

CITY OF LAVON
ORDINANCE NO. 2025-03-10

Repealing and Replacing 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 REPEAL AND REPLACE ARTICLE 4.09 “HABITUAL CRIMINAL AND NUISANCE PROPERTIES”; 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 adopted Ordinance No. 2022-04-06 adding Article 4.09 Habitual Criminal and Nuisance Properties to Chapter 4 “Building Regulations” of the City Code of Ordinances to regulate habitual criminal and nuisance properties; and

WHEREAS, the City Council has determined it is appropriate and in order to repeal and replace the regulations to make minor adjustments to the current regulations and add fees for property that has been finally determined to satisfy the presumptions in Section 4.09.004 of the Code of Ordinances: 1) a Habitual Criminal or Habitual Nuisance Determination Fee; and 2) An annual Habitual Criminal or Habitual Nuisance monitoring fee for each year or part of year that the presumptions in Section 4.09.004 are satisfied; 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. INCORPORATION OF PREMISES. The above and foregoing premises are: (i) true and correct and are incorporated herein and made a part of this Ordinance for all purposes; and (ii) legislative findings of the City Council.

SECTION 2. FINDINGS. After due deliberation and consideration, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety, and welfare.

SECTION 3. AMENDMENT. Chapter 4, "Building Regulations" of the City's Code of Ordinances is hereby amended to repeal and replace Article 4.09, "Habitual Criminal and Nuisance Properties," to read in its entirety as provided in Exhibit "A", attached hereto and incorporated herein.

SECTION 4. SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.


SECTION 5. SEVERABILITY. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6. PENALTY. Any person, firm, corporation, or entity violating this Ordinance, as it exists or may be amended, shall be subject to the penalty provision described in added Section 4.09.009. Nothing in this Ordinance shall limit the remedies available to the City in seeking to enforce the provisions of this article or other law, and all remedies shall be cumulative and not exclusive.

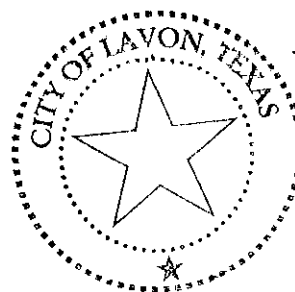
SECTION 7. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 8. OPEN MEETING. That it is hereby 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 Chapter 551, Texas Government Code.


DULY PASSED and APPROVED by the City Council of the City of Lavon, Texas, on the 18th day of March 2025.



Vicki Sanson
Mayor



ATTEST:



Rae Norton
City Secretary

EXHIBIT "A"

§ 4.09.001 Purpose.

(a) The purpose of this article is to protect the health, safety, and welfare of the city 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.

§ 4.09.002 Definitions.

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

Criminal Activity.

Any violation of law that is considered: any class felony, a class A misdemeanor or a class B misdemeanor.

Chief of Police or Chief.

The chief administrator of the City's law enforcement agency or the chief's designee.

Code violations.

Violations of the city Code of Ordinances and the adopted fire code of the city.

Director.

The director of public works, fire marshal, or other department head in charge of code compliance in the city.

Habitual Criminal Property.

A property that is described in section **4.09.004(a)**.

Habitual Nuisance Property.

A property that is described in section **4.09.004(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; or
- (6) The named grantee in the last recorded deed.

§ 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 Habitual 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 affect the purpose of this article as it pertains to Habitual Criminal Properties.

(b) The director shall have the authority to implement and enforce this article as it pertains to Habitual 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 Habitual Nuisance Properties.

§ 4.09.004 Presumptions.

(a) A property is presumed to be a Habitual Criminal Property if the property is the site:

(1) of three (3) or more criminal activities within 365 days resulting in either a report of a law enforcement agency documenting an investigation of the criminal activity on the property or enforcement action against any person associated with the habitual criminal activity on the property; or

(2) At which persons have historically committed criminal activities, according to recent crime data.

(b) A property is presumed to be 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 criminal activity or code violations at the owner's property by failing to take reasonable steps, including those outlined in section **4.09.006(c)(1)** of this chapter, as amended, to abate the criminal activity or code violations.

(d) The presumptions in this section are rebuttable during an appeal pursuant to section **4.09.006** of this article, as amended.

§ 4.09.005 Notification.

If the chief or director determines that the presumptions in section **4.09.004** are satisfied, the chief or director shall notify the owner of the property, in writing, of the chief's or director's determination and shall provide the owner with notice of their right to appeal. The notice must include a copy of this article. The notice to the owner shall be in accordance with section **4.09.010**.

