

**Village of Point Venture**

**ORDINANCE NO. 2004-12-02**

**AN ORDINANCE OF THE VILLAGE OF POINT VENTURE, TEXAS, REQUIRING APPLICANTS FOR BUILDING PERMITS FOR PROJECTS THAT MAY CAUSE THE ACCUMULATION OF LITTER OR TRASH OR DAMAGE OR NEED FOR REPAIR OR RESTORATION OF VILLAGE STREETS OR INFRASTRUCTURE TO POST BOND OR OTHER ACCEPTABLE FINANCIAL ASSURANCE FOR CLEANUP, RESTORATION AND REPAIR; REQUIRING THE ERECTION OF A SAFETY FENCE AROUND THE PERIMETER OF EACH CONSTRUCTION SITE; PROVIDING FOR ADMINISTRATION, APPEAL, RELEASE OR REFUND OF UNUSED FINANCIAL ASSURANCE, ENFORCEMENT, PENALTIES, AND REVOCATION OF PERMITS FOR NON-COMPLIANCE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE**

**WHEREAS**, under state law a General Law Municipality has exclusive control over the streets and alleys of the municipality, including the authority to regulate and improve a street; and

**WHEREAS**, construction projects within the Village of Point Venture that involve the movement of trucks and other heavy equipment through the Village often cause damage and need for repair or restoration of streets, utility lines, curbs, sidewalks, and other infrastructure of the Village; and

**WHEREAS**, construction sites within the Village of Point Venture should be clearly delineated with a fence or other barrier that will contain litter and prevent its spread to neighboring properties; and

**WHEREAS**, the Village Council of the Village of Point Venture believes that it is in the best interests of the Village to require contractors, builders, and others who must apply for building permits for projects in the Village to provide financial assurance to cover the costs of repairs and restoration resulting from those projects;

**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:

**Definitions:**

“Applicant” means a person, corporation, partnership, or other entity that applies for a building or other permit to authorize the construction of a structure or other

project as required by the ordinance(s) of the Village of Point Venture. For purposes of this ordinance, the term “applicant” shall continue to apply to such person, corporation, partnership, or other entity after issuance of the applicable permit(s).

“Construction” means the construction, re-construction, remodeling, razing, demolition or similar work for which a building or other permit is required by ordinance(s) of the Village of Point Venture.

“Other Adequate Financial Assurance” shall mean a letter of credit, cash, or other financial instrument acceptable to the Village, as determined by the Village Building Commission, other than a bond, and upon which the Village shall be authorized to draw funds when the Village Building Commission determines the Village is entitled to do so under the terms of this Ordinance.

“Safety fence” means a lightweight, strong, mesh, highly visible barrier, typically orange in color, typically of polyethylene or plastic material, commonly used for construction sights, delineation, crowd control or as a visual barrier, installed using T-posts, wooden posts, or existing fence, capable of containing litter within its interior.

“Village” means the Village of Point Venture, Texas.

- (1) Any person required by the Ordinances of the Village to apply for and obtain a building permit or other permit to authorize the construction of a structure or similar project may be required to post a bond or other adequate financial security, in an amount not to exceed seven hundred fifty dollars (\$750.00), to cover the costs of cleanup of litter and trash at the construction site and/or the repair or restoration of Village streets, curbs, sidewalks, alleys, bridges, utilities, or other infrastructure caused by the work and activities associated with the construction, reconstruction, or remodeling of the project.
- (2) At the time an application for a building permit or other permit required to authorize the construction of a structure or similar project is received by the Village Building Commission, the Building Official shall ascertain whether the nature of the work associated with the project has the potential to cause an accumulation of litter or trash or damage to or need for repairs or restoration of Village streets, curbs, sidewalks, alleys, bridges, utilities, or other infrastructure. If the Building Official determines that such potential exists, he or she shall inform the applicant that the application may not be processed until the applicant has furnished the Village with a bond or other adequate financial assurance, payable to the Village, to cover the costs of such repairs or restoration.
- (3) The Building Official’s determination shall be based on the type and size of project involved, the potential for accumulation of litter and trash, the need to

bring concrete trucks or heavy equipment to the site of the project, the number and size of vehicles and heavy equipment that will be used at the project, the nature and state of repair of the streets, curbs, sidewalks, alleys, bridges, utilities, or other infrastructure that will be affected by the project, and any other factor reasonably associated with the project that may increase or decrease the potential for accumulation of litter or trash or damage to or need for repairs or restoration.

- (4) Prior to commencement of construction of any structure or similar project for which a permit from the Village is required, the applicant shall erect or cause to be erected a safety fence around the entire perimeter of the construction site. The fence shall either be coterminous with the boundaries of the property upon which the project is to be constructed or shall be contained within the boundaries of the property and shall not be located on or extended to any neighboring property owner's property. The fence shall be continuous except for reasonably necessary points of ingress and egress for construction equipment and workers. The Building Official shall have the authority to approve an alternative barrier other than a safety fence provided that such barrier provides the same or similar levels of visibility, litter containment, and delineation of the construction site.
- (5) At any time during the construction, up to and including the final inspection of the project, the Building Official or other person designated as inspector of the project for the Village may determine that litter and trash need to be cleaned up or that damage or other need for repairs or restoration of the streets, curbs, sidewalks, alleys, bridges, utilities, or other infrastructure has occurred as a result of the project, and if so, what the reasonable cost of such repairs or restoration will be. The applicant shall be notified of the need for cleanup, repair, or restoration and shall be given a reasonable time to accomplish same. If such cleanup, repair, or restoration is not accomplished to the satisfaction of said Building Official or the Village Council, the Village shall be authorized to perform the necessary cleanup, repair, or restoration and to collect or deduct the cost of same from the bond or other adequate financial assurance. After final inspection the unused remainder of the bond or other adequate financial assurance, if any, shall be released or refunded to the applicant upon written request for same by the applicant.
- (6) If the applicant disagrees with the Building Official about the potential for cleanup, damage, or need for repairs or restoration, or about the decision of the Inspector about the extent of cleanup, damage, or need for repairs or restoration, he or she may appeal the matter to the Building Commission, which shall schedule a hearing on the matter within a reasonable time, not to exceed thirty (30) days. The Commission shall not be required to post or publish notice in addition to that normally posted for a meeting of the Commission. The Building Official or other inspector shall not sit as a member of the Commission or have a vote at the hearing, but the applicant and the Building

Official or inspector may present testimony, evidence, and witnesses at the hearing, after which the Commission shall either affirm to decision of the Building Official, overrule the decision of the Building Official, or modify the amount of the bond or other adequate financial assurance. The decision of the Commission shall be final.

- (7) No oversight of any Village official, employee or representative shall excuse a violation of this Ordinance.
- (8) The invalidity of any part or provision of this Ordinance shall not invalidate other parts or provisions thereof.
- (9) The Village Building Commission is responsible for the enforcement of this Ordinance.
- (10) 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. 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:
  - (a) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance;
  - (b) 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
  - (c) other available relief.
- (10) The provisions hereof are severable. The invalidity of any part or provision of this ordinance shall not invalidate other parts or provisions thereof.
- (11) All requirements and penalties of this Ordinance shall become effective upon adoption of this Ordinance and publication in the official newspaper.

**Adopted this the \_\_\_ day of \_\_\_\_\_, 2004**

\_\_\_\_\_  
**William Ratfield, Mayor**

**Attest:** \_\_\_\_\_  
**Jeanine Oglesby, City Secretary**