

ORDINANCE NO. 2001-06-01

AN ORDINANCE OF THE VILLAGE OF POINT VENTURE, TEXAS, PROHIBITING THE SALE, MANUFACTURE, POSSESSION, USE, OR COMBUSTION OF FIREWORKS WITHIN THE VILLAGE LIMITS; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A PURPOSE; DEFINITIONS; EXCEPTIONS; AN EFFECTIVE DATE; ENFORCEMENT CLAUSE INCLUDING INJUNCTIVE RELIEF AND A FINE NOT TO EXCEED \$500; SEVERABILITY; AND PROPER NOTICE AND A MEETING.

WHEREAS the Village Council seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage within the Village limits; and

WHEREAS the Village Council finds that the sale, manufacture, possession, use, or combustion of fireworks and explosives will result in bodily injury, death, and Property damage; and

WHEREAS the Village Council finds that the sale, manufacture, possession, use, or combustion of fireworks and explosives, especially in the confines of a municipality, is dangerous not only to property but also to persons, and results annually in the loss of property and the loss of life; and

WHEREAS the Village Council finds that the indiscriminate use of fireworks and explosives constitutes a menace to life, limb, and health to the users and their associates, increases the hazard and loss by fires, and constitutes a common public nuisance, which should be prevented and abated by law; and

WHEREAS the Village Council finds that the noise generated by the use or combustion of fireworks and explosives constitutes a public nuisance; and

WHEREAS pursuant to Texas Local Government Code section 51 the Village council has the express authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and

WHEREAS pursuant to Texas Local Government Code section 217 the Village Council has the express authority to prevent and abate any nuisance within the limits of the municipality; and

WHEREAS pursuant to Texas Local Government Code section 217 the Village Council has the express authority to have any nuisance removed at the expense of the Owner of the nuisance or the person who owns the property on which the nuisance exists; and

WHEREAS pursuant to Texas Local Government Code section 54 the Village Council has the express authority to enforce local ordinances and to prescribe penalties for the violation of those ordinances in accordance with the guidelines of that section.

NOW THEREFORE, be it ordained by the Village Council of the Village of Point Venture, County of Travis, State of Texas;

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual Finding of the Village of Point Venture and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II PURPOSE

This Ordinance is adopted so that the Village Council may promote the public health, safety, morals, and general welfare within the Village through the prohibition of the sale, manufacture, possession, use, or combustion of fireworks. By prohibiting the sale, manufacture, possession, use or combustion of fireworks, the Village Council seeks to prevent bodily injury, death, and the loss or damage of property within the Village limits.

III DEFINITIONS

Words and phrases used in this ordinance shall have the meanings set forth in this section. For the convenience of the reader, these defined words and phrases are underlined, but the absence of such indications does not imply a different meaning. Words and phrases which are not defined in this ordinance but are defined in other ordinances of the Village of Point Venture shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this ordinance.

(1) “Explosives” means any gunpowders, blasting materials, or any other chemical compounds or mechanical mixtures containing any oxidizing or combustible ingredients in such proportions that may or have the capability to cause an explosion. The term explosives shall not include signaling devices or emergency equipment. The term explosives shall also not apply to ammunition designed to be fired from a handgun, rifle, or shotgun held by the hand or to the shoulder; explosive materials or ingredients possessed by any employee of a Village Police Department, County Sheriff, or Federal or State Government, provided that such materials or ingredients are to be used for the Purpose of law enforcement; or flammable liquids or other explosive materials or Ingredients already regulated by the State of Texas.

(2) "Fireworks" means any firecrackers; cannon charges, skyrockets, missiles, showers, roman candles, sparklers, spinning discs, star shells, torpedoes, squibs, stick rockets, jumping jacks, M-60's, M-80's, smoke bombs, or any other substance which is intended for use in creating a visible or audible pyrotechnic display, and such term shall include all articles or substances within the meaning of fireworks, whether herein specifically named, designated, or defined or not.

(3) "Person" means and includes any natural person, association of persons, partnership, corporation, agent, or officer, of a corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors and administrators.

(4) "Village" means the duly incorporated municipality of the Village of Point Venture.

(5) "Village limits" means the municipal boundaries of the Village of Point Venture.

IV. SALE, MANUFACTURE, POSSESSION, USE, OR COMBUSTION OF FIREWORKS

It shall be unlawful for any person to sell, manufacture, keep or possess, use, or ignite or Cause the combustion of fireworks of any kind or description within the Village limits.

V. EXCEPTIONS

Section IV of this ordinance shall not apply to such person or person who has obtained the express written consent of the Village Council of the Village of Point Venture to engage in the use or combustion of fireworks as part of a public or private festival or holiday display. Persons wishing to become duly authorized for this purpose must, prior to authorization, comply with any and all licensing or permitting requirements.

VI. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

VII ENFORCEMENT

A. Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$500.00. Each day that a provision of this Ordinance is violated shall constitute a separate offense, An offense under this Ordinance is a misdemeanor.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek the remedies as allowed by law, including, but not limited to the following;

1. injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
2. a civil penalty up to \$500.00 a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
3. other available relief.

VIII. SEVERABILITY

It is hereby declared to be the intention of the Village Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this ordinance shall be enforced as written.

IX. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the 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 Local Government Code. Notice was also provided as required Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 4th day of June, 2001, by a 4 to 1 vote of the Village Council of the Village of Point Venture, Texas.

