exhibited dangerous propensities in the past if known.

B. After a sworn complaint is filed, it shall be referred for disposition to the chief of police or his representative who shall set a time and place for a hearing not to exceed twenty (20) days from the time the complaint is received. The animal control officer shall give notice of the hearing to the animal's owner at least ten (10) days prior to the hearing date. After the owner of the animal is notified, the owner shall keep such animal at the animal shelter or at a veterinarian's clinic whose facility is located within the city limits of Terrell until the chief of police or his designee holds such hearing. After the owner of the animal receives notice, the animal control officer shall impound the animal specified in the complaint if such animal is found at large.

C. The chief of police or his designee shall receive testimony at the hearing to determine if the animal specified in the complaint is a dangerous or vicious animal and should be permanently removed from the city or destroyed for the protection of the public health, safety and welfare of the citizens of the city. In order to determine if either of the above actions are necessary, the chief of police or his designee must find the following facts to be true:

1. The animal is a vicious or dangerous animal;
2. The removal or destruction of the animal is necessary to preserve and protect the public health, safety and welfare of the citizens of the city.

D. If the chief of police or his designee orders the destruction or removal of the animal and the owner was not present at the hearing, the owner shall be given notice of the decision. If removal or destruction of the animal is not ordered, the animal control officer shall return the animal to the owner upon payment of all applicable fees. If the chief of police or his designee orders the animal removed from the city, he shall allow the owner ten (10) days to do so. The owner shall furnish the chief of police or his designee evidence of such removal within ten (10) days thereof. Once the animal has been ordered to be removed from the city and the owner has done so, it shall be unlawful for the animal to be allowed back into the city for any purpose.

E. A person commits an offense if he knowingly possesses and fails to release to the animal control

officer or a veterinarian, as approved by animal control, an animal that has been charged by sworn complaint as provided in paragraph B of this ordinance and whose destruction or removal has been ordered by the chief of police or his designee; provided that such destruction or removal has not been appealed.

Section 20: Dangerous Animal Appeals

An owner may appeal a destruction or removal order to the municipal court for a substantial evidence review within five (5) days of the decision. If the chief of police or his designee receives written notice of appeal within five (5) days of the decision, the destruction or removal order shall be suspended pending final determination of the municipal court judge, provided that, during the pendency of the appeal, the owner shall keep such animal at the animal shelter or at a veterinarian's clinic whose facility is located within the city limits of Terrell. The municipal court judge may affirm, modify, or reverse such decision. The chief of police shall furnish the municipal court judge with all reports, memoranda, and other tangible evidence received by him as well as a summary of the evidence and his findings. The decision of the municipal court judge will be made by the application of the substantial evidence rule.

Section 21: Impoundment of Animals - Generally

- A. Any animal found in violation of any provision of this chapter or any animal that is treated in a cruel or inhumane manner may be impounded by the city and placed in the city's animal shelter. Any such animal shall be held for at least five (5) days, except that any dog or cat wearing a current vaccination tag and/or a city registration tag shall be held for ten (10) days before any measure of disposition of such animal shall be taken. Any impounded animal that is found to be vicious or wild may be immediately and appropriately disposed of provided there is no evidence that said animal has an owner.

- B. A reasonable effort will be made by animal control to contact the owner of any impounded animal that is wearing a current registration tag; however, the ultimate responsibility for the location of an impounded animal is that of the owner.

Section 22: Reclaiming Impounded Animals

The owner can resume possession of any impounded animal upon payment of an impoundment fee to be determined by the city council for each day or fractional part of a day that the animal was impounded and any veterinary bills incurred. Such impoundment fee shall be charged for the care and feeding of the animal. However, if any animal has not been currently vaccinated in accordance with this ordinance or if any dog has no valid registration license tag, the owner must first secure either or both of them at his expense before the animal may be released to his custody.

Section 23: Unclaimed Animals

- A. Any animal except dangerous animals, not reclaimed by the owner may be humanely euthanized after being impounded for five (5) days, except for any animal wearing a current registration or vaccination tag shall be impounded for ten (10) days before euthanizing it.
- B. Any impounded animal not wearing a current registration and/or vaccination tag, other than animals under quarantine or found to be dangerous, may be given up for adoption or given to a nonprofit humane organization after five (5) days.
- C. Any impounded animal wearing a current registration and/or vaccination tag, other than animals under quarantine or found to be dangerous, may be given up for adoption or given to a nonprofit humane organization after ten (10) days.

