

Village of Point Venture

ORDINANCE NO. 2003- 07-01

**BUILDING HEIGHT AND ANTENNA FACILITIES
ORDINANCE**

AN ORDINANCE OF THE VILLAGE OF POINT VENTURE, TEXAS, ESTABLISHING THE MAXIMUM HEIGHT OF BUILDINGS WITHIN THE VILLAGE AND REGULATIONS FOR ANTENNA FACILITIES, INCLUDING PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; POPULAR NAME; PURPOSE; APPLICABILITY; DEFINITIONS; BUILDING PERMITS REQUIRED; CONDITIONAL USE PERMITS REQUIRED; CONSTRUCTION REQUIREMENTS; CO-LOCATION REQUIREMENTS; RECEIVE-ONLY ANTENNA FACILITIES; STANDARDS FOR VARIANCES; RECOGNITION OF ADDITIONAL REQUIREMENTS IN OTHER ORDINANCES; AN EFFECTIVE DATE; ENFORCEMENT CLAUSE INCLUDING INJUNCTIVE RELIEF, A FINE NOT TO EXCEED \$500 AND A CIVIL PENALTY NOT TO EXCEED \$100 PER OFFENSE; A REPEALER; A SEVERABILITY CLAUSE; AND PROPER NOTICE AND MEETING

WHEREAS the Village Council seeks to provide for the orderly development of land and use of property within its corporate limits; and

WHEREAS the Village Council finds that the construction, erection or modification of buildings and other structures so that the same achieve a height greater than that existing predominantly within the Village and the improper siting, placement, construction and modification of antenna facilities poses a substantial threat to human health and property, obstructs the line of sight for pedestrians and automobile operators, clutters the rural landscape, adversely affects the naturally scenic views and native environment, and decreases property values; and

WHEREAS the Village Council seeks to promote the health, safety and general welfare of the community by enacting regulations providing for the appropriate height of new and modified buildings and other structures in the Village and the siting, placement, construction and modification of antenna facilities so to avoid interference with police, fire and emergency services communications, minimize adverse visual impacts, avoid potential damage to adjacent properties from tower failure and falling debris, maintain the public rights-of-way, preserve property values, maximize the use of new or existing towers to discourage the undue

proliferation of towers and antennas, and preserve human health by ensuring compliance with federal requirements; and

WHEREAS the Village Council has the general authority to regulate land use and development and nuisances pursuant to the Texas Constitution, the Village's police power and the Texas Local Government Code, Chapters 51, 54, 211, and 217; and

WHEREAS the Village Council's authority regarding the placement, construction and modification of antenna facilities has been expressly preserved by federal and state law (See 47 U.S.C. § 332(c)(7)), 47 C.F.R. § 97.15, and Texas Local Government Code § 250.002); and

WHEREAS the Village Council seeks to facilitate the provision of wireless communication services and support the maintenance of a national network of capable amateur communications stations especially for the purposes of emergency communications; and

WHEREAS the Village Council finds that the following regulations do not unreasonably discriminate among providers of functionally equivalent services and do not prohibit or have the effect of prohibiting the provision of personal wireless services;

WHEREAS the Village Council finds that the following regulations reasonably accommodate amateur radio communications and represent the minimal practicable regulation to accomplish the Village's legitimate purpose; and

WHEREAS parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Village Council, notice of which was published in the Village's official newspaper before the 15th day before the first public hearing, and agendas for each hearing and public meeting were posted in at least three public places and at City Hall more than seventy-two (72) hours prior to the respective hearing.

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

1. FINDINGS OF FACT

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

2. POPULAR NAME

This Ordinance may commonly be referred to as the Village of Point Venture’s “Building Height and Antenna Facilities Ordinance.”

3. 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 regulation the height of buildings and other structures and the regulation of antenna facilities. The purpose of this Ordinance is to provide for a limitation on the maximum height of new and modified buildings and other structures and the orderly siting, placement, construction and modification of antenna facilities within the incorporated municipal boundaries (i.e., city limits) of the Village. This Ordinance is intended to serve as a comprehensive Ordinance that will adequately and equitably regulate the height of buildings and other structures and will regulate antenna facilities. Point Venture seeks to deter the proliferation of overly tall buildings and other structures in the scenic lakeside community and encourage co-location or stealth towers when new antenna facilities are necessary.

