

**CITY OF LAVON, TEXAS  
ORDINANCE NO. 2022-11-05**

Amending Chapter 8, Article 8.06 of the Code of Ordinances – Property Maintenance and Community Appearance

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS, ADOPTING RULES AND REGULATIONS FOR REGULATING THE REMOVAL OF GRAFFITI AND PREVENTING FURTHER SPREAD OF GRAFFITI BY AMENDING THE CITY’S CODE OF ORDINANCES CHAPTER 8, “OFFENSES AND ADDITIONAL PROVISIONS”, ARTICLE 8.06, “PROPERTY MAINTENANCE AND COMMUNITY APPEARANCE,” BY ADDING SECTION 8.06.011, “GRAFFITI”; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; PROVIDING A PENALTY; PROVIDING SEVERABILITY, REPEALER AND SAVINGS CLAUSES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City Council ("City Council") of the City of Lavon ("City") has authority pursuant to Texas Local Government Code Section 51.001, to adopt an ordinance that is for the good government, peace, or order of the City, and pursuant to Texas Local Government Code Section 250.006, may regulate the removal of graffiti; and

**WHEREAS**, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of the City to amend the City’s Code of Ordinances in Chapter 8 to add regulations to regulate the removal of graffiti and to prevent further spread of graffiti; and

**WHEREAS**, graffiti contributes to the deterioration of neighborhoods, negatively impacts the value and enjoyment of private and public property, and encourages vandalism, additional graffiti, and other criminal activities; and

**WHEREAS**, graffiti must be abated to avoid the detrimental impact of such graffiti on the maintenance and development of the city and its residents, and to prevent further spread of such graffiti; and

**WHEREAS**, the City Council finds that the adoption of this Ordinance is in the best interest of the City and that the regulations provided herein will promote and provide for the health, safety, and welfare of the City.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:**

**SECTION 1. RECITALS**

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

## **SECTION 2. AMENDMENTS**

Chapter 8, "Offenses and Additional Provisions," Article 8.06, "Property Maintenance and Community Appearance," of the City's Code of Ordinances is hereby amended to add Section 8.06.011 "Graffiti" to read entirely as follows:

### **Sec. 8.06.011            Graffiti**

#### **(a) Definitions**

In addition to the definitions set out in Section 8.06.001 of this article, the following terms, when used in this Section, shall have the meaning ascribed to them in this subsection:

*Graffiti* means any markings, including initials, inscriptions, slogans, designs, or other drawings which are written, sketched, painted, drawn, or applied in any other way to any structure, building, or property, whether real or personal, or to any portion or element thereof, whether the property is public or private, without the effective consent of the property owner.

*Guardian* means a person who, by court order, is the legal guardian of a minor, or a public or private agency with whom a minor has been placed by the court.

*Minor* means any person under the age of 18.

*Parent* means a natural parent, adoptive parent, or step-parent of a minor.

#### **(b) Offenses**

- (1) It shall be unlawful for any owner of property in the city to fail to remove all graffiti on the owner's property that is visible from any public property or right-of-way or from any private property other than the property on which the graffiti exists by the 15<sup>th</sup> day after service of notice in accordance with Sec. 8.06.005(a) of this article, except if (1) the graffiti is located on transportation infrastructure; and (2) the removal of the graffiti would create a hazard for the person performing the removal.
- (2) A parent or guardian of a minor commits an offense if he or she knowingly permits or by insufficient control allows the minor to affix or apply graffiti to public or private real or personal property.
- (3) An offense under this Section is punishable in accordance with Section 8.06.009 of this article.

(c) Notice

In the event of a violation under Section 8.06.011(b)(1), the city may not give notice to an owner under Section 8.06.005(a) of this article unless: (1) the city has offered to remove the graffiti from the owner's property free of charge; and (2) the owner has refused the offer. The notice shall require the owner to remove the graffiti on or before the 15<sup>th</sup> day after the date the property owner receives such notice. Failure of the owner to abate the nuisance shall not constitute prima facie evidence of a violation of this Section until after the fifteen (15) day time period after any such notice. In the event of notice under this Section given by certified mail, the notice shall be sent to the owner at the owner's address contained in the records of the appraisal district in which the property is located.

(d) Abatement by City

In the event of a violation under Section 8.06.011(b)(1), after fifteen (15) days have passed since the date of receipt of the notice by the owner, the city may abate the violation under the procedures set out in Section 8.06.006 of this article. The administrative fees provided in Section 8.06.008 of this article are applicable for graffiti abatements as well.

(e) Lien

The owner's failure to comply with this Section may result in the city securing a lien against the property. To obtain a lien against the property for expenses incurred by the city to bring the property into compliance under this Section, the governing body of the city must file a statement of expenses with the county clerk, which must contain: (1) the name of the property owner, if known; (2) the legal description of the property; and (3) the amount of expenses incurred to bring the property into compliance. A lien under this Section attaches to the property on the date on which the statement of expenses is filed in the real property records of the county in which the property is located and is subordinate to (1) any previously recorded lien; and (2) the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed. The lien shall include ten percent (10%) interest on the delinquent amount from the date such payment was due. The city may bring suit for foreclosure of the lien in the name of the city to recover the expenditure and interest due, and in said suit, the statement of costs and expenses, or a certified copy of the statement, shall be prima facie proof of the expenses incurred by the city in doing the work or making the improvements. Any release of lien shall be in accordance with 8.06.010 of this article.

**SECTION 3. Effective Date**

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**SECTION 4. Penalty.**

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum in accordance with the general penalty provided in Section 1.01.009 of the City's Code of Ordinances. Each time that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this division is a misdemeanor. The penalty provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies to it pursuant to local, State and federal law.

#### **SECTION 5. Severability**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

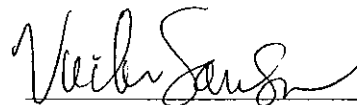
#### **SECTION 6. Repealer and Savings**

This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncoded, and all other provisions of the ordinances of the City, codified or uncoded, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Any repeal occurring due to this provision shall not abate any pending prosecution or lawsuit and/or prevent any prosecution or lawsuit from being commenced for any violation occurring before the effective date of this Ordinance.

#### **SECTION 7. Open Meeting**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED** by the City Council of the City of Lavon, Texas this 15<sup>th</sup> day of November 2022.

  
Vicki Sanson, Mayor

ATTEST:

  
Rae Norton, City Secretary

