

**Meeting Date: 7/13/10 (9)**

**ORDINANCE NO. 10064 (N.S.)**

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE TO ADD  
TITLE 3, DIVISION 2, CHAPTER 12, RELATING TO CRIME FREE MULTI-  
FAMILY RESIDENTIAL RENTAL HOUSING**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Title 3, Division 2, Chapter 12 is added to the San Diego County Code, to read as follows:

**CHAPTER 12. CRIME FREE MULTI-FAMILY  
RESIDENTIAL RENTAL HOUSING**

**SEC. 32.1201. PURPOSE.**

Residents in multi-family residential rental housing facilities are frequently victimized when the facility in which they live is unsafe. Proper maintenance of these facilities can reduce criminal activity and improve the safety of residents. The purpose of this chapter is to require the owner or operator of a certain multi-family residential rental housing facilities in the unincorporated area of the County to obtain a crime free certification for the facility by having the facility inspected, submit to training and having each tenant of the facility enter into a lease addendum promising not to commit or allow the commission of criminal activity on the leased premises.

**SEC. 32.1202. CERTIFICATION REQUIRED.**

(a) The Crime Free Multi-Housing Certification requirement shall only apply to residential rental housing facilities that have at least ten calls for service to the Sheriff's Department and/or the Fire Department within any given ninety day period. The Certification requirement shall also only apply to residential rental housing facilities that have a disproportionately higher amount of calls for service, as measured by at least 25% higher calls for service when compared to two similar residential rental housing facilities in any given ninety day period.

(b) It shall be unlawful for a person in the unincorporated area of the County that meets the threshold requirement of paragraph (a) above, to rent a residential dwelling unit to the public unless a Crime Free Multi-Housing Certification has been issued and properly maintained for the location of issuance. Notice of the Crime Free Multi-Housing Certification requirement shall be given by the Sheriff's Department or the Fire

Department. The Crime Free Multi-Housing Certification requirement shall not apply to a group home for the developmentally disabled or other similar uses licensed by the State and/or otherwise governed by State or federal rules and regulations.

### **SEC. 32.1203. HEARING TO CONTEST NOTICE.**

(a) A person may request a hearing to contest a Notice of the Crime Free Multi-Housing Certification requirement by completing a Request for Hearing form within 14 days after the notice was served, either at the office of the department that issued the Notice or by returning a Request for Hearing form by mail. If a person requests a hearing by mail, the request must be postmarked within 14 days of the Notice. Failure to timely request a hearing constitutes a waiver of the right to contest the Notice and the issues in paragraph (b) below.

(b) If the person charged as a responsible person in the Notice requests a hearing the person may contest any or all of the following issues:

- (1) Whether a violation enforceable under this chapter occurred,
- (2) Whether the person charged is responsible for the violation,
- (3) The dates when the violation occurred,
- (4) Whether the Crime Free Multi-Housing Certification requirement threshold has been met.

(c) Within seven days after the Sheriff's Department or the Fire Department receives a timely request for a hearing it shall ask the Clerk of the Board of Supervisors to schedule a hearing before a County hearing officer appointed pursuant to sections 650 et seq. of the County Administrative Code.

(d) The Clerk shall set a hearing date, assign the matter to a hearing officer by selecting a hearing officer on a rotating basis from the list of appointed hearing officers and advise the person requesting the hearing and the department that issued the Notice of the date, time and location of the hearing at least 10 days before the hearing.

### **SEC. 32.1204. APPEAL FEE: DETERMINATION OF AMOUNT/WAIVER OF PAYMENT/REFUND.**

The amount of the appeal fee shall be determined periodically by the Board of Supervisors based upon the County's costs incurred in processing an appeal pursuant to this chapter. The calculation shall include costs incurred by the Sheriff's Department or the Fire Department in preparing for the hearing, Clerk, and the hearing officer.

If the appellant claims an economic hardship in paying the appeal fee, the appellant may apply for a waiver of the appeal fee on forms provided by the Clerk for that purpose. The forms shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein. If the Clerk is satisfied from the information contained in the forms that an appellant qualifies for a waiver under this section the Clerk shall allow the appeal to go forward without payment of the fee.