4. APPLICABILITY

- A. **New Antenna Facilities.** All antenna facilities constructed or erected after the effective date of this Ordinance within the corporate limits of the Village are subject to these regulations, except as provided in Section (b) below.
- B. **Pre-existing Antenna Facilities.** Antenna facilities lawfully constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance unless they become more than sixty-percent (60%) damaged or modifications exceed sixty-percent (60%) of the value of the antenna or tower. Pre-existing towers or antennas that do not comply with this Ordinance shall be regarded as nonconforming uses. Co-locations are included under this exception.
- C. **New and Modified Buildings and Other Structures.** Buildings and other structures constructed, erected, or modified after the effective date of this Ordinance within the corporate limits of the Village.

5. DEFINITIONS

A. General

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases which are not defined in this Ordinance but are defined in other ordinances of the Village 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.

B. **Specific Definitions**

Accessory Building (Residential): In a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental to the main structure but not involving the conduct of a business. The building area must be significantly less than that of the main structure. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse as a hobby, home workshop, children's playhouse, storage building or garden shelter.

Accessory Building (Business or Industry): In the non-residential districts, a subordinate building to the main building that does not exceed the height of the main building and does not exceed fifty percent (50%) of the floor area of the main building, and that is used for purposes accessory and incidental to the main use (see "Accessory Use").

Accessory Use: A use that is customarily incidental, appropriate and subordinate to the principal use of land or building(s) and that is located upon the same lot therewith. The land and building area that is used for the accessory use must be significantly less than that used for the primary use, and the gross receipts that is derived from the accessory use must be significantly less than that derived from the primary use.

Antenna: Any apparatus designed for the transmitting and/or receiving of electromagnetic waves that includes, but is not limited to telephonic, radio, or television communications. Types of antennas include, but are not limited to, omni-directional antennas; personal wireless service facilities; sectorized or panel antennas; multi or single bay antennas; yagi, dipole, or parabolic antennas.

Antenna Array: A single or group of antennas and their associated mounting hardware, transmission lines, or other appurtenances that share a common attachment device such as a mounting frame or mounting support.

Antenna Facilities: Any antenna and antenna-supporting structure, personal wireless service facilities, tower, other vertical projection composed of metal or other substances, with or without foundation, that is for the express purpose of accommodating antennas at a desired height above grade, or related unmanned equipment building. This term includes amateur radio antenna and receive-only antennas over twenty-five (25) feet in height.

Building: A roofed, walled, or roofed and walled structure intended for human or animal occupation or for decorative purposes, including but not limited to a house, office, warehouse, store, shop, garage, carport, school, factory, apartment complex, church, steeple, monument, or similar edifice, whether intended to be permanent or temporary, regardless of construction material.

Commercial Mobile Service: Any mobile service (as defined by 47 U.S.C. § 153) that is provided for profit and makes interconnected service available:

- (a) to the public; or
- (b) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the FCC.

FAA: The Federal Aviation Administration, or a successor agency having jurisdiction over antenna facilities.

FCC: The Federal Communications Commission, or a successor agency having jurisdiction over antenna facilities.

Height: (a) When referring to an antenna facility regulated by this Ordinance, the distance measured from the natural or finish grade (ground) to the highest point on the tower or structure, including the base pad and any antenna facilities.

(b) When referring to a structure regulated by this Ordinance the distance measured from the highest parapet or roof ridge to the natural or finish grade (ground) at the lowest point adjacent to the building exterior, whichever yields the greatest height.

Non-Confirming Use: A structure or an antenna facility that lawfully predated the adoption of this Ordinance and any accompanying regulations that prohibit or restrict such use, structure, or antenna facility.

OSHA: The federal Occupational Safety and Health Administration, or a successor agency having comparable jurisdiction.

Person: Any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Personal Wireless Services: Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

Personal Wireless Service Facilities: Facilities for the provision of personal wireless services.

Receive-Only Antenna: Any tower or antenna that is used exclusively for reception only, including local television broadcast reception antennas, direct satellite antennas, or multi-channel multipoint distribution services.

Stealth Antenna Facility: An antenna facility that is not readily visible or identifiable as such, and is designed to be aesthetically compatible with existing and proposed uses on a site. A stealth antenna facility may have a secondary function such as a church steeple, bell tower, spire, clock tower, water tower, utility pole, light standard, flagpole or tree, for example.

Structure: Any manmade edifice that does not meet the definition of building, tower, or antenna facility contained herein but which is otherwise determined by the Village Council to be of a character or height that this Ordinance was designed and intended to regulate.

