

ORDINANCE NUMBER 2007 - 29

AN ORDINANCE DEFINING NUISANCES, SPECIFYING CERTAIN ACTS OR FAILURES TO ACT CONSTITUTING A NUISANCE; REPEALING ORDINANCE NUMBER 2003-12; REPEALING ORDINANCE NUMBER 2004-17; REPEALING ORDINANCE NUMBER #4-71; ESTABLISHING A PROCEDURE FOR THE ABATEMENT OF NUISANCES AND PROVIDING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF LAGUNA VISTA AS FOLLOWS:

SECTION 1. PURPOSE.

This Ordinance establishes the definitions of nuisances, establishes a procedure for the abatement of nuisances and provides for penalties for violations of its provisions.

SECTION 2. AREA OF ENFORCEMENT.

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

SECTION 3. ORDINANCES REPEALED.

Ordinance Number 2003-12, Ordinance Number 2004-17 and Ordinance Number #4-71 are hereby repealed.

SECTION 4. NUISANCE-DEFINITION.

For the purpose of this Ordinance, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE. Any entity or person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition to exist, which act, omission, condition, or thing either:

- 1) Injures or endangers the comfort, repose, health, or safety of others and others pets;
- 2) Offends decency;
- 3) Is unsightly;

- 4) Produces material annoyance, inconvenience, discomfort or hurt to another person or to the general public;
- 5) Is offensive to the senses;
- 6) Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for its intended use any public or private street, highway, sidewalk, stream, creek, waterway, ditch, drainage, alley, park or trail;
- 7) In any way unreasonably renders other persons insecure in life or the use of property;
or
- 8) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of property of others.

SECTION 5. ENUMERATION NOT EXCLUSIVE

A. **PROHIBITION.** The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the items, conditions, or actions enumerated in Paragraph B. is hereby declared to be and constitute a nuisance. However, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive.

B. **NUISANCES ENUMERATED.**

- 1) Tall, grass, weeds and other rank vegetation.
 - a) Zoned Residential or Commercial District shall not allow grass or weeds, to grow upon the premises to such an extent as to become a health or fire hazard or to a height in excess of eight (8) inches in any location thereon.
 - b) Undeveloped premises not located within a zoned Residential District, but contiguous to or bordering on a zoned Residential District, shall not allow grass or weeds to grow to such an extent as to become a health or fire hazard or to a height in excess of eight (8) inches in any location upon the premises that lies within 50 feet of the boundary of the zoned Residential District.
- 2) Accumulation of rubbish, trash, refuse, junk, and other abandoned materials, metals, lumber or other things.
- 3) Any condition which provides harborage for rats, mice, snakes, bats and other vermin.
- 4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is

a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

- 5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises (as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence).
- a) The playing of any radio, stereo, electronic equipment or other musical instrument, whether stationary or mobile, in such manner or with such volume, particularly during the hours between 10 P.M. and 7 A.M.
 - b) The use of any stationary loud-speaker or amplifier of such intensity or the use of any stationary loud speaker or amplifier operated on any week day between the hours of 10:00 P.M. and 7 A.M., or at any time of Sunday.
 - c) The keeping of any animal or bird which by causing frequent or long-continued noise.
 - d) The continued or frequent sounding of any horn or signal device on any automobile, motorcycle or any other vehicle except as a danger or warning signal.
 - e) The running of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring, or rattling noise or vibration.
 - f) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.
 - g) The discharge into open air of the exhaust of any steam engine, stationary internal combustion engine, airboat, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - h) The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.
 - i) The erection, including excavation, demolition, alteration or repair work on any building other than between the hours of 7 A.M. and 7 P.M. on week days and weekends, except in case of urgent necessity in the interest of public safety and convenience, and then only by permit from the City Manager, which permit may be renewed by the City Manager during the time the emergency exists.

