

ORDINANCE NUMBER 2008-32

AN ORDINANCE BY THE TOWN OF LAGUNA VISTA BOARD OF ALDERMEN REPEALING SECTION H OF (1)(a) OF ORDINANCE NO. 01-91, AND REPEALING SECTIONS (9) AND (12) OF ORDINANCE NO. 2007-29, REPEALING SECTIONS 14-20 OR ORDINANCE 2007-31, ESTABLISHING RESPONSIBILITY ON THE MAINTENANCE OF RIGHT OF WAYS, EASEMENTS AND ALLEYS.

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

WHEREAS, there's a need to clarify the responsibilities of the property owners on the maintenance of the right of ways, easements and alleys;

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 right of way, easements and alleys within the Town of Laguna Vista, Texas.

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SECTION 3: ORDINANCES REPEALED.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01-91 and amending Section 3 of Ordinance No. 21-97, amending Sections (9) and (12) of Ordinance No. 2007-29 are hereby repealed.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) The "right of way" is that area of the property owner's lot to which the Town of Laguna Vista has specific rights of access, primarily for utility. This is the property generally from the front lot line of the residential and/or commercial property to the edge of the paved street.
- (2) The "alley" is a narrow street and/access located in the rear of the property. This is the area from the rear lot line of the residential property up to the middle of the alley.
- (3) The "easement" is a right the property owner has granted to the utility company (water, sewer, gas or electricity) or to the municipality. Though granted, the property owner nonetheless maintains ownership of the property where the easement is located as well as responsibility for its maintenance. An easement may be located adjacent to the property and/or across or through the frontage, rear or side of the property.
- (4) "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.
- (5) "Large or Bulky items" means any refrigerators, appliances, wood, auto parts, stoves, carpet, furniture, or other household items.

- (6) "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.
- (7) "Weeds" means any grass, weeds or other rank vegetation in excess of over 8 inches in any location thereon.

SECTION 5: LACK OF RIGHT OF WAY, EASEMENT AND ALLEY MAINTENANCE PROHIBITED

- a) It shall be unlawful for property owners to throw, drop, cast or deposit upon any garbage/rubbish, large or bulky items on any right of way, easement or alley.
- b) It shall be unlawful for property owners to allow weeds to grow on any right of way, easement or alley.

SECTION 6: PROPERTY OWNER RESPONSIBILITIES ON MAINTENANCE

- a) Property owners are responsible for maintaining their right of way, easement, or alley at all times to ensure that such areas are free of garbage/rubbish, large and bulky items and weeds.
- b) 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.

SECTION 7: NOTICE TO PROPERTY OWNERS FOR NON-COMPLIANCE

The sections below repeal Section 14-20 of Ordinance No. 2007-31 and set out new enforcement procedures for property owners not in compliance.

- a) Whenever garbage/litter, large or bulky items, unacceptable waste, and weeds are placed on a right of way, easement or alley, 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.

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 9th day of December 2008.

Stan Hulse, Mayor

ATTEST:

Alma Deckard, City Secretary