

ORDINANCE NUMBER 2007 – 31

AN ORDINANCE REGULATING THE COLLECTION AND DISPOSAL OF GARBAGE, YARD TRASH AND OTHER WASTE WITHIN THE TOWN LIMITS OF THE TOWN OF LAGUNA VISTA; PROVIDING REQUIREMENTS FOR CUSTOMERS AND REQUIRING ALL PERSONS TO MAINTAIN CONTAINERS FOR THE DISPOSAL OF GARBAGE AND FURTHER REQUIRING THAT THE SAME BE DISPOSED OF ON A REGULAR BASIS BY AUTHORIZED PERSONS OR COMPANIES, PROHIBITING THE ACCUMULATION OR DISPOSAL OF GARBAGE AND YARD TRASH WITHIN THE TOWN LIMITS OF THE TOWN OF LAGUNA VISTA; REPEALING ORDINANCE NO. 4-74 AND ORDINANCE 2005-26 AND PROVIDING A PENALTY FOR NONCOMPLIANCE.

WHEREAS, the Town of Laguna Vista, in order to provide for the general health and welfare of its citizens, wishes to provide for the orderly collection of disposal of garbage and yard trash.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF LAGUNA VISTA, TEXAS.

Section 1. Repeal Ordinances

Ordinance No. 04-74 and Ordinance Number 2005-26 are hereby repealed in their entirety and declared to be inoperative and void.

Section 2. Littering prohibited

It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any garbage or yard trash of any kind.

Section 3. Definitions.

Garbage/Rubbish. Garbage/rubbish shall mean any waste generated from the preparation and handling of food and all 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, boxes and cartons.

Yard Trash. Yard trash shall mean lawn cuttings, tree trimmings, leaves and other green waste and yard cleanings.

Large or Bulky Items. Large or bulky items shall mean refrigerators, stoves, carpet, furniture, and other household items.

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Unacceptable Waste. Unacceptable waste shall mean waste from tree removal, land clearing or construction, cars, boats, tires, automobile parts, oil, dead carcasses, engines, asbestos, radioactive materials, explosives, biomedical or hazardous waste, fluorescent light bulbs, and batteries.

Franchise Collection Agency. An agency, person or corporation who, under a separate agreement, has been given exclusive collection rights to collect and dispose of garbage and waste for the Town of Laguna Vista.

Residential Containers. Residential containers shall be a watertight, wheeled receptacle of a solid and durable grade and quality, as provided by the franchise collection agency. Each receptacle shall have a lid.

Commercial Containers. Dumpster provided under a contract with the franchise collection agency. Each dumpster shall have a lid.

Construction Containers. Roll off container provided under a contract with the franchise collection agency.

Section 4. Stagnant water accumulation prohibited.

It shall be unlawful for any person who shall own or occupy any lot or lots in the Town, to permit or allow holes or places on said lots where water may accumulate and become stagnant or to permit or allow the accumulation of stagnant water thereon, or permit the same to remain thereon.

Section 5. Carrion, etc. prohibited.

It shall be unlawful for any person who shall own or occupy any house, structure, building, buildings, establishment, lot or yard in the Town, to permit or allow any carrion, garbage, trash, filth or any other impure or unwholesome matter liable to produce disease to accumulate or remain thereon.

Section 6. Weeds, trash, etc. accumulation prohibited.

It shall be unlawful for any person who shall own or occupy any lot or lots in the Town, to permit or allow weeds, rubbish, brush, garbage, trash or any other matter liable to produce disease, to accumulate or grow on said lot, lot or premises.

Section 7. Owners and occupants responsibilities

- A. It shall be the responsibility of the owner, contractor, and/or occupant of any residence, construction site, store, or other place of business situated within the Town to exercise reasonable diligence at all times to keep the premises clean of trash, garbage and/or other used or waste material thrown or left on said premises by its customers, and to take reasonable measures to prevent drifting or blowing of same to other premises.
- B. Receptacles. Receptacles of sufficient size and number shall be placed on the premises accessible to the customers of such businesses where the above referred to articles of waste may be disposed of.
- C. Signs. Each and every business establishment shall place upon its premises a sign or signs in a conspicuous place or places in close proximity to the receptacle referred to above. The sign or signs shall convey to its customers a request that they use such receptacles for the disposal of waste.

Section 8. Garbage/Rubbish Containers

- A. Containers Required. It shall be the duty of every person, owner, agent, tenant, lessee, or occupant of any residence, house, building, apartment, store or business establishment within the Town, which has an active water and sewer connection, and/or electrical connection, or where persons reside, gather, or congregate, or where food is prepared or served, or trash collects or accumulates, to obtain from the franchise collection agency and provide and maintain in good order and repair, a container or containers herein provided, for the deposit of garbage/rubbish for collection by an authorized franchise collection agency, person or corporation. Each residence, construction site, and commercial building shall obtain and pay for services from the franchise collection agency. Every garbage container shall be maintained in as sanitary condition as possible considering use to which it is put; and shall be thoroughly cleaned as needed by washing, scalding or otherwise.
- B. Specifications. The residential container shall be a receptacle of solid and durable grade and quality, as provided by the franchise collection agency and shall have a lid. Dumpsters shall have a lid. Roll off containers do not have lids. When the container is left outside, the lid must be closed when not emptying or filling. Dumpsters should remain closed unless filling or emptying. If the container furnished by the franchise collection agency should become in disrepair or unusable due to normal wear and tear, then the same

shall be replaced by the franchise collection agency at its expense, otherwise the customer shall be responsible for paying for any necessary replacement of the cart which replacement cart will be furnished to the customer by the franchise collection agency at their cost.

