

~~Chapter 8.20 – CRIME FREE RENTAL HOUSING PROGRAM~~^[2]

~~Footnotes:~~

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~~**Editor's note**—Ord. No. 2017-13, § 1, adopted July 18, 2017, amended Chapter 8.20 in its entirety to read as herein set out. Former Chapter 8.20, §§ 8.20.010—8.20.140, pertained to similar material, and derived from Ord. No. 2015-12, adopted November 17, 2015.~~

~~8.20.010 – Purpose and scope.~~

~~The purpose of this chapter is to identify, regulate, and assist the owners of rental dwelling units in the City of Hesperia, to ensure that such units afford tenants a safe and decent place to live, to hold tenants and owners accountable for their actions, and to reduce criminal activity.~~

~~Nothing in this chapter shall be construed to:~~

~~A. Excuse, waive, limit, or modify any other requirements or obligations in federal, state or local laws;~~

~~B. Limit any right or authority of the city to investigate and abate nuisances or to enforce any other provisions of federal, state or local the laws;~~

~~C. Otherwise prevent or waive compliance with all other federal, state or local laws; or~~

~~D. Discourage victims or witnesses of crime or physical or mental health crisis from reporting crime or seeking assistance with physical or mental health crisis.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

~~8.20.020 – Definitions.~~

~~For the purposes of this chapter, words and phrases used in this chapter shall mean as they are defined in Chapter 1.04 of this code, except as otherwise defined below:~~

~~"Annual inspection" means an inspection meeting the criteria and standards of crime free through environmental design (CFTED).~~

~~"Chief of police" means the Hesperia Chief of Police, i.e., the San Bernardino County Sheriff's Captain designated to serve as the chief of police, or any designee thereof.~~

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~~"Crime free through environmental design" or "CFTED" means design standards and guidelines, adopted by resolution of the city council, which ensure the effective use of physical spaces and social environments of residential rental properties to reduce crime.~~

~~"Criminal activity" means behavior or actions that are in violation of established federal, state, or local criminal laws.~~

~~"Local property management company" shall mean an entity that is responsible for the day-to-day maintenance, upkeep and security of a rental property and is operated by a person who is licensed with the California Department of Real Estate as a real estate broker.~~

~~"Local property manager" shall mean a person who is responsible for the day-to-day maintenance, upkeep, and security of the rental property. The local property manager may be the owner of the property.~~

~~"Multi-family residences" means three dwellings or more on a single property.~~

~~"Owner" or "property owner" means a single individual, partnership or joint venture or any entity that has any kind of ownership interest in a single-family residential rental property, multi-family rental property, or residential rental dwelling unit (collectively, "residential rental property") whether as an individual, partner, joint venture, stock owner, or ownership interest in some other capacity or the owner's designee, which may include a local property management company. If more than one person or an entity owns the subject rental property, owner or property owner refers to each person or entity holding any kind of ownership interest in the property, and the property owners' obligations in this chapter are joint and several as to each property owner. Owner shall also mean any person having legal title to real property, including all individuals shown as owners on the last equalized assessment roll of the San Bernardino County Assessor's Office, or an owner's authorized representative.~~

~~"Program" means the crime free rental housing program as set forth in this chapter.~~

~~"Program guidelines" means the administrative guidelines established and adopted by the city manager for the purpose of carrying out the provisions of this chapter.~~

~~"Single-family residence" means a dwelling configured for one group to live in with common areas such as a kitchen and common bathrooms on a single property.~~

~~"Single-family residential rental property," "multi-family rental property," or "residential rental dwelling unit" (collectively, "residential rental property") means a dwelling unit, all or part of which is occupied by a person(s) other than the owner of the unit where money, services or valuables are exchanged for the ability to reside whether this agreement is verbal or in writing. This includes the premises on which said residential rental property is situated and any common areas. The following types of dwelling units or facilities are not considered residential rental property:~~

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~~1. Hotels or motels.~~

~~2. Accommodations in any hospital, extended care facility, residential care facility and convalescent home.~~

~~3. Mobile home parks.~~

~~4. Business, commercial or industrial properties unless there is a dwelling structure on the property.~~

~~"Tenant" means a person who occupies or is in possession of a residential rental property as a tenant or permittee of the owner.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