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including the following:

- (a) Monopole Antenna: a self supporting pole type structure with no guy wire support, tapering from base to top and so designed to support fixtures which hold one or more antennas and related equipment for wireless telecommunication transmission;
- (b) Lattice Antenna: a steel lattice, self-supporting structure with no guy wire support, so designed to support fixtures which hold one or more antennas and related equipment for wireless communication transmission; or
- (c) Guyed Lattice Antenna: a steel lattice, guy wire supported structure, so designed to support fixtures which hold one or more antennas and related equipment for wireless communication transmission.

Unlicensed Wireless Service: The offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in 47 U.S.C. § 303(v)).

Unmanned Equipment Building: An accessory building housing electronic and communication equipment as an associated and permitted part of an antenna facility.

Village: The Village of Point Venture, an incorporated municipality located in Travis County, Texas. The term may also refer to employees, agents or other designee of the Village Council of the Village of Point Venture.

Village Council or Council: The governing body (i.e., board of aldermen) of the Village of Point Venture.

6. MAXIMUM HEIGHT ALLOWED FOR BUILDINGS AND OTHER STRUCTURES

The maximum height allowed for any new building or other structure, or for the modification of any building or other structure in the Village that increases the existing height of such building or other structure shall not exceed twenty-eight feet (28') above the highest point on the lot.

7. CONDITIONAL USE PERMITS FOR ANTENNA FACILITIES

- A. **Conditional Use Permits Required.** It shall be unlawful for any person to erect, construct in place, place or re-erect, or replace any antenna facility without first making application to, and securing a Conditional Use Permit from, the Village, as hereinafter provided.
- B. **Exceptions.** Conditional Use Permits are not required for:
- (1) Adjustment, replacement or repair of the elements of an antenna array affixed to an antenna facility, provided that replacement does not reduce the safety factor.
 - (2) Antenna facilities erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations. Temporary antennas shall be removed within seventy-two (72) hours following installation.
 - (3) The installation of receive-only or amateur radio antennas less than twelve (12) feet above the peak of the roof of a building.
 - (4) Any ground mounted receive-only or amateur radio antennas less than twenty-five (25) feet in height.
 - (5) Co-location of additional antennas on existing antenna facilities that have obtained the necessary Village permits or are nonconforming uses.
- C. **Conditional Use Permit Applications.** The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna facility will not create a safety hazard or damage to the property of other persons. In addition to the information required elsewhere in this Ordinance, Conditional Use Permit applications for antenna facilities shall include the following information:
- (1) A report from a qualified and licensed professional engineer which:

- (a) describes the antenna facility height and design including a cross section and elevation;
 - (b) documents the height above grade for all potential mounting positions for co-located antenna facilities and the minimum separation distances between antenna facilities;
 - (c) describes the antenna facility's capacity, including the number and type of antennas that it can accommodate;
 - (d) documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - (e) includes an engineer's stamp and registration number;
 - (f) includes other information necessary to evaluate the request; and,
 - (g) Prior to the installation of a roof-mounted antenna, the Village shall be provided with an engineer's certification that the roof will support the proposed antenna facility and associated roof-mounted equipment or that adequate modifications will be made to reinforce the roof.
- (2) For all antenna facilities, a letter of intent committing the owner and his or her successors to allow the shared use of the facility if an additional user agrees in writing to meet reasonable terms and conditions for shared use and shared use will not unreasonably interfere with use by the existing user.
- (3) Before the issuance of a Conditional Use Permit, the following supplemental information shall be submitted:
- (a) Proof that the applicant has sought the necessary authorization from the FAA and FCC, as applicable.
 - (b) a report from a qualified and licensed professional engineer which demonstrates the antenna facility's compliance with structural and electrical standards.
- (4) Documentation of applicant's mitigation plan, which at a minimum shall include proposed landscaping, screening and security measures.
- (5) Lists of other tower facilities owned or operated by the applicant within the Village and Travis County.

D. Application, Inspection, and Engineering Fees. The fee to be paid for Conditional Use Permit Applications and Inspections is that prescribed by the Village Council.

In addition to the fee specified above, the applicant shall reimburse the Village for the actual cost to the Village for the services of an engineer should an engineer be required to review the application and provide engineering expertise to the Village, up to a maximum of five thousand dollars (\$5,000).

