

TOWN OF LAKEWOOD VILLAGE, TEXAS

ORDINANCE NO. 06-02 AMENDED

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS PROVIDING FOR PUBLIC NUISANCES, COMMUNITY APPEARANCE TO PROTECT PROPERTY VALUES, QUALITY OF LIFE AND PUBLIC HEALTH AND SAFETY, AND TO PROVIDE FOR THE CONTROL OF OPEN BURNING; PROVIDING FOR DEFINITIONS; PROVIDING FOR OWNER'S DUTY TO MAINTAIN PROPERTY BY KEEPING PROPERTY FREE AND CLEAR OF NUISANCES INCLUDING WEEDS, BRUSH AND UNSIGHTLY MATTER; DUTY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR NOTICE OF VIOLATION; PROVIDING FOR TOWN ABATEMENT; PROVIDING FOR ADMINISTRATIVE FEES; PROVIDING FOR OFFENSES, PENALTIES AND LIENS; PROVIDING A CUMULATIVE REPEALER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lakewood Village, Texas is a Type B General Law Municipality located in Denton County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town Council of Lakewood Village, Texas in order to provide for the general health and welfare of the citizens of this Town is permitted to enact certain rules and regulations; and

WHEREAS, the Town Council of Lakewood Village, Texas hereby repeals Ordinance No. 00-04A and Ordinance No. 05-00 in order to provide for the general health and welfare of the citizens of this Town by adopting more efficient rules and regulations and ensuring compliance with current law. (Repeal of Ordinance No. 05-00 is for historical documentation only as the ordinance never took effect due to lack of execution by Town Officials and lack of publication); and

WHEREAS, the Town Council of the Town of Lakewood Village, Texas adopts the Texas Health and Safety Code, Chapter 342, Subchapter A, as amended and supplemented by the terms of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT:

SECTION 1

DEFINITIONS

1. “Builder/Developer/Contractor” shall mean any person(s), firm, corporation or other entity that has been hired by an owner, as defined herein, to perform any new construction, remodel or repair of said property within the corporate limits of the Town of Lakewood Village. If the owner is also the builder/developer/contractor, as defined herein, then the owner is held to the limitations of a builder/developer/contractor as specified in this ordinance.
2. “Nuisance” shall mean whatsoever is dangerous to human life or health, whatsoever renders the ground, the water, the air or the food a hazard or injurious to human life or health or that is offensive to the senses or that is detrimental to the public health is hereby declared to be a nuisance.
3. “Owner” shall mean any person(s) or entities owning, claiming, occupying or having supervision or control of any lot, tract, parcel of land, occupied or unoccupied, improved or unimproved, within the corporate limits of the Town of Lakewood Village.
4. “Rubbish/brush” shall mean lawn trimmings, tree trimmings, trash, debris, rubble, concrete, cement, stone, excess or useless fragments of construction materials, or other miscellaneous useless waste or rejected matter.
5. “Weeds/Vegetation” shall mean vegetation, including grass, that because of its height is objectionable, unsightly or unsanitary, but excluding shrubs, bushes, trees, cultivated flowers, and cultivated crops.

SECTION 2

DUTY TO MAINTAIN PROPERTY

1. It shall be unlawful for any owner to allow a nuisance of weeds/vegetation, as defined in Section 1 herein, to grow to a height greater than 12 inches upon any real property within one hundred fifty (150) feet of any property line which abuts a Town street right-of-way and within 50 feet from any part of a habitable dwelling.
2. Any builder/developer/contractor is strictly prohibited from burning **any** materials within the Town of Lakewood Village including, but not limited to, any rubbish/brush, as defined in Section 1 herein.

Also, it shall be unlawful for any builder/developer/contractor to allow a nuisance of rubbish/brush to accumulate or be present upon any real property within the Town of Lakewood Village, unless such nuisance of rubbish/brush is in a covered container designed for such purposes.

3. It shall be unlawful for any owner to allow a nuisance of rubbish/brush, as defined in Section 1 herein, to accumulate or be present upon any real property within the Town in excess of ten days.

4. It shall be the duty of any owner to maintain their property in a reasonable neat and orderly fashion. Therefore,

a) Outside storage of auto parts, appliances, lawnmowers, bicycles, building materials and motorcycles, or any items that fall within the definition of “nuisance” as defined in Section 1 herein, is strictly prohibited.

b) Exterior paint, trim, gutters, down spouts, garage doors, windows, masonry and siding shall be maintained in such a manner so as to be consistent with surrounding homes. In general, an owner shall maintain their property in such a manner as necessary to provide a pleasing appearance to their surrounding neighbors.

c) If a building permit is current, it is reasonable to temporarily store, in outside view, such building materials as needed to complete the permitted construction.