Upon filing a timely appeal and for good cause shown, the Clerk may grant the appellant a period of time beyond expiration of the appeal period in which to complete and submit the waiver forms. In no event shall the additional time exceed two days.

Failure to submit the waiver forms or pay the appeal fee in a timely manner shall cause the appeal request to be automatically denied. Enforcement of the Crime Free Multi-Housing Certification requirement may then proceed as if no appeal request had been submitted.

If the appeal fee is paid and the hearing officer finds there is not a preponderance of evidence to support the Crime Free Multi-Housing Certification requirement, the appeal fee shall be refunded to the appellant without interest.

#### **SEC. 32.1205. HEARING PROCEDURE.**

Hearings under this chapter shall be conducted as follows:

(a) Every witness before testifying shall take an oath or make an affirmation. The hearing officer is authorized to issue subpoenas, administer oaths and conduct the hearing.

(b) Each party shall have the right to: be represented by legal counsel, call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination and impeach any witness regardless of which party first called the witness to testify. The County may call and examine the appellant or any employee or agent of the appellant as a witness during the County's case in chief or during the County's rebuttal case as if under cross-examination.

(c) Strict rules of evidence shall not apply. Evidence that might otherwise be excluded under the Evidence Code may be admissible if the hearing officer determines that it is relevant and of the kind that reasonably prudent persons rely on in making decisions. All rules of privilege recognized by the Evidence Code, however, apply to the hearing. The hearing officer shall also exclude irrelevant and cumulative evidence.

(d) The hearing shall be conducted in English. If the appellant or any of appellant's witnesses require an interpreter the appellant is responsible to provide a State certified interpreter at appellant's expense.

(e) The hearing may be continued upon request of a party to the hearing upon a showing of good cause.

#### **SEC. 32.1206. HEARING OFFICER'S DETERMINATION.**

At the conclusion of an appeal hearing, the hearing officer shall make written findings of fact and conclusions of law. The hearing officer's decision shall uphold or overrule, in whole or in part, the Crime Free Multi-Housing Certification requirement. The decision shall be filed with the Clerk within seven days of the conclusion of the hearing. A copy of the decision shall be sent by mail to appellant and any other party who appeared at the hearing. The decision of the hearing officer shall be final when filed with the Clerk.

#### **SEC. 32.1207. APPLICATION FOR CERTIFICATION.**

Application for a Crime Free Multi-Housing Certification shall be made in the name of the owner of the premises to be rented and submitted to the San Diego County Sheriff's Department on forms provided by the Sheriff's Department. The application shall identify the location of the property; the name, address and telephone of the owner; the name, address and 24-hour telephone number(s) of the manager or custodian of the property; the owner's agent for service of process; and such other information as may be required by the Sheriff. The applicant shall pay \$150.00 to the Sheriff's Department for the Crime Free Multi-Housing Certification. Payment must be made in full prior to Certification. All fees obtained for Certification shall be used to fund the implementation of this Chapter.

#### **SEC. 32.1208. NON-TRANSFERABLE.**

A Crime Free Multi-Housing Certification shall be issued for a period of one year. Certification shall expire 12 months after issuance, unless previously removed. The Certification shall not be transferable. Each new owner or manager of the rental dwelling unit must obtain a new Certification unless either the manager or owner who already completed the Certification is still retained. Application for renewal shall be made in the same manner as for a new Certification. Applicants shall be required to pay a \$50.00 renewal fee to the Sheriff's Department. Applicants shall also be required to renew their Certification every year until the calls for service have been reduced below the threshold specified in section 32.1202(b) for at least one year from the date of certification.

### **SEC. 32.1209. INSPECTION REQUIRED.**

No Crime Free Multi-Housing Certification shall be issued or renewed unless the dwelling unit(s) and common area(s) in connection with which the Certification is sought are found after inspection to meet all applicable laws and regulations. Rental dwelling units that change ownership shall be required to be inspected before a new Certification may be issued, unless either the manager or owner who already completed the Certification is still retained. The owner will be provided with an inspection report describing any condition which constitutes a violation of any applicable law or regulation, and shall be afforded a reasonable opportunity to correct any such conditions. In the event that more than two follow-up inspections are required in order for the Sheriff to determine compliance, the applicant shall pay an additional inspection service fee of \$100.00 for each additional inspection. Payment must be made in full prior to Certification.