~~8.20.030 – Rebuttable presumption.~~

~~For the purpose of this chapter, if the water, refuse, gas, electric or property tax bill is in a different name than that of the property owner, or if the water, refuse, gas, electric or property tax bill is in the owner of record's name but mailed to an address other than the property address, it shall be a rebuttable presumption that the property is residential rental property. This presumption can be rebutted by the owner of record, or by his or her designated representative, providing satisfactory documentation to the city that the property is owner-occupied or is not being used for rental income.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

~~8.20.040 – Residential rental property registration.~~

~~A. Registration Required. As a condition of exercising the privilege of renting or leasing a residential rental property to any person and/or entity, the owner of the residential rental property, local property management company or local property manager shall annually register with the city.~~

~~1. Contents of Registration Form. The registration form shall be in a format determined by the city manager and shall contain the location of the residential rental property, the owner's name and contact information, the name of person acting on the owner's behalf and his or her contact information, and number of dwelling units.~~

~~2. The owner shall pay any adopted fees, which shall cover the city's annual costs of processing and maintenance as it relates to registration of the residential rental property.~~

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~~3. Non-transferable. Registration of a residential rental property accepted by the city pursuant to this chapter is not transferable to a new owner of the residential rental property. Any new owner must re-register and provide current registration information.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

8.20.050 – Crime free screening and notification program.

~~A. Crime Free Database. The chief of police will maintain a crime free database. This database will contain the registration information of residential rental properties registered pursuant to Section 8.20.040. This database shall be subject to the city's records retention and destruction policies.~~

~~B. Crime Free Screening Program.~~

~~1. Request. An owner whose residential rental property is registered pursuant to Section 8.20.040 may submit a request to the chief of police seeking information that must be disclosed pursuant to Government Code Section 6254(f)(1) about specifically identified arrests within the City of Hesperia involving a prospective or current adult tenant. Such a request shall include the following:~~

~~a. Notarized written consent from the prospective or current adult tenant(s) stating that he or she affirmatively consents to providing identifying information, including a copy of a valid government-issued photo identification card, for the purpose of crime free screening, as provided herein. This written consent shall be in a form approved by the city manager.~~

~~b. A copy of a valid government-issued photo identification card of the prospective or current adult tenant(s), such as a California Driver's License.~~

~~c. The mailing address of the prospective or current adult tenant(s).~~

~~d. Payment for any adopted fees relating to the city's costs in providing the crime free screening program.~~

~~2. Report. To the extent permitted by law, the chief of police shall then provide the owner with a report that includes the information required to be disclosed pursuant to Government Code Section 6254(f)(1) within ten (10) business days after receipt of a request from an owner, as provided in Section 8.20.050(B)(1), including any requests for screening or reports, pursuant to this Section 8.20.050, made on or after August 17, 2017. This report shall be mailed to the mailing address of the subject prospective or current tenant at the same time it is provided to the owner.~~

~~a. If the chief of police determines that the information requested pursuant to Section 8.20.050(B)(1) does not exist or is not required to be disclosed under Government Code Section 6254(f)(1), then he or she shall issue a report to the requesting owner stating as such.~~

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~~b. Extension of Time. The chief of police may extend this deadline by an additional fourteen (14) business days from the date that a report is due.~~

~~3. Upon receiving this report, the owner has the sole discretion to take actions that he or she determines to be legally appropriate. All reports issued shall contain an admonition in substantially the following form: "This report is for informational purposes only. The landlord or property owner has the sole discretion to take any action that he or she determines to be legally appropriate."~~

~~4. All requests and reports, made pursuant to Section 8.20.050(B), shall be subject to the city's records retention policies.~~

~~C. Crime Free Notification System. The chief of police shall establish a system in which owners may be notified of arrests on their residential rental property. Owners who desire to participate may, as part of the registration required pursuant to Section 8.20.040 or otherwise, request that the chief of police include an owner's residential rental property as part of the crime free notification system, provided that the owner and the residential rental property meets the qualifications established herein.~~

~~1. Qualification. In order to qualify for this program, an owner must submit a valid request, in a form approved by the city manager, to receive notifications pursuant to the crime free notification system and incorporate a crime free lease addendum into all new lease agreements executed after the residential rental property's inclusion in the crime free notification system. Owners who desire to participate in the crime free notification system shall also make reasonable efforts to integrate the crime free lease addendum into any extensions of an existing lease agreement.~~

~~a. The crime free lease addendum shall substantially include the following provisions:~~

