

**ORDINANCE NO. 2002-05-01**

**AN ORDINANCE OF THE VILLAGE OF POINT VENTURE, TEXAS, CONTROLLING THE PRESENCE AND DISPOSAL OF LITTER AND THE HEALTH AND SAFETY OF OTHERS; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A PURPOSE; DEFINITIONS; PROHIBITIONS; ADMINISTRATION; AN EFFECTIVE DATE; ENFORCEMENT CLAUSE INCLUDING INJUNCTIVE RELIEF AND FINES AND FEES; 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 it is in the public interest to regulate the presence of litter in the Village for health and safety reasons; and

**WHEREAS** the Village Council finds that regulations providing for the health and safety of others is in the public interest; and

**WHEREAS** pursuant to Texas Local Government Code Chapter 51 the Village Council has the general 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** the Village Council is of the opinion that a litter ordinance for control of litter in the Village of Point Venture shall be adopted and that regulations and penalties should be established thereunder.

**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 findings 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, and general welfare within the Village through the adoption of a litter ordinance. By the adoption of a litter control ordinance the Village Council seeks to prevent health risks, bodily injury, death, and property damage within the Village limits.

### III. DEFINITIONS

When used in this ordinance, the following definitions shall apply unless the context clearly indicates otherwise.

**Litter** shall mean and be defined as:

1. All decayed and unwholesome food;
2. All pools of stagnant water or vessels holding stagnant water in which insects can breed;
3. Carcasses of animals not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death;
4. Accumulations of manure, rubbish, trash, rubble, refuse, debris, paper, combustible material, building materials, offal or waste, or matter of any kind or form which is uncared for, discarded, or abandoned, or improperly stacked building materials all of which are potential breeding places for fires, insects or other vermin;
5. All building, walls, and other structures which have been damaged by fire, decay, or otherwise, and which endanger the health, peace and safety of the public;
6. Any solid waste or industrial waste, including but not limited to garbage, tin cans, bottles, rubbish, refuse, trash, construction waste or demolition waste, tree and shrub trimmings, manufacturing waste or industrial waste dumped, thrown, burned, spilled or abandoned;
7. Tree damaged or dead to the extent that a limb, tree or part could fall or has fallen down.

**Industrial Wastes** shall mean all liquid and water-borne solid, liquid or gaseous wastes resulting from industrial manufacturing, food-processing operation, processing any natural resource or any mixture of such wastes with water or domestic sewage.

**Person** shall mean any person, firm, corporation, association or other entity.

**Private Property** shall mean a platted lot or part thereof, either occupied or unoccupied of which the owner has control.

**Premise** shall mean real estate improved or unimproved.

**Public Property** shall mean all property within the Village that is not private property.

**Public nuisance** means unlawfully doing an act or omitting to perform a duty, which act or omission does any one or more of the following:

1. Annoys, injures or endangers the safety, health, comfort or repose of others or
2. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous passage to the lake, park or streets.

**Class C Misdemeanor** means any litter under 5 pounds / under 5 gallons.

**Class B Misdemeanor** means any litter 5 to 500 pounds / 5 gallons to 100 cubic feet.

**Class A Misdemeanor** means any litter 500 to 1,000 pounds / 100 to 200 cubic feet.

**State Jail Felony** means any litter Over 1,000 pounds / over 200 cubic feet.

**State Jail Felony** means any waste in closed drums or barrels.

#### **IV. PROVISIONS**

##### **LITTER PROHIBITED**

No person shall create any litter in the Village, and no person shall through inaction permit any litter to occur or continue on any property under such person's control, nor shall any person permit litter to occur involving and personal property under such person's control.

##### **LITTER REPORTING**

Any person, or persons who observes the creation or continuation of litter as defined above which poses a potential threat to the public health or to the environment shall immediately report the incident to the Mayor or his/her designee of the Village and shall provide any information requested by the Mayor or his/her designee needed to investigate or abate the act.

##### **LITTER REMOVAL**

**Private Property:** It shall be the duty of any owner and/or occupant of any lot or premise within the Village limits, to remove or cause to be removed all such litter as may be necessary to comply with this ordinance. The owner and/or occupant shall be notified in writing to correct, remedy or remove the condition within fifteen (15) days after such notice is given, (unless granted a variance, in writing, from the Office of the Mayor of Point Venture) or the Village has the option of issuing a warning, a citation or starting enforcement procedures.

It shall be the duty of any persons or persons found to dispose, place or cause litter to be disposed or placed on any property, private or public within the Village limits to remove or cause to be removed all such litter as may be necessary to comply with this ordinance within fifteen (15), of notification verbal or written (unless granted a variance, in writing, from the Office of the Mayor of Point Venture), or the Village has the option of issuing a warning, a citation or starting enforcement procedures.

Litter shall not be burned on any private property within the Village limits, unless the Office of the Mayor of Point Venture grants a waiver in writing. Violating this provision of the ordinance will be considered a Class B Misdemeanor (Fine to \$2,000 / jail time to 180 days, plus court cost).

**Public Property:** It shall be the duty of any persons or persons found to dispose, place or cause litter to be disposed or placed on any public property within the Village limits to remove or cause to be removed all such litter as may be necessary to comply with this ordinance within fifteen (15) of

notification, verbal or written, or the Village has the option of issuing a warning, a citation or starting enforcement procedures.

## V. EFFECTIVE DATE

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

## VI. 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, upon conviction, can be fined as follows, plus court cost:

**Class C Misdemeanor:** Fine to \$500 / no jail time

**Class B Misdemeanor:** Fine to \$2,000 / jail time to 180 days

**Class A Misdemeanor:** Fine to \$4,000 / jail time to 1 year

**State Jail Felony:** Fine to \$10,000 / State jail time of 2 years

Each day that a provision of this Ordinance is violated shall constitute a separate offense.

If a person has been previously convicted of violating this Ordinance, that person's punishment will be upgraded to the next highest category for any subsequent violation. For example, for a person with a prior conviction of a Class A misdemeanor, the next conviction will result in a punishment for third degree felony.

### 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 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 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.

#### **VII. 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.

#### **VIII. 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 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED** this 6th day of May 2002, by a 4 to 0 vote of the Village Council of the Village of Point Venture, Texas.

#### **VILLAGE OF POINT VENTURE**

**BY:** \_\_\_\_\_

TERRY HICKMAN, Mayor

**ATTEST:**

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Charlotte Banasik, Village Secretary