

**ORDINANCE NO. JO-010-2022**

**A JOINT ORDINANCE OF THE LAFAYETTE CITY COUNCIL AND THE LAFAYETTE PARISH COUNCIL AMENDING CHAPTER 74, ARTICLE III, DIVISION I, SECTION 74-34 “THEFT OF SERVICES” OF THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT CODE OF ORDINANCES**

**BE IT ORDAINED** by the Lafayette City Council and the Lafayette Parish Council, that:

**WHEREAS**, on July 6, 2021, by Ordinance No. JO-027-2021, the Lafayette City Council and the Lafayette Parish Council repealed and reenacted Chapter 74, Article III, Division I, Section 74-34 of the Lafayette City-Parish Consolidated Government Code of Ordinances (“LCG Code of Ordinances”) relative to the theft of services in the City and Parish of Lafayette; and

**WHEREAS**, the Lafayette City Council and the Lafayette Parish Council desire to further amend LCG Code of Ordinances Chapter 74, Article III, Division I, Section 74-34 “Theft of Services,” said amendments being made in furtherance of the public health, safety, and welfare of the citizens of the Parish of Lafayette.

**NOW, THEREFORE, BE IT FURTHER ORDAINED** by the Lafayette City Council and the Lafayette Parish Council, that:

**SECTION 1:** All of the aforescribed “Whereas” clauses are adopted as part of this ordinance.

**SECTION 2:** Chapter 74, Article III, Division I, Section 74-34 “Theft of Services” of the LCG Code of Ordinances is hereby amended as follows:

**Sec. 74-34. - Theft of services.**

- (a) It shall be unlawful and a violation of this Code for any person to use any bin (dumpster), container for solid waste, container for yard waste, container for recyclables, or any other collection service container that is owned, leased, or lawfully utilized by another person and/or entity, without permission from said person and/or entity.
- (b) When a peace officer has reasonable grounds to believe a person has committed a violation of this section, he shall issue a summons to the offender in accordance with law, commanding him to appear and answer the charge. For the purposes of this section, “peace officer” shall mean the Lafayette Parish Sheriff, the Chief of the Lafayette Police Department, and any employee of the Lafayette Police Department or the Lafayette Parish Sheriff’s Office, whose duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, the Parish of Lafayette and/or the City of Lafayette.
- (c) A person may be found guilty and penalized under this Section, although the commission of the offense did not occur in the presence of a peace officer if the evidence presented to the court exercising jurisdiction establishes that the defendant has committed the offense.

(d) *Penalties.* Whoever commits a violation of this section shall be guilty of a misdemeanor, punishable as follows:

- (1) For a first offense, a fine of not less than \$200.00 and community service of not less than six (6) seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries;
- (2) For a second offense, a fine of not less than \$300.00 and community service of not less than ten (10) seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries; and
- (3) For a third conviction and each subsequent offense, a fine of not less than \$500.00 and community service of not less than 20 seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and/or imprisonment for not more than 180 days.

(e) *Inability to pay penalties.* If a person convicted of a violation under this section can demonstrate the inability to pay a penalty imposed by the court, that person shall be ordered, in lieu of the penalty, to perform community service of not less than one (1) seven-hour day of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries per \$50.00 of the penalty imposed.

(f) *Community service.* The community service of collecting and picking up litter and trash on public roads, streets and highways and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries performed by such person through a Court approved community service litter abatement program. The court may elect to substitute two (2) seven-hour days of community service for each one (1) day of imprisonment.

**SECTION 3:** All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

**SECTION 4:** After first having been adopted by a majority of the authorized membership of both the Lafayette Parish Council and the Lafayette City Council, this joint ordinance shall become effective upon signature of this joint ordinance by the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon override of a veto, whichever occurs first.

\* \* \* \* \*

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AND THE LAFAYETTE PARISH COUNCIL AMENDING  
CHAPTER 74, ARTICLE III, DIVISION I, SECTION 74-34  
"THEFT OF SERVICES" OF THE LAFAYETTE CITY-PARISH  
CONSOLIDATED GOVERNMENT CODE OF ORDINANCES**

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**WHEREAS**, the Lafayette City Council and the Lafayette Parish Council desires to further amend LCG Code of Ordinances Chapter 74, Article III, Division I, Section 74-34 "Theft of Services", said amendments being made in furtherance of the public health, safety, and welfare of the citizens of Lafayette Parish.