~~i. That the tenant, or any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity that would violate any federal, state or local law, on, near, or related to the property premises, including in any common areas and facilities.~~

~~ii. That the tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in any act intended to facilitate criminal activity that would violate any federal, state or local law, including drug-related criminal activity, on, near, or related to the property premises, including in any common areas and facilities.~~

~~iii. That the tenant or members of the household will not permit the dwelling unit to be used for, or to facilitate, criminal activity that would violate any federal, state or local law, including prostitution and drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household or a guest.~~

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~~iv. That the tenant or member of the household will not engage in the possession, manufacture, sale or distribution of illegal drugs, on, near, or related to the property premises, including in any common areas and facilities, that would violate any federal, state or local law.~~

~~v. That the tenant or member of the tenant's household, or a guest or other person under the tenant's control shall not engage in acts of violence that would violate any federal, state or local law, including but not limited to, the unlawful discharge of firearms, on, near, or related to the property, including in any common areas and facilities.~~

~~vi. That the tenant agrees that any single violation of the above provisions may be a material violation of the lease, be good cause for termination of tenancy, and be deemed a serious violation and a material noncompliance with the lease such that a single violation shall be good cause for termination of the lease.~~

~~vii. That failure to comply with the crime free lease addendum may be considered a material non-curable breach of the lease and may result in a three day notice to quit being served upon the tenant requiring that the tenant, every member of tenant's household, or a guest or other person(s) under tenant's control shall vacate said premises within three days, all in accordance with California Law and that California Law provides for extraordinary remedy to regain possession when illegal activity is being carried out on or near the premises which constitutes a public or private nuisance.~~

~~b. A request to receive notifications pursuant to the crime free notification system shall include the following information:~~

~~i. The address of the residential rental property that the owners seek to include to receive notices from the crime free notification system.~~

~~ii. Payment for any adopted fees relating to the city's costs in providing notices pursuant to the crime free notification system. Failure to pay such adopted fees, including any adopted annual fees, shall result in disqualification from the crime free notification system until payment thereof.~~

~~iii. Notarized written consent from the prospective or current adult tenant(s) of the residential rental property stating that he or she affirmatively consents to disclosure of information for the purpose of crime free notices as provided in Section 8.20.050(C)(2). This written consent shall be in a form approved by the city manager and shall be required upon the execution of any new lease agreement. However, a notarized written consent shall not be required if the owner seeks to receive crime free notices for arrests where a prospective or current adult tenant(s) is not the subject of the arrest.~~

~~2. Crime Free Notice.~~

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~~a. Upon becoming aware of an arrest occurring at a registered residential rental property that meets the qualifications of Section 8.20.050(C)(1), the chief of police shall provide notice to owners concerning the arrest. This notice shall be provided to the tenant occupying such residential rental property at the same time it is provided to the owner.~~

~~b. To the extent that such information is available and to the extent that the chief of police determines that disclosure of a particular item of information would not endanger the safety of a person involved in an investigation or would not endanger the successful completion of the investigation or a related investigation, the notice provided by the chief of police shall include the information that must be disclosed pursuant to Government Code Section 6254(f)(1), and also provide the following information:~~

~~i. The relevant report or incident number.~~

~~ii. Information relating to the appeals process provided in this chapter.~~

~~c. Upon receiving this notice, the owner has the sole discretion to take actions that he or she determines to be legally appropriate. All notices issued shall contain an admonition in substantially the following form: "This notice is for informational purposes only. The landlord or property owner has the sole discretion to take any action that he or she determines to be legally appropriate."~~

~~d. The notice provided by the chief of police shall be in writing and sent by email with acknowledgement or certified mail with return receipt requested. All notices, made pursuant to Section 8.20.050(C), shall be subject to the City's records retention policies.~~

~~D. Appeals.~~

~~1. A person who is the subject of a tenant screening report, as provided in Section 8.20.050(B), or a crime free notice, as provided in Section 8.20.050(C), may file an appeal of such report or notice pursuant to Section 8.20.100.~~

~~2. An owner whose residential rental property is the subject of a tenant screening report, as provided in Section 8.20.050(B), or a crime free notice, as provided in Section 8.20.050(C), may file an appeal of such report or notice pursuant to Section 8.20.100.~~

