

**CITY OF LAVON**  
**ORDINANCE NO. 2022-04-06**

Adding Article 4.09 of the Code of Ordinances – Habitual Criminal and Nuisance Properties

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 4 “BUILDING REGULATIONS” TO ADD ARTICLE 4.09 “HABITUAL CRIMINAL AND NUISANCE PROPERTIES”; PROVIDE A PURPOSE FOR THE CRIMINAL NUISANCE ABATEMENT REGULATIONS; PROVIDING DEFINITIONS; PROVIDING FOR THE AUTHORITY FOR THE CHIEF OF POLICE AND PUBLIC WORKS DIRECTOR; PROVIDING PRESUMPTIONS FOR WHEN A PROPERTY IS DEEMED A CRIMINAL NUISANCE AND THE OWNER IS DEED TO HAVE KNOWINGLY TOLERATE THE ABATABLE CRIMINAL ACTIVITY; REQUIRING ATTENDANCE AT AN ACCORD MEETING WHEN CHIEF DECIDES THE PRESUMPTIONS ARE SATISFIED; CREATING AN OFFENSE FOR FAILURE TO ATTEND THE ACCORD MEETING; PROVIDING FOR AN APPEAL OF THE CHIEF’S DECISION TO THE CITY ADMINISTRATOR; AUTHORIZING THE CHIEF TO PLACARD HABITUAL CRIMINAL PROPERTIES; CREATING AN OFFENSE FOR UNAUTHORIZED REMOVAL OF A PLACARD; PROVIDING FOR AN INSPECTION OF HABITUAL CRIMINAL PROPERTIES; PROVIDING FEES FOR INSPECTION OF HABITUAL CRIMINAL PROPERTIES; PROVIDING FOR THE DELIVERING OF NOTICES; PROVIDING A PENALTY; PROVIDING SAVINGS AND SEVERABILITY CLAUSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the 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

**WHEREAS**, it is in the interest of the public health, safety, and welfare of the citizens of the City to regulate properties where certain criminal activity is prevalent; and

**WHEREAS**, in order to reduce and eliminate certain criminal activity, the City needs the cooperation of owners who own properties were persons habitually engage in certain criminal activity by having owners take affirmative steps to improve their properties; and

**WHEREAS**, “Crime Prevention Through Environmental Design” is a proven multidisciplinary approach to reducing criminal activity and can be adopted by owners to reduce criminal activity at their properties; and

**WHEREAS**, the City Council has investigated and determined it is in the best interest of the citizens of Lavon to amend Chapter 4 “Building Regulations” of the City Code of Ordinances to regulate habitual criminal and nuisance properties; and

**WHEREAS**, the City Council finds that the adoption of this Ordinance 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. Amendment to Chapter 4.**

Chapter 4 "Building Regulations" of the City's Code of Ordinances is hereby amended to add Article 4.09 "Habitual Criminal and Nuisance Properties" to read entirely as provided in Exhibit "A," attached hereto and incorporated herein.

**SECTION 3. 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 4. Savings**

This Ordinance shall be cumulative of all other ordinance of Lavon 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 uncodified, and all other provisions of the ordinances of Lavon, codified or uncodified, 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 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.

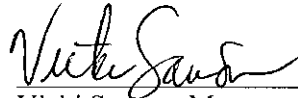
**SECTION 6. Open Meeting**

That 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, all as required by Section 551.042, Texas Government Code.