### **SEC. 32.1210. CRIME-FREE HOUSING SEMINAR REQUIRED.**

All persons applying for a Crime Free Multi-Housing Certification including all persons administering, managing or controlling the operation of any residential rental housing facilities required to obtain Crime Free Multi-Housing Certification must attend a Crime-Free Multi-Housing Seminar, administered by the Sheriff's Department, prior to Certification. The seminar may be attended after the application has been submitted.

### **SEC. 32.1211. CRIME-FREE LEASE ADDENDUM.**

Any residential rental housing facilities required to obtain Crime Free Multi-Housing Certification shall include a "Crime-Free Lease Addendum" as part of their rental agreement in substantially the following form:

### **Crime-Free Lease Addendum**

In addition to all other terms of the lease, Landlord and Tenant agree as follows:

(a) The Tenant, any member of the Tenant's household, any guest or any other person associated with the Tenant on the leased premises:

(1) Shall not engage in any nuisance activity as defined in Civil Code sections 3479 and 3480, any criminal activity, including drug-related criminal activity, on the leased premises. "Drug related criminal activity" means the illegal manufacture, sale, distribution, use, or possession of any illegal or controlled substance as defined in 21 U.S.C. 802.

(2) Shall not engage in any act intended to facilitate nuisance or criminal activity.

(3) Shall not allow the dwelling unit to be used for or to facilitate any nuisance or criminal activity.

(b) The Tenant, any member of the Tenant's household, any guests or any other person associated with the Tenant shall not violate any civil law, ordinance or statute in the use and occupancy of the premises, commit waste or nuisance, annoy, molest or interfere with any other person on the property.

(c) ANY ACTIVITY PROHIBITED BY THIS AGREEMENT SHALL CONSTITUTE A SUBSTANTIAL VIOLATION OF THE LEASE, MATERIAL NONCOMPLIANCE WITH THE LEASE, AND GROUNDS FOR TERMINATION OF TENANCY AND EVICTION.

### **SEC. 32.1212 POSTING OF SIGNAGE**

If the owner does not reside on the premises of any residential rental housing facility, a notice stating the name and address of the owner, or the name and address of his agent in charge of the apartment house, shall be posted in a conspicuous place on the premises.

### **SEC. 32.1213. NOTICE OF VIOLATION.**

Every Crime Free Multi-Housing certified residential rental property and dwelling unit is subject to periodic inspection by the Sheriff's Department and/or the Fire

Department at reasonable times and in a reasonable manner to ensure continuing compliance with all applicable laws and regulations. Whenever it appears by inspection that conditions or practices exist which are in violation of the provisions of this chapter or of any applicable laws and regulations, the Sheriff's Department and/or the Fire Department shall serve the owner or operator with a Notice of Violation, stating what action is required to correct the violation and the time period allowed for correction. Such notice shall state that unless the violations cited are corrected within the time allowed, the Crime Free Multi-Housing Certification may be removed.

#### **SEC. 32.1214. VIOLATION OF CRIME-FREE LEASE ADDENDUM.**

It shall be unlawful for any person required to obtain Crime Free Multi-Housing Certification to intentionally allow any tenant to occupy any residential rental property in violation of any provision of the "Crime Free Lease Addendum" required by this Chapter.

#### **SEC. 32.1215. REMOVAL OF CERTIFICATION.**

The Sheriff's Department may remove a Crime Free Multi-Housing Certification, on not less than five days' notice to the person required to obtain Crime Free Multi-Housing Certification, whenever the Sheriff's Department finds that the certified person has failed or refused to reasonable measures to correct any violation of any law or regulation applicable to the property, after notice and opportunity to take corrective action have been provided.

#### **SEC. 32.1216. JUDICIAL CIVIL PENALTIES.**

As part of a civil action filed by the County to enforce provisions of this Ordinance, a court may assess a maximum civil penalty of \$2500 per violation for each day during which any violation of any provision of this Ordinance is committed, continued, permitted or maintained by such person(s). As part of a civil action, a court may also enjoin a person from violating any provision of this Ordinance and assess a maximum civil penalty of \$6000 for each day any person intentionally violates the injunction.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 13<sup>th</sup> day of July, 2010.