~~E. Opt-Out Process.~~

~~1. An owner whose residential rental property is subject to the crime free notification system may, at any time, submit a form to the city manager opting out of the crime free notification system.~~

~~2. The opt-out form shall be in a format determined by the city manager and shall contain the location of the residential rental property, the owner's name and contact information, and the~~

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~~name of person acting on the owner's behalf and his or her contact information. The opt-out form shall contain the notarized signature of the owner.~~

~~3. Upon receipt of an opt-out form complying with Section 8.20.050(E), the city manager shall direct the chief of police to remove the owner's residential rental property from the crime free notification system.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

~~8.20.060 – Monthly Reports~~

~~A. An owner whose residential rental property has been registered pursuant to this chapter may request, in a form approved by the city manager, that the chief of police provide him or her a monthly report containing information relating to law enforcement activities occurring at the owner's residential rental property. The chief of police shall not disclose information that is prohibited from disclosure by federal, state, or local law. In order to receive such monthly reports, an owner shall pay any adopted fees, including any adopted annual fees.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

~~8.20.070 – CFTED Standards and administrative policies.~~

~~A. CFTED Standards. The city council shall adopt by resolution such standards and guidelines for the purpose of ensuring crime prevention and reduction. All residential rental property shall comply with adopted CFTED standards.~~

~~B. Administrative Policies. The city council may establish and adopt administrative policies for the implementation of this chapter.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

~~8.20.080 – Inspections.~~

~~A. Annual Inspections. All residential rental property located in the city shall be subject to an annual inspection by the city for compliance with federal, state, or local laws, program guidelines, and CFTED standards. The owner or their designee will receive the results of the inspection.~~

~~B. Notice of Inspection and Procedures.~~

~~1. After receiving a completed registration form from an owner, the city will conduct an exterior inspection of the residential rental property to identify compliance with the federal, state, or local laws, program guidelines, and CFTED standards.~~

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~~2. No prior notice of inspection will be made to the owner. An owner does not have to be present for the inspection.~~

~~C. Members of the city's police department will be responsible for conducting the inspections authorized by this chapter. However, the city may request that other city departments participate in the inspection process. The inspection will be from the exterior of the residential rental property's buildings and structures. It will cover compliance with federal, state, or local laws, program guidelines, and CFTED standards.~~

~~D. After completion of the inspection, a written report of the inspection will be sent to the owner. The report shall contain:~~

~~1. An itemization of any violations of the federal, state, or local laws, program guidelines, and CFTED standards identified during the inspection;~~

~~2. The period of time for correcting each of the identified violations;~~

~~3. A statement of a re-inspection at the end of the period of time for correction, if applicable;~~

~~4. The amount of the re-inspection fee and the date by which the re-inspection fee must be paid; and~~

~~5. A statement that if the violations are not corrected within the period of time for correction the city may pursue legal action as authorized under this code to abate such violations.~~

~~6. If no violations are found as a result of the inspection, the inspection report shall state so and city shall issue a certificate of registration to the owner.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

8.20.090 – Fees.

~~The city council may establish such fees that are necessary for the administration and enforcement of this chapter. All such fees shall be set by resolution of the city council.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

8.20.100 – Appeals.

~~A. If an appealing party desires to appeal the chief of police's notices or reports pursuant to Section 8.20.050(B) or 8.20.050(C)(3), the appealing party shall file a notice of appeal with the city clerk within thirty (30) days from the date of the chief of police's notices or reports together with any filing fee set by resolution of the city council. The notice of appeal shall~~

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~~contain the appealing party's mailing address and telephone number; the basis for appeal; and any other relevant documentation or evidence.~~

~~B. Appeal hearings shall be conducted by the city's administrative hearing officer.~~

~~C. The filing of any notice of appeal provided shall temporarily stay the chief of police's findings in the subject notices or reports, issued pursuant to Section 8.20.050(B) or 8.20.050(C)(3), until the issuance of a final administrative order by the administrative hearing officer.~~

~~D. Appeal hearings shall be held not less than thirty (30) days and not more than sixty (60) days from the date the notice of appeal is filed, provided that no appeal hearing shall be held unless any required filing fee has been deposited in advance.~~

~~E. The city shall provide the appealing party and any other party that is the subject of the notices or reports, issued pursuant to Section 8.20.050(B) or 8.20.050(C)(3), with written notice of the time and place of the appeal hearing at least ten days prior to the date of the hearing. If the chief of police submits an additional written report to the administrative hearing officer for consideration at the appeal hearing, a copy of the report shall be served on all parties with the notice of hearing.~~

