

12-2-21

ORDINANCE NO. **32057**

An ordinance amending Chapter 27, "Minimum Property Standards," of the Dallas City Code by amending Article VIII; providing regulations for habitual nuisance properties; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date. Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Article VIII, "Habitual Criminal Properties," of Chapter 27, "Minimum Property Standards," of the Dallas City Code is amended to read as follows:

"ARTICLE VIII.

HABITUAL CRIMINAL AND NUISANCE PROPERTIES.

SEC. 27-45. PURPOSE.

(a) Consistent with the findings of fact in Section 27-1 of this chapter, the purpose of this article is to protect the health, safety, and welfare of the people of the city of Dallas 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. Reducing the crime rate in the city of Dallas is essential to making properties safe, sanitary, and fit for human habitation and for improving quality of life for occupants of surrounding properties ~~[nonresidential purposes]~~.

(b) This article does not create a private cause of action or expand existing tort liability against a property owner. 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 other law.

32057

SEC. 27-46. DEFINITIONS.

In this article:

(1) **ABATABLE CRIMINAL ACTIVITY** means 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.

(2) **CHIEF OF POLICE OR CHIEF** means the chief of the police department of the city or the chief's designee.

(3) **CODE VIOLATIONS** means violations of the following provisions of the Dallas City Code:

(A) Section 107.6, "Overcrowding," of Chapter 16, "Dallas Fire Code."

(B) Section 30-1, "Loud and Disturbing Noises and Vibrations," of Chapter 30, "Noise."

(C) Section 30-4, "Loudspeakers and Amplifiers," of Chapter 30, "Noise."

(D) Sections 43-126.9, 43-126.10, and 43-126.11 of Division 3, "Valet Parking Services," of Article VI, "License for the Use of Public Right-of-Way," of Chapter 43, "Streets and Sidewalks."

(E) Section 51A-6.102, "Noise Regulations," of Article VI, "Environmental Performance Standards," of Chapter 51A, "Dallas Development Code."

(F) Conditions in planned development or specific use permit ordinances regulating outdoor live music, outdoor patios, the operation of outdoor speakers and amplification, and hours of operation of a use.

(4) **CPTED** means crime prevention through environmental design and 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.

(5[4]) **DIRECTOR** means the director of the department of code compliance.

(6) **HABITUAL CRIMINAL PROPERTY** means a property that is described in Section 27-48(a) ~~[of this chapter, as amended]~~.

(7) **HABITUAL NUISANCE PROPERTY** means a property that is described in Section 27-48(b).

(8[5]) OWNER means a person or entity who has ownership or title of real property, including, but not limited to:

- (i) the holder of fee simple title;
- (ii) the holder of a life estate;
- (iii) the holder of a leasehold estate for an initial term of five years or more;
- (iv) the buyer in a contract for deed;
- (v) a mortgagee, receiver, executor, or trustee in control of real property; and
- (vi) the named grantee in the last recorded deed.

SEC. 27-47. AUTHORITY OF THE CHIEF OF POLICE AND DIRECTOR.

(a) The chief of police shall 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 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. 27-48. PRESUMPTIONS.

- (a) A property is presumed a habitual criminal property if the property is the site:
 - (1) of 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 27-49(b)(1) of this chapter, as amended, to abate the abatable criminal activity or code violations.

(d[e]) The presumptions in this section are rebuttable at the accord meeting pursuant to Section 27-49 of this chapter, as amended.

SEC. 27-49. ACCORD MEETING.

(a) If the chief of police or director determines that the presumptions in Section 27-48 [~~of this chapter, as amended,~~] 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:

- (i) owner has implemented CPTED principles at the property;
- (ii) owner has implemented monitoring and surveillance systems at the property;
- (iii) owner is in compliance with all regulations governing the owner's business;
- (iv) 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;
- (v) owner is communicating abatable criminal activity to the chief and cooperating with the chief, as requested; [~~and~~]
- (vi) owner is demonstrating to the director that the owner is taking proactive steps to abate code violations on the property; and
- (vii) 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 27-48 ~~[of this chapter, as amended]~~. 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 27-49(b)(1) ~~[of this chapter, as amended]~~. 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. 27-50. ANNUAL REVIEW.

Each year, not later than 30 days after the date the chief's or director's determination as to the presumptions under Section 27-48 ~~[of this chapter, as amended]~~ are final, the chief or director shall send a notice to the owner as to whether the presumptions under Section 27-48 ~~[of this chapter, as amended]~~ are still satisfied. The chief or director may, at any time, determine that the presumptions under Section 27-48 ~~[of this chapter, as amended]~~ are no longer satisfied and shall then notify the owner of the chief's determination.