- 1) Single family residential uses with no more than four (4) units shall be issued a residential container for each unit from the franchise collection agency. Except on designated days of trash collection, the residential containers shall not be visible from the rights of ways. Each single family residence is required to pay and utilize garbage collection from the franchise collection agency.
- 2) All commercial institutions and establishments with the Town of Laguna Vista to include, but not limited to, restaurants, motels, hotels, apartment complexes which contain over four (4) units, condominiums which contain over four (4) units, hospitals, medical clinics, grocery stores, service stations, garages, warehouses both retail and wholesale and banking institutions shall contract with and pay for the franchise collection agency to provide a dumpster of not less than two (2) cubic yards and of sufficient size to accommodate all waste created from said establishment. The space designated for the location of the garbage dumpster cannot be located in the public right of way, cannot be located in the front yard setback, and cannot diminish and/or occupy areas designated for parking. It is further required that all garbage dumpsters and the area designated for its location must be impervious and be enclosed and/or screened from the public's view, and all container lids must be closed at all times except when filling or emptying. Sites granted exceptions under previous Ordinances, or sites granted variances under previous Ordinances will have ninety (90) days from the date of approval of this Ordinance to come into full compliance.
- 3) In the event an existing commercial establishment cannot reasonably locate the required garbage dumpster in any other location except within the front yard setback, the Building Official may grant a permit to locate the garbage dumpster in the front yard setback even if it reduces the required parking for which a variance is hereby granted. The garbage dumpster must meet all screening requirements set out above.

- 4) Construction and demolition debris. Each and every building contractor who engages to perform work within the limits of the Town of Laguna Vista shall, at his own expense, lease from the franchise collection agency, a roll off garbage container of sufficient size to accommodate all waste produced at the site. The container shall be placed at each construction site for the disposal of all waste accumulated as a result of any and all construction, remodeling, demolition, or destruction of any and all buildings or improvements on any lot, lots, or parcels of land within the limits of the Town. Each building permit issued represents a construction site. Said containers shall be kept at a place and in a position to be designated by the franchise collection agency and the premises shall be maintained in a neat and orderly condition by depositing the construction waste in the said container on a daily basis.

Section 9. Burning of garbage prohibited

The burning of garbage, yard trash, rubbish, or other refuse is considered a nuisance and a fire hazard. Any person, firm or corporation owning, managing, operating, leasing, or renting any premises or any place where garbage, trash, rubbish or other refuse accumulates who permits or allows the burning of such garbage, rubbish or other refuse will be considered in violation of the Ordinance and each violation will constitute a separate offense. Exceptions may be requested for land clearing purposes. A resolution requesting a one-time burn permit is required and requires Board approval.

Section 10. Yard Waste

- A. Residential customers are provided monthly yard trash pickup by the franchise collection agency.
 - 1) **Yard trash can only be placed at the curb of the street for collection between the tenth (10th) and the fifteenth (15th) of each month. Yard waste placed at the curb of the street before or after these dates will be in violation of this Ordinance and may be subject to any penalties.**
 - 2) All yard trash must be placed in separate piles from large or bulky items.
 - 3) It is unlawful to place yard trash in alleys, empty lots, ditches or property owned by others.
 - 4) Monthly yard trash collection is restricted to current paying residential customers.

- 5) Land clearing and tree removal (tree trunks and root systems) are not considered yard waste and are not allowed to be placed at the curb of the street for collection by the franchise collection agency.
 - 6) Yard waste is not allowed in garbage containers.
 - 7) Yard waste must not be placed within six (6) feet of any obstacles such as gas or water meters, telephone service boxes, overhead wires of any kind, parked cars, building overhangs, etc. Damage to utilities or facilities due to improper placement of yard waste is the responsibility of the person or persons who deposited the waste.
- B. All commercial customers must contract with the franchise collection agency directly for collection any yard trash collection.
- 1) Yard waste is not allowed in dumpsters.
 - 2) Commercial customers placing yard waste at the curb of the street, must contact the franchise collection agency for pickup. Yard waste may be placed at the curb of the street when collection has been scheduled within 24 hours. Yard waste or bulky items placed at the curb of the street for periods longer than 48 hours prior to collection is in violation of this Ordinance and may be subject to any penalties.

Section 11. Unacceptable and other waste.