**NOW, THEREFORE, BE IT ORDAINED** by the Lafayette City Council and Lafayette Parish Council, that:

**SECTION 1:** All of the aforescribed "Whereas" clauses are adopted as part of this Joint Ordinance.

**SECTION 2:** Chapter 74, Article III, Division I, Section 74-34 "Theft of Services" of the LCG Code of Ordinances is hereby amended as follows:

**Sec. 74-34. - Theft of services.**

- (a) It shall be unlawful and a violation of this Code for any person to use any bin (dumpster), container for solid waste, container for yard waste, container for recyclables, or any other collection service container that is owned, leased, or lawfully utilized by another person and/or entity, without permission from said person and/or entity.
- (b) When a peace officer has reasonable grounds to believe a person has committed a violation of this section, he shall issue a summons to the offender in accordance with law, commanding him to appear and answer the charge. For the purposes of this section, "peace officer" shall mean the Lafayette Parish Sheriff, the Chief of the Lafayette Police Department, and any employee of the Lafayette Police Department or the Lafayette Parish Sheriff's Office, whose duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, the Parish of Lafayette and/or the City of Lafayette.
- (c) A person may be found guilty and penalized under this Section, although the commission of the offense did not occur in the presence of a peace officer if the evidence presented to the court exercising jurisdiction establishes that the defendant has committed the offense.~~A violation of this section may be based upon a sworn statement of any citizen of the age of majority ("affidavit") completed on a form provided by the Lafayette Police Department or the Lafayette Parish Sheriff's Office. The completed affidavit shall be submitted to the Lafayette Police Department (for violations within the City of Lafayette) or the Lafayette Parish Sheriff's Office (for~~

violations in a Rural Area), and shall contain a sworn statement that the citizen witnessed a violation of this section and/or has documentary, photographic, or other evidence of a violation of this section, and shall particularly describe the offender and any vehicle or other means of conveyance involved. Upon receipt, if the completed affidavit contains sufficient information to give a peace officer reasonable grounds to believe a person has committed a violation of this section, he shall issue a summons to the offender in accordance with law, commanding him to appear and answer the charge.

~~(b)~~ **Presumption of violation.**

~~(1)~~ Whenever any vehicle or other means of conveyance is used in connection with a violation of this section, the rebuttable presumption shall be that the owner of the vehicle or other means of conveyance has violated this section.

~~(2)~~ Whenever solid waste disposed in violation of this section is discovered to contain any article or articles, including, but not limited to letters, bills, publications, or other writings that display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be a rebuttable presumption that such person has violated this section.

~~(e)~~~~(d)~~ **Penalties.** Whoever commits a violation of this section shall be guilty of a misdemeanor, punishable as follows:

(1) For a first offense, a fine of not less than \$200.00 and community service of not less than six (6) seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries;

(2) For a second offense, a fine of not less than \$300.00 and community service of not less than ten (10) seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries; and

(3) For a third conviction and each subsequent offense, a fine of not less than \$500.00 and community service of not less than twenty (20) seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and/or imprisonment for not more than 180 days.

~~(d)~~~~(e)~~ **Inability to pay penalties.** If a person convicted of a violation under this section can demonstrate the inability to pay a penalty imposed by the court, that person shall be ordered, in lieu of the penalty, to perform community service of not less than one (1) seven-hour day of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries per \$50.00 of the penalty imposed.

~~(e)~~~~(f)~~ **Community service.** The community service of collecting and picking up litter and trash on public roads, streets and highways and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries performed by such person through a Court approved community service litter abatement program. The court may elect to substitute two (2) seven-hour days of community service for each one (1) day of imprisonment.

**SECTION 3:** All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

**SECTION 4: EFFECTIVE DATE.** After first having been adopted by a majority of the authorized membership of both the Lafayette Parish Council and the Lafayette City Council, this Joint Ordinance shall become effective upon signature of this Joint Ordinance by the Lafayette

Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon override of a veto, whichever occurs first.

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RECEIVED

JAN 20 2022

LCG Council Office

## Internal Memorandum

Legal Department

**TO:** Veronica Williams, Lafayette Clerk of the Council

**CC:** Liz W. Hebert, City Councilwoman, District 3  
Andy Naquin, City Councilman, District 2  
Bryan Tabor, Parish Councilman, District 1

**FROM:** Paul D. Escott, Assistant City-Parish Attorney

**SUBJECT:** Joint Council Agenda Item – Joint Ordinance  
February 1, 2022 Meetings – Introduction  
February 15, 2022 Meetings – Final Adoption

**DATE:** January 20, 2022


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Vee,

On behalf of City Councilmembers Liz Hebert and Andy Naquin, and Parish Councilman, Brian Tabor, I submit the following, to wit:

- A. A Joint Ordinance of the Lafayette City Council and the Lafayette Parish Council Amending Chapter 74, Article III, Division I, Section 74-34 "Theft of Services" of the Lafayette City-Parish Consolidated Code of Ordinances; and
- B. Redline Joint Ordinance; and
- C. Joint Ordinance – Agenda Item Submittal Form

I respectfully request that this Joint Ordinance be placed on the February 1, 2022 agenda for consideration, for introduction, with consideration for final adoption at the City and Parish Councils' February 15, 2022 meeting.