SEC. 27-51. APPEAL FROM CHIEF'S OR DIRECTOR'S ~~[OF POLICE'S]~~ DETERMINATION.

(a) The chief's or director's determinations under Sections 27-49 and 27-50 ~~[of this chapter, as amended]~~ are final unless the owner files a written appeal to the permit and license appeal board. 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 permit and license appeal board 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 permit and license appeal board is limited to the issues of whether the presumptions in Section 27-48 ~~[of this chapter, as amended]~~ are satisfied.

(d) If ~~[To the extent of]~~ a conflict exists between this article and Article IX~~[7]~~ of Chapter 2, ~~[of this code]~~ this article controls.

SEC. 27-52. PLACARDING; CONDITIONS; INSPECTIONS; NOTIFICATION TO PLAN COMMISSION.

For a property that has been finally determined to satisfy the presumptions in Section 27-48 ~~[of this chapter, as amended,]~~ 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.

(A) The placard must be visible at all times and must state one of the following:

“THE DALLAS POLICE DEPARTMENT HAS DECLARED THIS SITE A HABITUAL CRIMINAL PROPERTY UNDER ARTICLE VIII, CHAPTER 27, OF THE DALLAS CITY CODE. IF YOU HAVE QUESTIONS, PLEASE CALL DPD AT [TELEPHONE NUMBER DETERMINED BY THE CHIEF]. IF YOU SEE SOMETHING SUSPICIOUS OCCURRING AT THIS PROPERTY OR IN AN EMERGENCY, DIAL 911.”

“THE DALLAS DEPARTMENT OF CODE COMPLIANCE HAS DECLARED THIS SITE A HABITUAL NUISANCE PROPERTY UNDER ARTICLE VIII, CHAPTER 27, OF THE DALLAS CITY CODE. IF YOU HAVE QUESTIONS, PLEASE CALL CODE COMPLIANCE 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 311.”

(B) A person commits an offense if the person:^[1]

(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.

(2) 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:

(A) Minimum number of security guards at the property, including parking lots, at all times or at certain times of operation.

(B) Patrol property and adjacent areas to monitor loitering, vandalism, excessive noise, crowd control, and illegal acts.

(C) Protocols to ensure prompt and orderly crowd dispersal from the property including on-site and off-site parking areas.

(D) Limit hours of entertainment activities including live music and music disseminated by a disc jockey.

(E) Additional protocols, including identification scanners, to ensure age restrictions of patrons is strictly enforced.

(F) Litter control protocols.

(G) Use of a mechanical counting device to ensure maximum occupancy limits.

(H) Bar/club/restaurant training for all or certain establishment employees.

(3) Inspections. The chief ~~or director~~ may inspect the property for compliance with the conditions and activities in Section 27-49(b)(1) [~~of this chapter, as amended,~~] 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.

(4) Notification to city plan commission. If an establishment operates under a specific use permit, the chief or director shall notify the city plan commission that the property is a habitual criminal or nuisance property.

SEC. 27-53. FEES.

For a property that has been finally determined to satisfy the presumptions in Section 27-48 [~~of this chapter, as amended,~~], the owner shall pay an annual fee to the city according to the table below for each year that the presumptions in Section 27-48 [~~of this chapter, as amended,~~] are satisfied. In this section, residential and nonresidential refer to those uses as defined in the Dallas Development Code, as amended. The fees are not refundable in whole or in part.

RESIDENTIAL (by number of dwelling units)	ANNUAL FEE
0-2	\$1,629
3-20	\$2,009
21-59	\$2,752
60-250	\$3,564
251-500	\$4,321
501-1,000	\$5,317
1,001 or more	\$6,313

32057

211946

NONRESIDENTIAL (by square footage of largest improvement)	ANNUAL FEE
0-4,999	\$2,802
5,000-9,999	\$3,447
10,000-59,999	\$4,926
60,000-99,999	\$7,653
100,000 or more	\$9,825

SEC. 27-54. DELIVERY OF NOTICES.

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 VII of this chapter, as amended, or, if the property is not subject to registration under this chapter, 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.

SECS. 27-55 THRU 27-58. RESERVED.”

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 3. That Chapter 27 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

32057

211946

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By Casey Buzen
Assistant City Attorney

Passed DEC 08 2021



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL DEC 08 2021

ORDINANCE NUMBER 32057

DATE PUBLISHED DEC 11 2021

ATTESTED BY: