

ORDINANCE NO. O-2009-028-04

AN ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS AMENDING CHAPTER 66, "OFFENSES AND MISCELLANEOUS PROVISIONS", OF THE HALTOM CITY CODE (1998), AS AMENDED, BY CREATING THE OFFENSES OF CRIMINAL TRESPASS AND LOITERING WITH A CRIMINAL PURPOSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Haltom City, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code;

WHEREAS, individuals who enter or remain on private property without the effective consent of the owner or person in control of the property pose a threat to public safety, the security of property, and peace and order;

WHEREAS, individuals who loiter with a criminal intent on public or private property pose a threat to public safety, the security of property, and peace and order;

WHEREAS, the City of Haltom City, Texas is authorized to adopt ordinances to protect public health, safety and welfare; and

WHEREAS, the City Council of the City of Haltom City, Texas finds that the passage of this Ordinance is necessary to protect public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS THAT:

SECTION 1.

Chapter 66 "Offenses and Miscellaneous Provisions" of the Haltom City Code is hereby amended by adding a new Article VIII "Criminal Trespass and Loitering" to read:

"ARTICLE VIII CRIMINAL TRESPASS AND LOITERING

Sec. 66-211. Criminal Trespass.

It shall be unlawful for any person to enter or remain on or in the property of another without effective consent of the owner, the person in control, or the owner's agent if the person:

- (1) has notice that the entry was forbidden;
- (2) has notice that permission is withdrawn; or
- (3) receives notice to depart from the owner, the person in control, or the owner's agent but fails to do so,

and remains on the property after a Texas Peace Officer orders the person to leave.

Sec. 66-212. Loitering with a Criminal Purpose.

(a) It is unlawful for any person to loiter in or near any street or place open to the public or to which the general public has access to for business, entertainment, or other lawful purpose, including but not limited to the front or immediate area surrounding any convenience store, retail store, or other business establishment, in a manner and under circumstances manifesting the purpose of committing or inducing, enticing, or provoking another to commit assault, reckless damage, criminal mischief, or disorderly conduct.

(b) In this section, the term "loiter" means "to remain, to delay, or to linger in one place with an apparent harmful purpose, such as to

- (i) establish control over an identifiable area;
- (ii) obstruct or impede pedestrian or vehicular traffic;
- (iii) intimidate others from exiting or entering an establishment; or
- (iv) conceal illegal activities;

and at a time not usual for law abiding individuals or under circumstances that warrant a justifiable and reasonable alarm for the safety of persons or property within the vicinity."

(c) The terms "assault", "reckless damage", "criminal mischief", and "disorderly conduct" shall have the same meanings as set out in the Texas Penal Code."

SECTION 2.

This ordinance shall be cumulative of all provisions of the City of Haltom City,

Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 4.

All rights and remedies of the City of Haltom City are expressly saved as to any and all violations of the provisions of Chapter 66 of the Code of Ordinances of the City of Haltom City (1998), as amended, or any other ordinance regarding the regulation of loitering that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance

shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

The City Secretary of the City of Haltom City is hereby directed to publish in the official newspaper of the City of Haltom City, the caption, penalty clause, publication clause and effective date clause of this Ordinance one (1) time within ten (10) days after the first reading of this Ordinance as required by Section 10.01 of the Charter of the City of Haltom City.

SECTION 7.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING THIS 25th DAY OF Jan., 2010.

PASSED AND APPROVED ON SECOND READING THIS 6th DAY OF Feb., 2010.



Mark Lopez
MAYOR

ATTEST:
Art Combs
CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

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WAYNE K. OLSON, CITY ATTORNEY