- E. **Review Schedule.** The Village shall review, consider, and take action upon an application for a conditional use permit within sixty (60) days of receipt of a complete application unless postponement is requested by the applicant.
- F. **Expiration of Permits.** Conditional Use Permits issued under this section shall expire in twelve (12) months if the project is not completed. In determining whether the facility is complete, the opinion of the Village's engineer shall be definitive. It shall be unlawful for a person to continue construction on an antenna facility after the applicable permit has expired. Applicants may request in writing that the Village grant an extension for no more than six (6) months.

8. CONSTRUCTION REQUIREMENTS FOR ANTENNA FACILITIES

- A. **General.** All antenna facilities erected, constructed, placed or sited within the Village, and all wiring therefore, shall comply with the following requirements:
 - (1) All applicable provisions of this Ordinance.
 - (2) Antenna facilities shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Village Commercial Building Code.
 - (3) Antenna facilities shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
 - (4) All signal and remote control conductors of low energy extending substantially above the ground, between an antenna facility and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
 - (5) Every tower affixed to the ground shall be protected to discourage climbing of the antenna facility by unauthorized persons. Such protection may include but is not limited to signage and security fencing.
 - (6) All antenna facilities shall be constructed to conform to requirements of the OSHA.
- B. **Number of Antenna Facilities.** Only one (1) antenna facility shall exist at any one time on any one lot or parcel located in a residential area, as established by Village regulations

or by the Point Venture Property Owners Association and related restrictive covenants and/or deed restrictions.

C. **Design Requirements.** Proposed or modified antenna facilities shall meet the following design requirements:

- (1) A site plan demonstrating the surrounding topography and existing structures, tree cover, and vegetation. The site plan shall also include proposed landscaping and screening measures designed to minimize the adverse impacts of the antenna facility on adjacent properties and scenic views.
- (2) Design plans explaining the applicant's plans to construct, paint, or architecturally camouflage the antenna facility so to minimize the adverse impacts of the antenna facility on adjacent properties and scenic views.

D. **Antenna Facility Setbacks.** Antenna facilities shall conform with each of the following minimum setback requirements:

- (1) The required setback for antenna facilities not rigidly attached to a building, shall be equal to the cumulative height of the antenna and tower.
- (2) No antenna facilities shall be in excess of a height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five (5) feet.
- (3) At a minimum, antenna facilities shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
- (4) Antenna facilities shall be set back from the planned public rights-of-way as shown on applicable deeds or survey by a minimum distance equal to one half of the height of the tower including all antennas and attachments.
- (5) Antenna facilities shall not be located between a principal structure and a public street, with the following exceptions:
 - (a) In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.
 - (b) On sites adjacent to public streets on all sides, antenna facilities may be placed within a side yard abutting a local street.

- (c) An antenna facility's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Village, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

E. **Antenna Facility Height.** All proposed antenna facilities shall comply with the following height restrictions:

- (1) In general, the maximum of any antenna facility, including all attachments, shall be seventy-five (75) feet;
- (2) In residential areas and upon those lots immediately adjacent to residences, the maximum height of any antenna facility, including all antennas and other attachments, shall not exceed one (1) foot for each four (4) feet the tower is setback from adjoining residential property up to a maximum height of sixty (60) feet.
- (3) In all other areas, the maximum height of any antenna facility, including all attachments, shall not exceed one (1) foot for each two (2) feet the tower is setback from residential property up to a maximum height of one hundred fifty (150) feet.

F. **Illumination.** No antenna facilities in any residential zoning district shall have affixed or attached in any way except during time of repair or installation any lights, reflectors, flashers, or other illuminating device, except as required by the FAA, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

G. **Signs and Advertising.**

- (1) The use of any portion of an antenna facility for signs other than identification, warning or equipment information signs is prohibited.
- (2) An antenna facility must bear a sign identifying the owner of the antenna facility and providing an emergency telephone number. The sign must be no smaller than one (1) square foot and must be located outside the facility in a location clearly visible from adjacent public right-of-way.

H. **Accessory Utility Buildings.** All utility buildings and structures necessary to an antenna facility shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of all deed restrictions. Ground mounted equipment shall be screened from view by suitable vegetation, except where a

design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

I. Abandoned or Unused Towers or Portions of Antenna Facilities.

All abandoned or unused antenna facilities and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Village. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application for a conditional use permit. In the event that an antenna facility is not removed within twelve (12) months of the cessation of operations at a site, the antenna facility and associated structures may be removed by the Village and the costs of removal assessed against the property.