**SECTION 7. Effective Date**

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

**PASSED AND APPROVED** by the City Council of the City of Lavon, Texas this 19 day of April 2022.

  
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Vicki Sanson, Mayor

ATTEST:

  
\_\_\_\_\_  
Rae Norton, City Secretary



## EXHIBIT "A"

### ARTICLE 4.09. HABITUAL CRIMINAL AND NUISANCE PROPERTIES

#### Sec. 4.09.001. Purpose.

- (a) The purpose of this article is to protect the health, safety, and welfare of the City of Lavon by obtaining an owner's compliance with minimum property conditions and lawful operations, which compliance is likely to reduce certain criminal activity on property where that criminal activity is so prevalent as to render the property a habitual criminal property or a habitual nuisance property.
- (b) This article does not create a private cause of action or expand existing tort liability. This article is not a prerequisite to any suit and does not in any way impair the city's ability to file a lawsuit under Chapter 125 of the Texas Civil Practice and Remedies Code, as amended, or under any law.

#### Sec. 4.09.002. Definitions.

For the purpose of this article, the following definitions shall apply unless the context indicates or requires a different meaning:

*Abatable Criminal Activity.* Those activities listed in Chapter 125 of the Texas Civil Practice and Remedies Code, as amended. The term does not include crimes of family violence.

*Chief of Police or Chief.* means the chief of the police department of the city or the chief's designee.

*Code Violations.* Violations of the Lavon City Code of Ordinances and the adopted Fire Code of the City of Lavon.

*CPTED.* Crime Prevention Through Environmental Design is a multi-disciplinary approach to reducing criminal behavior through environmental design by integrating the following concepts, among others, on property: natural surveillance that eliminates hiding places for people to engage in crime unnoticed; clear delineation of private space from public space; and controlled access onto private property.

*Director.* The director of Public Works or other department head in charge of code compliance in the City of Lavon.

*Habitual Criminal Property.* A property that is described in Section 4.09.003(a).

*Habitual Nuisance Property.* A property that is described in Section 4.09.003(b).

*Owner.* A person or entity who has ownership or title of real property, including, but not limited to:

1. the holder of fee simple title;
2. the holder of a life estate;
3. the holder of a leasehold estate for an initial term of five years or more;
4. the buyer in a contract for deed;
5. a mortgagee, receiver, executor, or trustee in control of real property; and
6. the named grantee in the last recorded deed.

**Sec. 4.09.003. Authority of the Chief of Police and Director.**

- (a) The chief of police shall have the authority to implement and enforce this article as it pertains to abatable criminal properties and may by written order establish such rules, regulations, or procedures, not inconsistent with this article, as the chief of police determines are necessary to discharge any duty under or to effect the purpose of this article as it pertains to abatable criminal properties.
- (b) The director, in collaboration with the chief of the fire department, shall have the authority to implement and enforce this article as it pertains to abatable nuisance properties and may by written order establish such rules, regulations, or procedures, not inconsistent with this article, as the director determines are necessary to discharge any duty under or to effect the purpose of this article as it pertains to abatable nuisance properties.

**Sec. 4.09.004. Presumptions.**

- (a) A property is presumed a habitual criminal property if the property is the site:
  - (1) five or more abatable criminal activities within 365 days resulting in either a report of a law enforcement agency documenting an investigation of an abatable criminal activity on the property or enforcement action against any person associated with the abatable criminal activity on the property; and
  - (2) at which persons have historically committed abatable criminal activities, according to recent crime data.
- (b) A property is presumed a habitual nuisance property if the property is the site of three or more citations for code violations within 365 days.
- (c) An owner of a habitual criminal or nuisance property is presumed to have knowingly tolerated the abatable criminal activity or code violations at the owner's property by failing to take reasonable steps, including those outlined in Section 4.09.004(b)(1) of this chapter, as amended, to abate the abatable criminal activity or code violations.
- (d) The presumptions in this section are rebuttable at the accord meeting pursuant to Section 4.09.004 of this chapter, as amended.

