

Village of Point Venture

ORDINANCE NO. 2004-07-01

ADOPTION OF TEXAS FOOD ESTABLISHMENT REGULATIONS

AN ORDINANCE OF THE VILLAGE OF POINT VENTURE, TEXAS, ADOPTING THE TEXAS FOOD ESTABLISHMENT REGULATIONS AS THEY NOW EXIST AND MAY HEREAFTER BE AMENDED, PROVIDING FOR PERMITS AND PERMIT FEES; PROVIDING FOR INSPECTIONS; PROVIDING FOR ENFORCEMENT, REVOCATION OF PERMITS AND PENALTIES; PROVIDING A REPEALER; A SEVERABILITY CLAUSE; AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING

WHEREAS, the Village Council of the Village of Point Venture has the authority to provide for the permitting and inspection of food establishments located in the Village in order to protect the health, safety, and welfare of the public; and

WHEREAS, the Village Council of the Village of Point Venture believes that it is in the best interests of the Village to adopt by reference the Texas Food Establishment Regulations; and

WHEREAS, the Village Council intends to enter into an Interlocal Agreement with the City of Austin for the permitting and inspection of food establishments in the Village in order to ensure compliance with the Texas Food Establishment Regulations; and

WHEREAS, the Village Council desires to provide for enforcement and penalties, including revocation of permits, for non-compliance with the Texas Food Establishment Regulations or if the operation of the food establishment constitutes an imminent hazard to public health;

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF POINT VENTURE, TEXAS THAT:

The following are adopted as an Ordinance of the Village of Point Venture, Texas:

Sec. 1.101 Adoption of Texas Food Establishment Regulations

The Village of Point Venture, Texas adopts by reference the provisions of the Texas Food Establishment Regulations of the Texas Board of Health which are found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 175 regarding the regulation of food establishments in this jurisdiction, as such rules currently exist, and as they are amended from time to time.

Sec. 1.102 Definitions

Authorized Agent or Employee. Means an employee of the Village, a representative of the Village designated by the Village Council, or an employee of the City of Austin acting as an agent of the Village pursuant to an Interlocal Agreement between the Village and the City of Austin.

Food Establishment. Means a restaurant, cafe, cafeteria or similar establishment, the primary purpose of which is to sell food and meals to the public, operating either seasonally or year round.

State Rules. Means the Texas Food Establishment Regulations found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 175.

Village. Means the Village of Point Venture, Texas. Any reference herein to the Village shall mean the Village Council of the Village or a person designated by the Village Council to perform the duties or exercise the authority provided for in this Ordinance.

Sec. 1.103 Permits and Exemptions

(a) A person may not operate a food establishment without a permit issued by the Village. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this article. A valid permit must be posted in or on every food establishment regulated by this article.

(b) A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this article, but is not exempt from compliance with state rules. The Village may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption

Sec. 1.104 Application for Permit, Fees, and Inspections

(a) Any person now operating or desiring to operate a food establishment must make a written application for a permit on forms provided by the Village. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

(b) Except for a food establishment that was in existence and was in operation prior to the effective date of this Ordinance, prior to the approval of an initial permit for a food establishment, an authorized agent or employee shall inspect the food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.

(c) The fee for a permit shall be annually approved by the Village.

(d) By acceptance of a permit, the permittee agrees to permit unannounced annual or periodic inspections for compliance with the State Rules by an authorized agent or employee.

Sec. 1.105 Certified Food Manager

Each commercial, permanently located food establishment in the Village shall employ at least one Certified Food Manager certified pursuant to an accredited program under the State Rules.

Sec. 1.106 Review of Plans

(a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the Village for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the Village if they meet the requirements of the state rules or other applicable ordinance of the Village. The approved plans and specifications must be followed in construction, remodeling or conversion.

(b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

Sec. 1.107 Suspension of Permit

(a) The Village may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health or if an authorized agent or employee informs the Village that the food establishment is non-compliant with the State Rules and that its permit should be suspended. Suspension is effective upon service of the notice required by this section. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.

(b) Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Village by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The Village may end the suspension at any time if reasons for suspension no longer exist.

Sec. 1.108 Revocation of Permit

(a) The Village may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the authorized agent or employee conducting in inspection of the food establishment or otherwise performing his or her duties. Prior to revocation, the Village shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten day period.

(b) If no request for hearing is filed within the ten day period, the revocation of the permit becomes final.

Sec. 1.109 Administrative Process

(a) A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the Village.

(b) The hearings provided for in these rules shall be conducted by the Village at a time and place designated by it. Based upon the evidence presented at such hearing, the Village shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the Village.

Sec. 1.110 Penalties; Enforcement of Penalties

Any violation of this Ordinance shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00) per day, subject to applicable State Law. Each day a violation occurs constitutes a separate violation.

The Village may authorize its attorney to initiate appropriate actions in a court of competent jurisdiction to enforce the provision of this article or to enjoin such violations which occur within the village or any area subject to all or part of the provisions in this article. Prosecution or conviction under this provision shall not be a bar to any other remedy or relief for violations of this article.

Sec. 1.111 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.

Sec. 1.112 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.

Sec. 1.113 Effective Date

This Ordinance shall become effective upon the date of its adoption, except that no food establishment shall be required to obtain a permit or shall be found to be in violation of this Ordinance until such time that the Village and the City of Austin have executed an interlocal agreement to carry out the purposes of this Ordinance or the Village otherwise establishes a program to carry out the purposes of this Ordinance. At such time, any food establishment in operation in the Village shall be notified in writing by the Village that it shall have thirty (30) days from the date of receipt of the notice, or thirty days from the date the food establishment next opens for business in the event of a food establishment that operates seasonally, to obtain a permit and come into compliance with this Ordinance.

Sec. 1.114 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.

VILLAGE OF POINT VENTURE

ATTEST:

By: _____
William Ratfield, Mayor

Jeanine Oglesby, Village Secretary