- A. Unacceptable waste as defined in Section 3 is not allowed in garbage containers.
- B. Tires will not be picked up by the franchise collection agency. It is a violation of this Ordinance to place or discard tires in or beside the garbage containers.
- C. Waste oil is not allowed in garbage containers and should be disposed at a licensed facility.
- D. Discarded appliances must have the Freon removed by a certified technician and have a sticker attached to the appliance for verification. Examples of appliances containing Freon are refrigerators, freezers, air conditioners etc.
- E. Bulky items such as, but not limited to, stoves, mattresses, furniture, and carpet should be placed at the curb between the tenth (10th) and the fifteenth (15th) of each month. These items should be separate from the yard waste. Placement of these items at the curb of the street before or after these dates will be in violation of this Ordinance and subject to any penalties.

Section 12. Garbage, Trash Franchise

- A. Every person required to provide garbage containers by this Ordinance is further required to have said garbage and yard trash removed from their premises by an agency, corporation, or person duly franchised by the Town of Laguna Vista to collect garbage and yard trash and such person or entity is required to pay the approved fee and charges therefore and the failure to use or pay for solid waste collection services shall be deemed a violation of the Ordinance, and may be subject to any penalties.
- B. Each commercial establishment is required to subscribe to the company with whom the Town currently has franchised to collect garbage and yard trash.
- C. It is unlawful for persons, corporations, or agencies to operate a garbage and trash removal service within the Town of Laguna Vista unless they have obtained a franchise from the Town for this purpose.
- D. It is unlawful for persons to haul or dispose of garbage or trash except in vehicles specifically designed and equipped to dispose of and handle trash and garbage.

Section 13. Fees for waste removal

- A. Commercial accounts may make such arrangements for the type and service that is reasonably necessary for their business and shall pay for such services as may be agreed to by and between the customer and the company holding the franchise for the collection of solid waste and/or garbage. The commercial customer shall contract for sufficient containers and frequency of pickup so that there shall not be any accumulation or trash outside of said containers.
- B. Residential customers are required to pay for garbage services from the franchise collection agency.

Section 14. Notice to property owner for non-compliance.

Whenever any condition described in this Ordinance is found to exist on any premises within the Town, the owner of such premises shall be notified by the Town, in writing, to correct, remedy or remove the condition within ten (10) days after such notice is issued and it shall be unlawful for any person to fail to comply with such notice.

Section 15. Notice to property owner-Method.

The notice provided for by this Ordinance shall be served personally on the owner to whom it is directed, or shall be given by letter addressed to such owner at his/her last known address as shown on the tax rolls of the appraisal district for the property upon which the violation is occurring or as provided by Chapter 342 of the Texas Health & Safety Code.

Section 16. Assessment of expenses against property.

In the event the owner of any lot or premises, upon which a condition is described in this Ordinance exists, fails to correct, remedy or remove such condition within ten (10) days after notice to do so is given in accord with the Ordinance, the Town may do such work or make such improvement as necessary to correct, remedy or remove such condition, or cause the same to be done, and pay therefore and charge the expenses incurred thereby to the owner of such lot. Such expenses shall be assessed against the lot or real estate upon which the work was done or the improvements made. The doing of such work by the Town shall not relieve such person from prosecution for failure to comply with such notice in violation of the Ordinance.

Section 17. Statement of expenses. Filing.

Whenever any work is done or improvements are made by the Town under the provisions of this Ordinance, the City Manager or duly designated official, on behalf of the Town shall file a statement on the expenses incurred thereby with the County Clerk. Such statement shall give the amount of such expenses, and the date or dates on which the work was done or the improvements were made.

Section 18. Lien for expenses; interest, suit for foreclosure.

After the statement provided for in Section 17 is filed, the Town shall have a privileged lien on the lot or real estate upon which work was done or improvements made to secure the expenses thereof. Such lien shall be second only to tax liens and liens for street improvements, and the amount thereof shall bear interest at a rate of ten (10) percent per annum from the date the statement was filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the Town and the statement of expenses made in accord with Section 17, or a certified copy

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thereof, shall be prima facie proof of the amount expended for such work or improvements.

Section 19. Penalty for violation.

Any person or entity who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith or with any of the requirements thereof, shall be deemed guilty of a misdemeanor and shall be liable to a fine, and upon conviction subject to fines up to two-thousand (\$2,000.00) for each offense or for each day such offense shall continue.

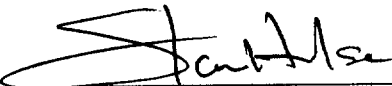
SECTION 20. SEVERABILITY

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 invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality 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 21. PUBLICATION

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

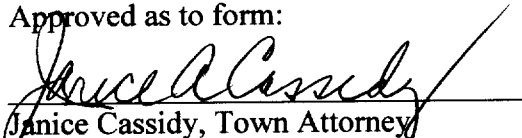
PASSED, APPROVED AND ADOPTED by the Board of Aldermen of the Town of Laguna Vista, Texas at the regular meeting on the 10th day of July 2007.


 Stan Hulse, Mayor

ATTEST:


 Alma Deckard, City Secretary

Approved as to form:


 Janice Cassidy, Town Attorney