5. Violation of this section is subject to notice and penalties as described herein.

SECTION 3

DUTY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE

1. The Town of Lakewood Village has two-lane streets which limit emergency access if one or both lanes are restricted. In order to provide for public safety, all automobiles, boats, campers, trailers and recreational vehicles must be parked within the boundaries of the owner’s property and must comply with all applicable Town Ordinances. Parking of automobiles, campers, trailers, or boats on Town streets longer than 24 hours, or the parking of any vehicles which impede emergency access, is strictly prohibited. Further, it shall be a direct violation of this ordinance for any vehicle to be parked on a Town utility easement. It shall be the responsibility of the owner to have knowledge of the Town’s utility easements as it relates to the owner’s property. Any violation of this section may be enforced without notice and at the expense of the owner.

Failure of any owner to comply with the provisions of this Section will require no notice in the interest of public health, safety and welfare resulting in the towing, removal, and/or storage of the violating property, at the discretion of the Town, at the owner's expense.

SECTION 4

RESPONSIBILITY FOR ENFORCEMENT

1. Enforcement of this Ordinance shall be the responsibility of the proper State and Denton County authorities; the Mayor, Mayor Pro-Tem and Secretary of the Town of Lakewood Village; and/or any person(s) duly appointed by the Town Council.

SECTION 5

NOTICE OF VIOLATION

1. In the event that any owner fails to comply with the provisions of Section 2 of this ordinance, upon receiving a written complaint, or based on a complaint by an authorized person or entity pursuant to Section 4, the Town shall give ten (10) days notice in writing to such owner, or by certified mail, return receipt requested addressed to such owner at their last known mailing address, demanding compliance with this ordinance. Additionally, pursuant to the Texas Health and Safety Code, Section 342.006, this is the only notice that will be given for the next twelve (12) months. If, within the next twelve (12) months, the same violation(s) occurs again, the Town, without notice, may take the appropriate actions to bring the property into compliance and assess its expenses as provided by Section 6 herein.

SECTION 6

ABATEMENT BY TOWN

1. If an owner fails or refuses to comply with the Town's demand for compliance with Section 2 of this Ordinance within ten (10) days of the notice provided pursuant to Section 5 herein, the Town may do such work or cause the work to be done to bring the real property into compliance with this ordinance.
2. The expense incurred in correcting any condition of a property in violation of Section 2 or Section 3 shall be paid by the Town and charged to the owner of such property. A statement of the cost incurred by the Town shall be mailed to

the owner. Such statement shall be paid by the owner within 30 days of the date of the mailing thereof. In the event that the statement has not been paid within the 30-day period, the Town has the right to exhaust any and all remedies available under this Ordinance and state law.

SECTION 7

ADMINISTRATIVE FEE

1. In addition to collecting the costs and expenses incurred for correcting any violation(s) involving abatement by the Town, the Town shall charge the minimum of \$100.00 not to exceed a maximum of \$500.00 per occurrence, which sum is hereby found to be the cost to the Town of administering the terms of this ordinance.

SECTION 8

OFFENSES, PENALTIES, AND LIENS

1. After any required notice to the owner, the failure or refusal to comply with any demand for compliance within the applicable time period shall be deemed as maintaining a public nuisance and the Mayor, Mayor Pro-Tem, Town Secretary, or the Town Council designee may issue a citation in municipal court and/or file a lien upon and against such real property to include all costs, Town administrative fees, filing fees, charges and expenses. Any owner, as defined herein, violating any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed \$2000.00 for each offense. Each day a violation of any provision of this ordinance shall continue, it shall constitute a separate offense.

2. The property owner's failure to comply with this ordinance may result in the Town securing a lien against the property. In this event, the Town will file with the County Clerk a statement of the expenses incurred in correcting the condition of the property. The Town shall have a privileged lien on the property, second only to tax liens and liens for street improvements, together with ten percent (10%) on the delinquent amount from the date such payment was due.

SECTION 9

CUMULATIVE REPEALER

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of said Ordinances except those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and those that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided, however, that any complaint, action, claim or lawsuit that has been initiated or has arisen under or pursuant to any of the Ordinances or sections thereof that have been specifically repealed on the date of the adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance or section thereof and for that purpose the Ordinance or section thereof shall remain in full force and effect.

SECTION 10

SEVERABILITY

The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstances is held 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 Town Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 11

SAVINGS CLAUSE

All rights and remedies of the Town of Lakewood Village are expressly saved as to any and all violations of the provisions of any Ordinances affecting and which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 12

EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its date of passage and publication as provided by law.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas this the 12 day of July, 2008.

Mike Schnittker, Mayor Pro-Tem

ATTEST:

Linda Asbell, City Secretary