Section 24: Animal Control Shelter Advisory Committee

- A. Animal Control Shelter Advisory Committee Created. In accordance with the provisions of Texas Health and Safety Code §823.005, there is hereby created an Animal Control Shelter Advisory Committee composed of four (4) members, each of whom shall be appointed by the City Council. One member shall be a licensed veterinarian, one member shall be a municipal official, one member shall be an individual whose duties include the daily operation of an animal shelter, and one member shall be a representative from an animal welfare organization. The members of the committee shall serve without remuneration for their service. Additionally, the Chief of Police, or his designated representative, shall serve as an ex-officio member of the committee.
- B. General Duties of the Committee. The Animal Control Shelter Advisory Committee shall advise the City Council and local health authorities in complying with the rules and regulations pertaining to animal shelters as specified by the Texas Department of Health.
- C. Meetings. The Animal Control Advisory Committee shall meet at least three times each year or upon notice from the Chair of the Committee.
- D. Committee Chairperson. The municipal official shall serve as the Chair of the Committee.
- E. Terms of Office. Following their appointment by the City Council, each member of the Animal Control Advisory Committee shall serve a two (2) year term and may be re-appointed for additional terms as deemed appropriate by the City Council.
- F. Support Staff. City staff shall provide an administrative secretary to support the committee, prepare minutes and meeting agendas.

Section 25: Public Nuisances

- A. It shall be unlawful and constitute a public nuisance for any person to maintain any animal or fowl in such a manner or allow any pen, enclosure, yard, or similar place used for the keeping of animals or fowl to become unsanitary, offensive by reason of odor, or create a condition that is a breeding place for fleas, flies or other vector and which is offensive to persons of ordinary

sensibilities residing in the vicinity thereof or is determined to be a public nuisance by the animal control authority.

B. It shall be unlawful and constitute a public nuisance for any person to maintain any animal which repeatedly roams at large in violation of this chapter on public or private property; attacks another animal(s); or damages public or private property.

C. Animals defecating and urinating in certain places prohibited removal of excreta.

1. Prohibited. It shall be unlawful for the person controlling to permit, either willfully or through failure to exercise due care or control, any dog or animal to urinate or defecate upon the sidewalk or parkway of any public street, or upon the floor of any common hall in any entranceway, stairway, or wall immediately abutting on a public office building or other buildings used in common by the public or upon the floor, stairway, entranceway, office, lobby, foyer, or patio used in common by the public. For the purpose of this section, the term "parkway" shall mean the portion of a public street other than a roadway or a sidewalk.

2. Removal of excreta. It shall be unlawful and an offense for any person to fail to promptly remove and dispose of, in a sanitary manner, feces left by a dog, cat, or other animal being handled or controlled by the person upon public works, parks, recreation areas, sidewalks, parkways, or public streets or any other public areas specified in subsection 1 of this section, or upon any private property other than the premises of the owner, handler, or controller of such animal.

D. It shall be unlawful and constitute a public nuisance for the owner of any animal to allow any excreta deposited by his animal to remain on public or private property. Any condition injurious to public health caused by the lack of or improper disposal of animal waste will be considered a violation of this section.

E. It shall be unlawful for any person to allow any animal to remain a public nuisance as defined herein.

F. It shall be unlawful for any person to permit the carcass of any dead animal to be or remain, upon any property under his control for more than twenty-four (24) hours after the death of the animal.

Section 26: Enforcement

A. Representatives of the police department shall enforce the provisions of this chapter. Police officers and animal control officers shall have the authority to issue citations to persons violating the provisions of this chapter. If the person is not present, an animal control officer shall have the authority to send the citation to the alleged offender by registered or certified mail.

B. It shall be unlawful for any owner or person to interfere with a police officer or an animal control officer in the performance of this duties as prescribed by this chapter.

C. Police officers and animal control officers shall have the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter.

Section 27: Penalties

A. Any person found to be in violation, disobedience, omission, neglect, failure or refusal to comply with the enforcement of any of the provisions of this chapter shall be punished by a fine not to exceed two-thousand dollars (\$2,000.00) for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.

B. If any owner is found guilty of having violated any provision of this chapter, such violation may result in the revocation of such owner's authorization to keep or maintain the animal(s) in question.

ARTICLE II.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted without such unconstitutional phrase, clause, sentence, paragraph or section.

ARTICLE IV.

This Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

PASSED AND APPROVED on first reading this the 15th day of June, 2010.

PASSED AND ADOPTED on second reading this the 20th day of July, 2010.

END OF CONSENT AGENDA

- 19. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss Section 551.071 – Consultation with Attorney – Growth Management.**

Council adjourned into Executive Session.

- 20. Reconvene into Regular Session and Consider Action, if any, on Item Discussed in Executive Session.**

There was no action taken in Executive Session.

21. Adjourn.

There were no other matters discussed or acted on at this meeting. There being no further business the meeting was adjourned.

Hal Richards, Mayor

Attest:

John Rounsavall, City Secretary