J. Antennas Mounted on Roofs, Walls, and Existing Towers. The placement of wireless telecommunication antennas or antenna facilities on roofs, walls, and existing towers may be approved by the Village, provided the antenna facilities meet the requirements of this Ordinance and any applicable deed restrictions or restrictive covenants.

K. Interference with Public Safety Telecommunications. No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Village at least ten calendar days in advance of such changes and allow the Village to monitor interference levels during the testing process.

L. Inspections. At the Village's option, all antenna facilities may be inspected at least once each year by a designated official of the Village to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this Ordinance.

9. CO-LOCATION REQUIREMENTS FOR ANTENNA FACILITIES

A. Co-Location Required. All antenna facilities erected, constructed, or located within the Village shall comply with the following requirements:

- (1) An application for a Conditional Use Permit for a new antenna facility shall not be approved unless the Village finds that the equipment planned for the proposed antenna facility cannot be accommodated on an existing or approved tower or building within a one mile search radius (one-half mile search radius for towers under one hundred twenty (120) feet in height, one-quarter mile search radius for

towers under eighty (80) feet in height) of the proposed tower due to one or more of the following reasons:

- (a) The planned equipment would exceed the structural capacity of the existing or approved antenna facility or building, as documented by a qualified and licensed professional engineer, and the existing or approved antenna facility cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- (b) The planned equipment would cause interference, with or would materially impact the usability of other existing or planned equipment at the existing antenna facility or building as documented by a qualified and licensed professional engineer, and the interference or material impact cannot be prevented at a reasonable cost.
- (c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- (d) Other unforeseen reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building.

B. Additional Capacity Required. Any proposed antenna facility must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height or for at least one (1) additional user if the tower is over sixty (60) feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

C. Stealth Antenna Facilities Encouraged. CUP applications requesting authorization for stealth antenna facilities will be given expedited consideration by the Village because of the reduced impact of such structures on the community.

10. RECEIVE-ONLY ANTENNA FACILITIES

Receive-only antennas shall be considered as permissible accessory uses in all areas of the Village and shall be permitted in accordance with the regulations for detached accessory structures, provided that the proposed antenna conform to applicable deed restrictions and restrictive covenants.

11. VARIANCES

A. In order to reasonably accommodate new building, structure, and antenna facilities, the Village Council is authorized in specific cases to issue a variance from the strict and literal terms of this Ordinance if the Council makes specific written findings as follows:

- (1) the variance is not contrary to the public interest;
 - (2) due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship; and
 - (3) the spirit of the Ordinance will be observed and substantial justice will be done.
- B. Any entity that desires to construct, erect, or modify a building or other structure or to erect or utilize antenna facilities that would otherwise be prohibited by this Ordinance or other regulations of the Village may apply for a variance under this section. The Village Council, upon making the written findings described in A. above, or upon a showing that strict application of the regulation would prohibit or have the effect of prohibiting personal wireless services as defined by federal law, or upon finding that failure to grant the variance would unreasonably fail to accommodate amateur radio communications, may vary the subject regulation, consistent with the spirit and intent of this Ordinance, to the extent necessary to relieve the unnecessary hardship or prevent the prohibition.
- C. **Expiration of Variances.** Variances granted under this section shall expire in twelve (12) months if the project is not at least fifty percent (50%) completed. In determining the level of completion, the opinion of the Village's engineer shall be definitive. It shall be unlawful for a person to continue construction on an antenna facility after the applicable variance has expired. Applicants may request in writing that the Village grant an extension for no more than six (6) months.

12. ADDITIONAL REQUIREMENTS

The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances; provided, however, that all prior ordinances or parts of Ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

13. EFFECTIVE DATE

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

14. 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 five hundred dollars (\$500) 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 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;
 - (2) a civil penalty up to one hundred dollars (\$100) 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.

15. REPEALER

All Ordinances or parts of Ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

16. 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.

17. 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 Chapters 52 and 211 of the Texas Local Government Code.

PASSED AND APPROVED this the ___ day of _____, 2003, by a vote of ___ ayes to ___ nays to ___ abstentions of the Village Council of the Village of Point Venture.

VILLAGE OF POINT VENTURE

By: _____
Terry Hickman, Mayor

ATTEST:

Charlotte Banasik, Village Secretary

APPROVED AS TO FORM:

Alan J. Bojorquez, Village Attorney