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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 20 - ENVIRONMENTAL AND HEALTH (LITTER AND GRAFFITI)

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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 20 Environmental and Health portion of the City's Code of Ordinances to prohibit Littering and Graffiti within the City.

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

## ORDINANCE #G-8-23

AN ORDINANCE OF THE CITY OF PORT LAVACA AMENDING THE CODE OF ORDINANCES, CHAPTER 20 ENVIRONMENT AND HEALTH; ADDITION OF NEW ARTICLE XII, LITTER; ADDITION OF NEW ARTICLE XIII, GRAFFITI; 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 20 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.

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Jack Whitlow, Mayor

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

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Jack Whitlow, Mayor

APPROVED AND ADOPTED this 11th day of September, 2023.

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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 \_\_\_\_.

CITY OF PORT LAVACA  
PART II – CODE OF ORDINANCES

**EXHIBIT A**

**CHAPTER 20 ENVIRONMENT AND HEALTH**

**ARTICLE III. – ACCUMULATIONS ON PROPERTY**

**Sec. 20-46. Assessment for failure to remove accumulation after notice.**

Should the person causing the accumulation or the owner or occupant of the property upon which exists any violation of this article fail or refuse to eliminate and remove such conditions within seven days after notice to such person, owner or occupant, then the city may enter into the property and do such work or cause same to be done and charge the expense incurred or as determined in Appendix A, whichever is greater, including the administrative fee as determined in the Appendix A, to the person, owner or occupant to whom the notice was given.

(Ord. No. G-9-04, § 7, 11-8-2004)

**Sec. 20-47. Statement of expense; lien.**

If the owner fails or refuses to eliminate and remove the illegal accumulations after seven days' prior notice and fails to pay the assessment after 60 days, the city secretary shall file with the county clerk a statement of expenses incurred under section 20-44(b) setting forth the amount of such expenses, the date on which work was done and a description of the property upon which such work was done. The city shall have a privileged lien second only to tax liens or liens for street improvements on such real estate upon which such work was done to secure the expenditures so made along with ten percent interest from the date the lien is filed. For any such lien and interest, suit may be filed and foreclosure had in the city's name. The statement of expense or a certified copy thereof shall serve as prima facie proof of the amount expended in any such work.

In the event the lien is filed, the city ~~charge an administrative fee of the statement of expenses which represents the administrative cost of the process to obtain the lien,~~ will file the lien for the amount due, plus all associated costs and fees, including filing and administrative fees as referenced in appendix A of this Code.

(Ord. No. G-9-04, § 8, 11-8-2004; Ord. No. G-4-16 , § 1, 4-11-2016)

**ARTICLE XI. – OPERATION OF A JUNKYARD**

**Sec. 20-503. Penalty for violations of article.**

Any person convicted of a violation of any provision, restriction of requirement of this chapter shall be deemed guilty of a misdemeanor and shall be fined in a sum not exceeding \$2,000.00. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

( Ord. No. G-5-15 , § 3, 5-11-2015)



CITY OF PORT LAVACA  
PART II – CODE OF ORDINANCES

Secs. 20-504 – 20-510. - Reserved.

ARTICLE XII. – LITTER

State Law reference:

HEALTH AND SAFETY CODE TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY SUBTITLE B. SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER CHAPTER 365. LITTER

Sec. 20-511. Definitions.

*Containers.* City-approved metal or heavy plastic receptacles or city-owned dumpsters used for the storage or disposal of solid wastes, and pedestrian litter containers provided on public sidewalks and elsewhere for the disposal of litter by pedestrians.

*Litter.* Any solid waste, trash, debris, rubbish, refuse, garbage or junk not placed in a container.

. Includes but is not limited to yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities owned by private individuals, firms, corporations, institutions and organizations.

*Public property.* Includes but is not limited to streets, street medians, roads, road medians, catchbasins, sidewalks, strips between streets and sidewalks, alleys, lanes, public rights-of-way, public parking lots, school grounds, parks, publicly owned recreation facilities and municipal bodies of water and waterways.

Sec. 20-512 Littering, dumping prohibited.

- (a) It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amounts on any public or private property within the corporate limits of the city except in containers.
- (b) Persons placing litter in public receptacles shall do so in such a manner as to prevent the litter from being carried or deposited by the elements.

Sec. 20-513 Litter from motor vehicle.

It shall be unlawful for any person, while a driver or passenger in or upon a motor vehicle, to throw or deposit litter, garbage, rubbish, or refuse or the like onto public or private property.

Secs. 20-514 – 20-520. - Reserved.

CITY OF PORT LAVACA  
PART II – CODE OF ORDINANCES

**ARTICLE XIII. – GRAFFITI**

**Sec. 20-521. Definitions.**

***Aerosol paint.* An aerosolized paint product.**

***Etching or engraving device.* A device that makes a deliniation or impression on tangible property, regardless of the manufacturer's intended use for the device.**

***Indelible marker.* A device that makes a mark with paint or ink product that is specifically formulated to be more difficult to erase, wash out, or remove than ordinary paint of in products.**

**Sec. 20-522. Offense.**

**A person commits an offense if, without the effective consent of the owner, ther person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings on the tangible property of the owner with:**

- (a) Paint, including aerosol paint;**
- (b) Indelible marker; or**
- (c) An etching or engraving device**

**Secs. 20-523 – 20-530 - Reserved.**