**Sec. 4.09.005. Accord Meeting.**

- (a) If the chief of police or director determines that the presumptions in Section 4.09.003 are satisfied, the chief or director shall notify the owner of the property, in writing, of the chief's or director's preliminary determination and shall provide the owner with notice to attend an accord meeting. The notice must include a copy of this article.
- (b) At the accord meeting, the following applies:
  - (1) The presumed owner may present evidence that the person is not the owner or that the owner has taken reasonable steps to abate the abatable criminal activity or code violations, including, without limitation, that the:
    - a. owner has implemented CPTED principles at the property;
    - b. owner has implemented monitoring and surveillance systems at the property;
    - c. owner is in compliance with all regulations governing the owner's business;

- d. owner is enforcing lease clauses related to reducing abatable criminal activity or code violations, such as tenant screening, enforcement of property rules, and regular tenant verification;
  - e. owner is communicating abatable criminal activity to the chief and cooperating with the chief, as requested;
  - f. owner is demonstrating to the director that the owner is taking proactive steps to abate code violations on the property; and
  - g. property is in compliance with the standards set out in this code.
- (2) The city attorney may attend the meeting as the chief's or director's legal counsel and the owner may bring his or her legal counsel.
- (c) The chief or director shall make all reasonable efforts to schedule the accord meeting during a time when the owner is available but not later than 30 days from the date the accord meeting notice is deemed received or is actually received by the owner, whichever date is sooner.
- (d) Not later than 30 days after the date of the accord meeting, the chief or director shall provide the owner with notice of the chief's or director's final determination as to the presumptions under Section 4.09.003. Notwithstanding the foregoing, upon request of the owner during the accord meeting, the chief or director may delay the notice of determination up to 60 days after the accord meeting, during which time the owner may present additional evidence under Section 4.09.004(b)(1). If the owner does not appear for the accord meeting, the chief's or director's determination is final as of the date of the accord meeting provided in the notice;
- (e) An owner who is provided notice pursuant to this article commits an offense if the owner fails to attend an accord meeting.

**Sec. 4.09.006. Annual Review.**

- (a) Each year, not later than 30 days after the date the chief's or director's determination as to the presumptions under Section 4.09.003 are final, the chief or director shall send a notice to the owner as to whether the presumptions under Section 4.09.003 are still satisfied. The chief or director may, at any time, determine that the presumptions under Section 4.09.003 are no longer satisfied and shall then notify the owner of the chief's determination.

**Sec. 4.09.007. Appeal From Chief's or Director's Determination.**

- (a) The chief's or director's determinations under Sections 4.09.004 and 4.09.005 are final unless the owner files a written appeal to the city administrator. The appeal must be filed with the city secretary not later than 10 calendar days after the date the owner receives notice of the chief's or director's final determination. A person who does not attend the accord meeting is not entitled to an appeal under this section for one year after the accord meeting date in the notice. Only the owner is entitled to an appeal under this article.
- (b) If a written request for an appeal hearing is filed under Subsection (a) with the city secretary within the 10-day limit, the city administrator shall hear the appeal. The city secretary shall set a date for the hearing not later than 30 days after the date the appeal is filed.
- (c) In deciding the appeal, the city administrator is limited to the issues of whether the presumptions in Section 4.09.003 are satisfied.