~~F. The appealing party's failure to appear at the appeal hearing shall constitute a forfeiture of any deposited amounts and be deemed a failure to exhaust his or her administrative remedies. The final determination of the administrative hearing officer shall be served on the appealing party by mailing a copy of the determination by certified mail postage prepaid to the appealing party at his or her last known address.~~

~~G. The administrative hearing officer shall hear, receive and consider testimony and documentary evidence regarding the chief of police's determination and notice, as may be applicable and as provided in this chapter. The chief of police's initial determination and/or notice, as may be applicable, including any additional report submitted by the chief of police, shall constitute prima facie evidence of the respective facts contained in those documents. The appealing party and any other party that is the subject of the notices or reports, issued pursuant to Section 8.20.050(B) or 8.20.050(C)(3), shall be given the opportunity to testify at the hearing to present evidence concerning the chief of police's notice and/or report. The appeal hearing shall not be subject to the formal rules of evidence or discovery. The administrative hearing officer may continue the hearing and request additional information from the chief of police, the appealing party, or any other appearing party that is the subject of the notices or reports, issued pursuant to Section 8.20.050(B) or 8.20.050(C)(3), prior to issuing a final administrative decision.~~

~~H. After considering all of the testimony and evidence submitted at the appeal hearing, the administrative hearing officer shall issue a written decision to uphold, modify, cancel, or reverse the chief of police's determination and/or notice, as may be applicable, within sixty (60) days.~~

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~~I. The written decision of the administrative hearing officer shall be final and conclusive. The written decision shall be served on the appealing party by mailing a copy of the order by certified mail, postage prepaid, to the appealing party at his or her last known address.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

8.20.110 – Complaint-based inspections.

~~Nothing contained in this chapter shall prevent or restrict the city's authority to inspect any residential rental property in response to a complaint alleging code violations or violations of applicable federal, state, or local laws and to pursue all remedies permissible under such applicable laws.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

8.20.120 – Voluntary inspection requests.

~~Nothing contained in this chapter shall be construed to prohibit a property owner or tenant from voluntarily requesting an inspection pursuant to this chapter to determine whether the residential rental property complies with applicable federal, state, or local laws.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

8.20.130 – Enforcement.

~~A. Violations Identified During Inspection. If the owner fails to correct a violation of the federal, state, or local laws identified in the report of inspection within the time allowed, the city may issue an administrative citation, issue a notice of intent to abate, or may take any other action authorized by law to enforce the provisions of this code.~~

~~B. Failure to Pay Fees. Should an owner fail to timely pay any fees due under this chapter, the city may take appropriate action to recover the unpaid fees, including any accrued interest, penalties and personnel costs utilizing any remedies authorized by law.~~

~~C. Violations. Owners who fail or cause to fail to cooperate with inspections required under this chapter or fail to otherwise comply with the requirements of this chapter, including registration or eviction requirements, may be subject to enforcement pursuant to Chapter 1.12 of Title 1 of this Code or any other action authorized by law to enforce the provisions of this Chapter.~~

~~D. Strict Liability. Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this chapter shall be subject to prosecution under applicable law.~~

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~~E. Revenue and Taxation Code. The city may also utilize the provisions of the Revenue and Taxation Code Section 24436.5 to encourage the elimination of substandard conditions in rental housing. The city is also authorized to bring an action under the Business and Professions Code for unfair business practices.~~

~~F. Attorneys' Fees. In an action, administrative proceeding, or special proceeding to abate a violation of this chapter, the prevailing party may recover attorneys' fees pursuant to Government Code Section 38773.5. Recovery of attorneys' fees is limited to those individual actions or proceedings in which the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. An award of attorneys' fees to a prevailing party shall not exceed the amount of reasonable attorneys' fees incurred by the city in an action, administrative proceeding, or special proceeding.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~

8.20.140 – Severability.

~~If any provision, section, paragraph, sentence or word of this chapter is determined or declared invalid by any final court action in a court of competent jurisdiction or if the application of any provision, section, paragraph, sentence or word of this chapter is inapplicable to a specific situation by reason of any preemptive state or federal legislation or regulation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.~~

~~(Ord. No. 2017-13, § 1, 7-18-17)~~