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## CITY OF PORT LAVACA

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**COUNCIL MEETING:** SEPTEMBER 11, 2023

**AGENDA ITEM** \_\_

**DATE:** 09.06.2023

**TO:** HONORABLE MAYOR AND CITY COUNCIL MEMBERS

**FROM:** JODY WEAVER, INTERIM CITY MANAGER

**SUBJECT: 2ND READING: CHAPTER 42 Article VII– Group Housing and Commercial Development  
(Protection of Landscaping and Dumpster Screening)**

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### **BACKGROUND:**

There are no changes proposed to the ordinance since the 1<sup>st</sup> reading. Simply put, this amends the current Chapter 42 Article VII – Group Housing and Commercial Development of the City’s Code of Ordinances to require protection of landscaping during construction and require screening of dumpsters. Again this applies only to new or renovated (over 50% of the value) Commercial and Group Housing projects.

With this ordinance adoption, we acquired points needed to achieve a Bronze ranking in the Texas *Scenic City* Program.

## ORDINANCE #G-9-23

AN ORDINANCE OF THE CITY OF PORT LAVACA AMENDING THE CODE OF ORDINANCES, CHAPTER 42 SUBDIVISIONS AND PLATS; ARTICLE VII GROUP HOUSING AND COMMERCIAL DEVELOPMENT, SECTION 42-161 LANDSCAPING, ADDITION OF (d) PROTECTION OF LANDSCAPING DURING CONSTRUCTION; ADDITION OF NEW SECTION 42-162 DUMPSTER SCREENING; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; PROVIDING PENALTIES; AND PROVIDING AN EFFECTIVE DATE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT LAVACA, TEXAS:

### Section 1. Purpose.

The attached Exhibit A document identifies amendments that are to be made to various Sections of Chapter 42 of the City of Port Lavaca's Code of Ordinances. Text that remains unchanged will be in black-colored letters, text that is new will be identified by red-colored underlined letters and all text to be deleted, if any, will be identified as blue-colored letters with strikethroughs.

### Section 2. Severability.

It is specifically declared to be the intention of the City Council that sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and if phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment of decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of 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 any unconstitutional or invalid phrase, clause, sentence, paragraph or sections.

### Section 3. Repeal.

All ordinances or parts of ordinances conflicting with or not consistent with the provisions of this article are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency or conflict, and in all respects, this article shall be cumulative of all other ordinances of the City of Port Lavaca regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this article shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

### Section 4. Effective Date

THAT this ordinance shall become effective on the date of its passage.

FIRST READING this 14<sup>th</sup> day of August, 2023

\_\_\_\_\_  
Jack Whitlow, Mayor

SECOND AND FINAL READING this 11<sup>th</sup> day of September, 2023

\_\_\_\_\_  
Jack Whitlow, Mayor

APPROVED AND ADOPTED this 11<sup>th</sup> day of September, 2023.

\_\_\_\_\_  
Jack Whitlow, Mayor

ATTEST:

\_\_\_\_\_  
Mandy Grant, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

#### RECORD OF VOTE

	First Reading	Second and Final	Passed and Approved
Councilman Aguirre	Aye		
Councilman Dent	Aye		
Councilman Tippit	Aye		
Councilwoman Padron	Aye		
Councilman Ward	Aye		
Councilman Barr	Aye		

Record of approval by City Council: City Council Minute Records, Volume 3H, Page \_\_\_\_.

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CHAPTER 42 – SUBDIVISIONS AND PLATS  
ARTICLE VII. - GROUP HOUSING AND COMMERCIAL DEVELOPMENT

**Sec. 42-161 – Landscaping**

**(3) Landscape Plan.**

A landscape plan is required where this article specifies below and shall apply to all building sites within the city limits where any of the following conditions are present:

- a. New construction:
  1. Any new building construction for which a building permit is required.
  2. Any construction of a new parking lot or parking area.
- b. Additions/renovations: Any building addition or renovation exceeding fifty (50) percent of the existing building area or existing building value as defined by the footprint of the existing building for which the building permit is required.
- c. Parking lot additions: Any parking lot addition on an existing or legal non-conforming property by more than one thousand (1,000) square feet or ten (10) percent in area of the existing parking lot must add landscaping in conformance with the provisions of this article.
- d. Protection of landscaping during construction. Existing trees that qualify to generate credit against landscaping requirements, as provided in this article, shall be protected during on-site development and construction activities.**
  - 1. Barricades shall be installed at the protective root zone. The protected root zone is the area that extends from the center of the trunk 18 inches per each 1 inch of diameter at breast height of the protected tree.**
  - 2. Each protected root zone shall be barricaded during construction to prevent damage to the tree and its roots. The barricades shall be made of wood, fencing or solid material.**
  - 3. Barricades shall be no less than three (3) feet in height.**
  - 4. No cutting, filling, or storage of building materials or equipment, debris or disposal of wastes shall take place within a protected root zone.**
  - 5. Protective barricades are only to be removed at the final landscaping stage.**

**Sec. 42-162. Dumpster Screening.**

**Applicability: For new construction and major renovation exceeding 50% of the existing building area or existing building value.**

- a. Every owner, occupant, or lessee using or occupying a building or structure within the corporate city limits of the city for other than residential purposes, and all residential structures required by this chapter to have a dumpster or have adequate area for a dumpster pad site as described herein, or purposes accessory thereto, shall maintain on such premises a dumpster meeting the requirements in this section.**



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- b. Dumpsters and associated screening required by this section shall be maintained in good order and condition. When the Code Enforcement Officer determines a container to be unsafe or unsightly, notice shall be given to the occupant of the premises upon which the dumpster is located for corrective action.
- c. The dumpster must be fully screened from view by enclosure consisting of two side walls and a rear wall plus a gate in the front.
- d. Minimum height. Screening walls and gates must be not less than six (6) feet nor more than eight (8) feet in height.
- e. Screening materials. Dumpster screening materials must be wood, metal, masonry, brick, stone, reinforced concrete, or other similar masonry materials. Any metal screening must be painted to blend with the primary building on the same lot. Corrugated metal, R panel and U panel sheet metal, and fiberglass panels are prohibited and may not be used as screening material.
- f. Gates. Screening gates must be solid metal and must screen dumpsters from view when closed. Gates must swing out to an angle greater than 90 degrees and create an opening at least 12 feet wide for collection truck to enter the enclosure. Each gate must be equipped with a pin capable of holding the gate in its fully opened position while the dumpster is being accessed. Gates must swing clear of fire lanes, sidewalks, and streets. Gates must remain closed unless the dumpster enclosure is in the process of being emptied, filled, painted, cleaned, constructed, installed, repaired, or otherwise maintained.
- g. Bollards. A minimum of four bollards shall be provided within the enclosure, two in the rear, and one on each side to prevent the dumpster from striking or damaging the screening enclosure.
- h. Dumpster Screening plans must be submitted as a part of the construction plans review packet.

END OF EXHIBIT A