- j) The creation of excessive noise on any street adjacent to any school or institution of learning while the same is in session or adjacent to any hospital or care facility which unreasonably interferes with the working of such institution, providing conspicuous signs are displayed in such manner indicating that the same is a school or hospital street.
 - k) The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates or containers.
 - l) The raucous shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.
 - m) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale of merchandise.
- 6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances, or other causes, which give rise to the emission or generation of such odors or stenches.
 - 7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
 - 8) The pollution of any public well or cistern, stream, lake, canal, drainage facility or body of water by sewage, dead animals, chemicals, industrial wastes, petroleum products or other substances.
 - 9) The blockage of drainage facilities and culverts by trash or rubbish placed at the curb of the street for collection.
 - 10) An accumulation of stagnant water permitted or maintained on any lot or piece of ground.
 - 11) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities.
 - 12) Plants, trees, brush or artificial containers which would impede the normal flow of water on, over, within or across creeks, drainage ditches, or other waterways, natural or manmade.
 - 13) Permitting or allowing any weeds, filth, or rubbish of any kind to remain in front of or at the side of any premises, to the street, in front or at the side of any premises or upon any alley that may be at the rear or side of any lots.
 - 14) The deposition of any trash, yard waste or rubbish or any kind in alleys or others property, including empty lots or rights of ways adjacent to others property.
 - 15) Any condition that provides harborage of or produces bees, wasps, mosquitoes or other insects and amphibians.

16) Junked Vehicle is any motor vehicle as defined in Texas Transportation Code Section 683.071, as amended, that:

- a) Is inoperative;
- b) Does not have lawfully affixed to it either an unexpired license plate or valid motor vehicle safety inspection certificate;
- c) Is wrecked, dismantled, partially dismantled or discarded; or
- d) Remains inoperable for a continuous period of more than 45 days.
- e) Exceptions to the presence within the Town are:
 - i. A vehicle that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
 - ii. A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment outside the continental and territorial limits of the United States.

SECTION 6. NUISANCES PROHIBITED.

It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance.

SECTION 7. NOTICE TO ABATE

- A. Whenever a nuisance is found to exist within the Town, the City Manager or some other duly designated officer of the Town shall give ten days' written notice to the owner or occupant of the property upon which the nuisance exists or upon the person causing or maintaining the nuisance. Notice shall be mailed by certified mail with a five-day return requested, to the owner or occupant of the property upon which the nuisance exists or to the person causing or maintaining the nuisance. If the notice is returned undelivered by the United States Post Office, the Town shall publish notice twice within ten consecutive days in the newspaper of general circulation in the Town.
- B. If a nuisance is found to exist within the Town that is considered a public health threat posing imminent danger to others or the public, the City Manager or some other duly designated officer of the Town shall give a 24 hour notice to the owner

or occupant of the property upon which the nuisance exists or upon the person causing or maintaining the nuisance.

SECTION 8. ABATEMENT BY TOWN.

Upon failure of the person upon whom notice to abate a nuisance was served or attempted to be served pursuant to provisions in this Ordinance to abate the nuisance, the City Manager or other duly designated officer of the Town shall proceed to abate the nuisance and shall prepare a statement of costs incurred in the abatement thereof.

SECTION 9. TOWN'S COST DECLARED LIEN

Any and all costs incurred by the Town in the abatement of the nuisance under the provisions of this Ordinance shall constitute a privileged lien against the property upon which the nuisance existed. The privileged lien shall be filed, proven and collected as provided for by law, and the lien shall be second only to tax liens and liens for street improvement. Such liens shall be notice to all persons from the time of its filing and shall bear interest at the legal rate of 10% annum from the date on which payment was due thereafter until satisfied. For any such debt and interest, suit may be instituted and recovery and foreclosure had in the name of the Town. In these suits, the aforementioned statement, or certified copy thereof shall be deemed prima facie evidence of the debt and interest thereof.

SECTION 10. PENALTIES

Any person, firm or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined a sum not more than five hundred dollars (\$500.00). Each day a violation under this Ordinance continues shall constitute a separate offense.

- A. In case the owner or occupant of any lot or lots under the provisions of this Ordinance shall be a corporation and shall violate the provision of this Ordinance the President, Vice President, and Secretary and/or Treasurer of such Corporation, or any manager, or agent of such corporation shall be severally liable for the penalties herein provided.

Ordinance 2007-29
Nuisances
Page 7


SECTION 11. 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 12. 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, Texa at the regular meeting on the 10th day of July 2007.



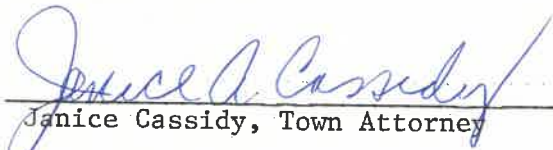
Stan Hulse, Mayor

Attest:



Alma Deckard, City Secretary

Approved as to form:



Janice Cassidy, Town Attorney