  
\_\_\_\_\_  
**Paul D. Escott**  
*Assistant City-Parish Attorney*

LAFAYETTE JOINT COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

1) JUSTIFICATION FOR REQUEST: A Joint Ordinance of the Lafayette City Council and Lafayette Parish Council Amending Chapter 74, Article III, Division I, Section 74-34 "Theft of Services" of the Lafayette City-Parish Consolidated Government Code of Ordinances

2) ACTION REQUESTED: Adoption of Joint Ordinance

3) COUNCIL DISTRICT(S) (if applicable): ALL

4) REQUESTED ACTION OF COUNCIL:

A) INTRODUCTION: February 1, 2022

B) FINAL ADOPTION: February 15, 2022

5) DOCUMENTATION INCLUDED WITH THIS REQUEST:

A) Cover Memo (1 page)

B) Redline Joint Ordinance (3 pages)

C) Clean Joint Ordinance (2 pages)

D) Agenda Item Submittal Form (1 page)

6) FISCAL IMPACT:

Fiscal Impact

No Fiscal Impact

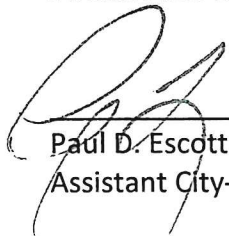
AUTHORED BY:

LIZ W. HEBERT  
City Councilwoman, District 3

ANDY NAQUIN  
City Councilman, District 2

BRYAN TABOR  
Parish Councilman, District 1

SUBMITTED BY:

  
\_\_\_\_\_  
Paul D. Escott  
Assistant City-Parish Attorney





**DISPOSITION OF ORDINANCE NO. JO-010-2022**

1. This ordinance was introduced: February 1, 2022  
YEAS: Tabor, K. Naquin,  
Carlson, Guilbeau, Rubin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

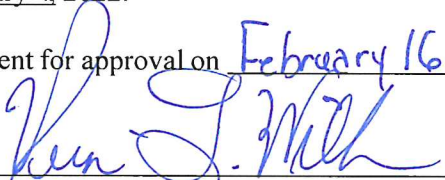
Final disposition by **Parish Council**:  
February 15, 2022  
YEAS: Tabor, K. Naquin,  
Carlson, Guilbeau, Rubin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

This ordinance was introduced:  
YEAS: Lewis, A. Naquin,  
Hebert, Cook, Lazard  
NAYS: None  
ABSENT: None  
ABSTAIN: None

Final disposition by **City Council**:  
YEAS: Lewis, A. Naquin,  
Hebert, Cook, Lazard  
NAYS: None  
ABSENT: None  
ABSTAIN: None

2. Notice of Public Hearing: This ordinance was published by Title and Notice of Public Hearing was published in the Advertiser on February 4, 2022.

3. This ordinance was presented to the Mayor-President for approval on February 16, 2022, at 10:00 o'clock a.m.

  
\_\_\_\_\_  
CLERK OF THE COUNCIL

4. Disposition by Mayor-President:


I hereby:

A. Approve this ordinance, the 17th day of February, 2022, at 4:30 o'clock P.m.

B. Veto this ordinance, the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_m., veto message is attached.

C. Line item veto certain items this \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_m., veto message is attached.

  
\_\_\_\_\_  
MAYOR-PRESIDENT

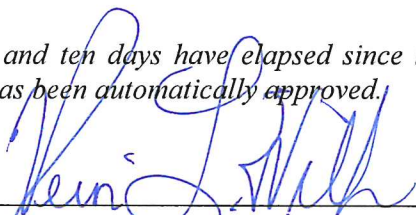
5. Returned to Council Office  with/without veto message on February 18, 2022, at 4:12 o'clock p.m.

6. Reconsideration by Council (if vetoed):

On \_\_\_\_\_, 2022, the Councils did/refused to adopt this ordinance after the Mayor-President's veto.

7. Returned to the Council Office without signature of Mayor-President (*unsigned*) on \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_m.

*If not signed or vetoed by the Mayor-President, and ten days have elapsed since this ordinance was presented to him for action, same has been automatically approved.*

  
\_\_\_\_\_  
CLERK OF THE COUNCIL

8. Full publication of this ordinance was made in the Advertiser on February 18, 2022.

