

## **ORDINANCE NO. 23-01-05-05**

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING SECTION 3.120 OF CHAPTER 3 OF THE LAGO VISTA CODE OF ORDINANCES RELATED TO CONSTRUCTION REFUSE AND DEBRIS, INCLUDING CONCERNS ABOUT NAILS AND SIMILAR METAL OBJECTS BEING DEPOSITED IN AN ADJACENT PUBLIC RIGHT-OF-WAY; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously established regulations in Section 3.120 of Chapter 3 of the Code of Ordinances related to refuse and debris created by contractors and subcontractors during construction activity; and

**WHEREAS**, construction refuse and debris continues to present a problem to other property owners and residents as that debris often migrates onto nearby and adjacent property, including public streets; and

**WHEREAS**, that construction debris occasionally includes nails or other similar metal objects found on nearby and adjacent public streets that can create damage to vehicles or vehicle tires; and

**WHEREAS**, the Building and Standards Commission has undertaken an extensive review of those existing regulations at their meetings on May 4, 2022, November 2, 2022, and December 7, 2022; and

**WHEREAS**, the review at their meeting on May 4, 2022 concluded that one of the existing provisions related to the type of refuse container required was not effective and might also be contributing unintended negative consequences; and

**WHEREAS**, the Building and Standards Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend the requirements contained within Section 3.120 of Chapter 3 of the Lago Vista Code of Ordinances; and

**WHEREAS**, the City Council at its public meeting to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted.

**WHEREAS**, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**SECTION 1. FINDINGS OF FACT.** All the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend Section 3.120 of Chapter 3 of the Lago Vista Code of Ordinances as shown in **Exhibit "A."**

**SECTION 3. REPEALER.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.


**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**SECTION 6. OPEN MEETINGS.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 5th day of January 2023.

  
Ed Tidwell, Mayor

ATTEST:

  
Lucy Aldrich, City Secretary



On a motion by Councilmember Durbin, seconded by Councilmember Sullivan, the above and foregoing ordinance was passed and approved.

EXHIBIT "A"

## CHAPTER 3

# BUILDING REGULATIONS

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**Sec 3.120 Removal and Containment of all Construction Materials, Refuse and Debris**

This section contains the requirements for containment and removal of construction material and debris.

- (a) This section includes broken or discarded material, machinery, trash, litter, rubbish, brush, garbage, paper, debris and concrete.
- (b) For the purpose of this section, any construction material located within one hundred feet (100') of any construction site may be presumed to be from that construction site, unless the builder notifies the city in advance of construction that construction materials are present on adjacent lots, with the express written permission of the property owner in accordance with Section 3.115 above. Construction materials include any broken or discarded materials, machinery, trash, litter, rubbish, brush, garbage, paper, debris, and concrete.
- (c) Each construction site will require a minimum of one, nine cubic yard container for refuse and debris. While larger industry standard roll-off dumpsters are encouraged on construction sites with sufficient area and appropriate slopes, sufficiently sturdy alternative forms of waste management may be used with prior written approval from the Building Official. Alternate containers shall include framing and bracing to ensure that it remains intact through the end of construction. Alternate containers less than six feet in height shall employ some form of cover that remains in place whenever there is no construction activity.
- (d) In the event such cleanup is not accomplished to the satisfaction of the city, the city may issue a stop work order, perform no inspections, and deny the issuance of a certificate of occupancy. The city shall be authorized at its election, to take charge of the work and restore the area to its proper condition and shall be entitled to recover from the permit holder or landowner by civil and/or criminal action the actual expenses incurred by the city in restoring the area, including, but not limited to, the cost of labor, materials, overhead, use or rental of any equipment used in restoring the area and attorney's fees. For such purposes, the city shall have the right to recover directly upon any bond posted by or on behalf of the permit holder in favor of the city, securing compliance with all applicable regulations of the city in the performance of said work.
- (e) All sites must be clean of litter and debris during the construction and all such material and any mud, dirt, rock or other material on city streets shall be removed upon occurrence but no later than twenty-four (24) hours after notice by the city manager or his/her designee. Such notice and each such subsequent notice shall be considered an occurrence that requires a re-inspection fee. Additionally, the party responsible for each construction permit shall monitor public streets at the end of each workday and take action as required, including but not limited to magnetic sweeping, to help ensure that the right-of-way within one hundred feet (100') of the property in any direction remains free of metallic objects that might damage vehicles or their tires.

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- (c) Each construction site will require a minimum of one, ~~forty nine~~ cubic yard ~~roll-off dumpster,~~ ~~except as follows:~~ container for refuse and debris. While larger industry standard roll-off dumpsters are encouraged on construction sites with sufficient area and appropriate slopes, sufficiently sturdy alternative forms of waste management may be used with prior written approval from the Building Official. Alternate containers shall include framing and bracing to ensure that it remains intact through the end of construction. Alternate containers less than six feet in height shall employ some form of cover that remains in place whenever there is no construction activity.
  - ~~(1) For projects in which a lesser capacity is sufficient, a smaller roll-off dumpster can be used with the advance written approval of the building official; or~~
  - ~~(2) When no accessible and sufficiently large portion of the site has a slope of ten percent or less, the building official may provide advance written approval of an alternate container. All such alternate containers shall be equipped with a removable or hinged cover that remains in place to contain all material, debris or refuse whenever it is not actively used.~~
- (d) In the event such cleanup is not accomplished to the satisfaction of the city, the city may issue a stop work order, perform no inspections, and deny the issuance of a certificate of occupancy. The city shall be authorized at its election, to take charge of the work and restore the area to its proper condition and shall be entitled to recover from the permit holder or landowner by civil and/or criminal action the actual expenses incurred by the city in restoring the area, including, but not limited to, the cost of labor, materials, overhead, use or rental of any equipment used in restoring the area and attorney's fees. For such purposes, the city shall have the right to recover directly upon any bond posted by or on behalf of the permit holder in favor of the city, securing compliance with all applicable regulations of the city in the performance of said work.

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