

**ORDINANCE NUMBER 2008-33**

**AN ORDINANCE BY THE TOWN OF LAGUNA VISTA BOARD OF ALDERMEN REPEALING SECTION H OF (1)(a) OF ORDINANCE NO. 01-91, REPEALING SECTIONS (9) AND (12) OF ORDINANCE NO. 2007-29, ESTABLISHING RESPONSIBILITY ON THE MAINTENANCE OF DRAINAGE DITCHES, PIPES AND CULVERTS.**

**WHEREAS**, in preparation of future rains, storms and hurricanes, there's a need to clarify and establish responsibility for the maintenance of ditches, pipes and culverts;

**WHEREAS**, there's a need to protect and promote the safety, health and welfare of the citizens in Laguna Vista;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF LAGUNA VISTA AS FOLLOWS:**

**SECTION 1. PURPOSE.**

This Ordinance establishes the responsibility for the maintenance of ditches, pipes and culverts.

**SECTION 2: AREA OF ENFORCEMENT.**

This Ordinance shall apply and be enforced within the corporate limits of Laguna Vista, Texas.

**SECTION 3: ORDINANCES REPEALED.**

Section H of (1)(a) of Ordinance No. 01-91 and amending Section 3 of Ordinance No. 21-97, amending Sections (9) and (12) of Ordinance No. 2007-29 are hereby repealed.

**SECTION 4: DEFINITIONS.**

- (1) **"Drainage"** means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, of using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.
- (2) **"Culverts"** means a conduit used to enclose a flowing body of water. It may be used to allow water to pass underneath a road and/or driveways.
- (3) **"Garbage/Rubbish"** means any waste generated from the preparation and handling of food and paper materials and produce packaging including, but not limited to, such items as meat scraps, other food scraps, bread, bones, fruit and vegetable peelings and remains, other deleterious substances, feathers, cans, bottles, rags, old clothes and shoes, glass, cardboard, boxes and cartons.
- (4) **"Large or Bulky items"** means any refrigerators, appliances, wood, auto parts, stoves, carpet, furniture, or other household items.

- (5) "Unacceptable waste" means waste from tree removal, land clearing or construction, cars, boats, tires, automobile parts, oil, dead carcasses, engines, asbestos, radioactive materials, explosives, biomedical or hazardous wastes, fluorescent light bulbs, and batteries.
- (6) "Weeds" means any grass, weeds or other rank vegetation in excess of over 8 inches in any location thereon.

#### **SECTION 5: LACK OF DRAINAGE MAINTENANCE PROHIBITED**

It shall be unlawful for property owners to fail to maintain the ditches adjacent to their properties and/across or through the frontage of their properties.

#### **SECTION 6: PROPERTY OWNER RESPONSIBILITES ON DRAINAGE MAINTENANCE**

- 1) Property owners are responsible for maintaining the ditches adjacent to their properties and/or across or through the frontage of their properties free of garbage/rubbish, large or bulky items, unacceptable waste and weeds.
- 2) Ditches should be maintained in compliance with the Town's mowing policy to the greatest extent possible to assure proper drainage, prevent weed growth and insect breeding, and allow ditches to dry out more quickly after precipitation.
- 3) Property owners are responsible for installing adequate pipes and/or culverts across or through the frontage of their properties to assure that the natural flow of surface and/or storm water from land occurs and is not impeded.
- 4) Property owners are responsible for maintaining any pipes and/or culverts that may exist across or through the frontage of their properties.
- 5) Property owners are responsible for maintaining the ditches adjacent to their properties and/or across or through the frontage of their properties free of litter. Every effort should be made by property owners to properly dispose of brush during brush collection schedule.

#### **SECTION 7: NOTICE TO PROPERTY OWNERS FOR NON-COMPLIANCE**

Property owners are required to abide by Sections 1-13 of Ordinance No. 2007-31 (the garbage disposal ordinance) which outlines the responsibilities of the property owner and/or occupants on the disposal of garbage/litter, large or bulky items and unacceptable waste.

1. Maintenance:
  - a. Whenever garbage/litter, large or bulky items, unacceptable waste, and weeds are placed on a ditch, the property owner shall be notified by the Town, in writing, to

correct, remedy, abate or remove the condition within seven (7) days after such notice is issued and it shall be unlawful for any person to fail to comply with such notice.

- b. Such notice shall further state that, in default of the performance of the above condition, the Town of Laguna Vista may, at once, cause such abatement to be done and charge the cost and expense incurred in doing or having such work done or improvements made, to the owner of the property, and that if not paid such expense shall be assessed as a lien on such real estate. The notice shall further state that any failure to comply with such notice shall be punishable as a Class "C" misdemeanor.
  - c. The foregoing notice shall further inform the owner that another violation of the same kind of nature on or before the first anniversary day from the date of such notice may result, without further notice, in the Town's abatement of the violation at the owner's expense and that if not paid the expense shall be assessed as a lien against such property.
  - d. In the event the property owner fails to clear the ditch of litter as described in this Ordinance, the Town may either do such work, or cause the same to be done, and pay therefore and charge the expenses to abate this letter to the property owner and/or file a citation against the property owner.
2. Improvements:
- a. When a ditch, due to below the surface driveway culverts, undersized, inadequate and/or lack of pipes and/or culverts or lack of adequate grading, is impeding the natural flow of surface or storm water, the Town will work with the property owner to install or upgrade the necessary pipes and/or culverts and/or make the grading improvements to the ditch. The property owner is entirely responsible for the costs of these improvements and will be required to make these improvements within ninety (90) days from the day the Town has notified him/her in writing.
  - b. In the event the property owner fails to make the necessary improvements, the Town may do such work or make such improvements as necessary to the ditch, including installing and/or upgrading pipes and/or culverts to ensure that the natural flow of surface or storm water is not impeded, or cause the same to be done, and pay therefore and charge the expenses for these improvements to the property owner. Such expenses shall be assessed against the lot which the work was done or the improvements made.

#### **SECTION 8: SEVERABILITY**

It is hereby declared that the sections, subsections, sentences, clauses or phrases of this Ordinance are severable and, if any phrase, clause, sentence, subsection or section of this Ordinance shall be declared unconstitutional or invalidity shall not affect any of the

remaining portions of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation of any such unconstitutional phrase, clause, sentence, subsection or section.

**SECTION 9: PUBLICATION**

The City Secretary is hereby ordered and directed to cause this Ordinance to be published.

**PASSED, APPROVED AND ADOPTED by the Board of Aldermen of the Town of Laguna Vista, Texas at the regular meeting on the 9<sup>th</sup> day of December 2008.**

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Stan Hulse, Mayor

ATTEST:

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Alma Deckard, City Secretary