**Sec. 4.09.008. PLACARDING; CONDITIONS; INSPECTIONS; NOTIFICATION TO CITY COUNCIL.**

- (a) For a property that has been finally determined to satisfy the presumptions in Section 4.09.003 the following applies:
- (1) Placarding. The chief or director may require the owner to place a placard provided by the city on or near the front door or at any main entrance to the structure or dwelling unit. For multitenant and commercial properties, the chief or director may also require the owner to place a placard in a conspicuous place in a common area of the property.
- (b) The placard must be visible at all times and must state one of the following:
- (1) "THE LAVON POLICE DEPARTMENT HAS DECLARED THIS SITE A HABITUAL CRIMINAL PROPERTY UNDER ARTICLE 4.09 OF THE CITY OF LAVON CODE OF ORDINANCES. IF YOU HAVE QUESTIONS, PLEASE CALL LPD AT [TELEPHONE NUMBER DETERMINED BY THE CHIEF]. IF YOU SEE SOMETHING SUSPICIOUS OCCURRING AT THIS PROPERTY OR IN AN EMERGENCY, DIAL 911."
  - (2) "THE LAVON DEPARTMENT OF CODE ENFORCEMENT HAS DECLARED THIS SITE A HABITUAL NUISANCE PROPERTY UNDER ARTICLE 4.09 OF THE CITY OF LAVON CODE OF ORDINANCES. IF YOU HAVE QUESTIONS, PLEASE CALL CODE ENFORCEMENT AT [TELEPHONE NUMBER DETERMINED BY THE DIRECTOR]. IF YOU WITNESS VIOLATIONS PERTAINING TO NOISE, OVERCROWDING, OR VEHICULAR TRAFFIC INTERFERENCE OCCURRING AT THIS PROPERTY, REPORT TO [TELEPHONE NUMBER DETERMINED BY THE DIRECTOR]."
- (c) A person commits an offense if the person:
- (1) fails to place a required placard on the property and keep it posted for the duration required by the chief director; or
  - (2) without authority from the chief or director, removes or destroys the placard.
- (d) Conditions. During the time a property is declared a habitual criminal or nuisance property, the chief or director may place conditions on the operation of the business at the property. The owner of the property and the operator of the business are responsible for compliance with any conditions put on the property. Some conditions the chief or director may put on the property include but are not limited to:
- (1) Minimum number of security guards at the property, including parking lots, at all times or at certain times of operation.
  - (2) Patrol property and adjacent areas to monitor loitering, vandalism, excessive noise, crowd control, and illegal acts.
  - (3) Protocols to ensure prompt and orderly crowd dispersal from the property including on-site and off-site parking areas.
  - (4) Limit hours of entertainment activities including live music and music disseminated by a disc jockey.
  - (5) Additional protocols, including identification scanners, to ensure age restrictions of patrons is strictly enforced.
  - (6) Litter control protocols.
  - (7) Use of a mechanical counting device to ensure maximum occupancy limits.
  - (8) Bar/club/restaurant training for all or certain establishment employees.

- (e) Inspections. The chief or director may inspect the property for compliance with the conditions and activities in Section 4.09.004(b)(1) or any other condition or activity the chief or director determines, in light of the chief's or director's training and experience, will reduce abatable criminal activity or code violations at the property.
- (f) Notification to City Council. If an establishment operates under a specific use permit, the chief or director shall notify the City Council that the property is a habitual criminal or nuisance property.

**Sec. 4.09.009. Fees.**

- (a) For a property that has been finally determined to satisfy the presumptions in Section 4.09.003, the owner shall pay an annual fee to the city according to the City of Lavon Fee Schedule as amended for each year that the presumptions in Section 4.09.003 are satisfied. In this section, residential and nonresidential refer to those uses as defined in the City of Lavon Code of Ordinances, as amended. The fees are not refundable in whole or in part

**Sec. 4.09.0010 Delivery of Notices.**

- (a) Any notice to be provided by the city pursuant to this article shall be deemed effective if made to the owner. Notice is effective when:
  - (1) personally delivered to the owner; or
  - (2) mailed by certified U.S. mail, with return receipt requested, and addressed to the owner at the last address provided in the registration of the property under section 4.08.003, as amended, or, if the property is not subject to registration, then to the last address in the central appraisal district records. Mailed notice shall be deemed received and effective three days after the date of mailing whether the notice was actually received or whether the notice was returned unclaimed or undeliverable.

**Sec. 4.09.011. Penalty.**

- (a) Any person violating any provision of this article shall, upon conviction, be fined a sum in accordance with the general penalty provided in section 1.01.009 of this code. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this division is a misdemeanor.
- (b) The penalty provisions imposed under this article shall not preclude the City of Lavon from filing suit to enjoin the violation. The City of Lavon retains all legal rights and remedies to it pursuant to local, State and federal law.