§ 4.09.006 Appeal from chief's or director's determination.

(a) The chief's or director's determinations under sections **4.09.005** are final unless the owner files a written appeal to the city manager. The appeal must be filed with the city secretary not later than ten (10) calendar days after the date the owner receives notice of the chief's or director's determination. 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 ten (10) day limit, the city manager shall hear the appeal. The city secretary shall set a date for the hearing not later than thirty (30) days after the date the appeal is filed.

(c) In deciding the appeal, the city manager may consider the following:

(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 criminal activity or code violations, including, without limitation, that the:

(A) Owner has implemented monitoring and surveillance systems at the property;

(B) Owner is enforcing lease clauses related to reducing criminal activity or code violations, such as tenant screening, enforcement of property rules, and regular tenant verification;

(C) Owner is communicating criminal activity to the chief and cooperating with the chief, as requested;

(D) Owner is demonstrating to the director that the owner is taking proactive steps to abate code violations on the property; and

(E) Property is in compliance with the standards set out in this code.

(2) The city attorney may attend the meeting as the city manager's legal counsel and the owner may bring his or her legal counsel.

(d) Not later than 30 days after the date of the appeal, the city manager shall provide the owner with notice of their final determination. Notwithstanding the foregoing, upon request of the owner during the appeal, city manager may at their discretion delay the notice of

determination up to 60 days, during which time the owner may present additional evidence under section **4.09.006(c)(1)**.

(e) If the owner does not appear for the appeal, the chief's or director's determination is final as of the date of the appeal provided in the notice.

(f) An owner who has requested an appeal and is provided notice pursuant to this article commits an offense if the owner fails to attend an accord meeting.

§ 4.09.007 Annual review.

Each year on or after the anniversary of the date the chief's or director's determination as to the presumptions under section **4.09.004** are final or if the house becomes vacant and after paying the required fees, the owner may request a reevaluation as to whether the presumptions under section **4.09.004** are still satisfied. The chief or director may, at any time, determine that the presumptions under section **4.09.004** are no longer satisfied and shall then notify the owner of the determination.

§ 4.09.008 Placarding; conditions; inspections; notification to city council.

(a) For a property that has been finally determined to be a Habitual Criminal Property:

(1) The chief may require a placard or decal to be placed on or near the front door and at any entrance to the structure or dwelling unit. For multitenant and commercial properties, the chief may also require a placard to be placed in a conspicuous place in a common area of the property.

(2) The placard or decal shall state: "The Lavon police department has declared this site a Habitual Criminal Property under article **4.09** of the city code of ordinances."

(3) Additional wording, information or graphics may be placed on the placard or decal as determined by the Chief.

(b) For a property that has been finally determined to be a Habitual Nuisance Property:

(1) The director may require a placard or decal to be placed on or near the front door and at any entrance to the structure or dwelling unit. For multitenant and commercial properties, the chief may also require a placard to be placed in a conspicuous place in a common area of the property.

(2) The placard or decal shall state: "The Lavon Code Department has declared this site a Habitual Nuisance Property under article **4.09** of the city code of ordinances."

(3) Additional wording, information or graphics may be placed on the placard or decal as determined by the Director.

(c) A person commits an offense if the person:

(1) Interferes with the placing of a required placard or decal on the property; or

(2) Without authority from the chief or director, removes, destroys or damages the placard or decal.

(d) During the time a property is declared a habitual criminal or nuisance property, the chief or director may place conditions on the operation of any 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) The chief or director may inspect the property for compliance with the conditions and activities in section **4.09.006(c)(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 criminal activity or code violations at the property.

(f) 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.

§ 4.09.009 Fees.

For a property that has been finally determined to satisfy the presumptions in section **4.09.004**, the owner shall pay:

- a) A Habitual Criminal or Habitual Nuisance Determination Fee according to the city fee schedule as amended, due within thirty days of determination.
- b) An annual Habitual Criminal or Habitual Nuisance monitoring fee to the city according to the city fee schedule as amended for each year or part of year that the presumptions in section **4.09.004** are satisfied.

In this section, residential and nonresidential refer to those uses as defined in the city code, as amended. The fees are not refundable in whole or in part.

§ 4.09.010 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 Article **4.08**, 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.

§ 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 from filing suit to enjoin the violation. The city retains all legal rights and remedies to it pursuant to local, state and federal law.