

Village of Point Venture

ORDINANCE NO. 2022-01-19

AN ORDINANCE OF THE VILLAGE OF POINT VENTURE, TEXAS, AMENDING CHAPTER 7 OF THE VILLAGE OF POINT VENTURE CODE OF ORDINANCES; AMENDING THE RULES AND REGULATIONS FOR ENVIRONMENTAL NUISANCES AND FOR THE FIREWISE COMMUNITY STANDARDS; PROVIDING FINDINGS OF FACT; PROVIDING FOR REPEAL, SEVERABILITY, SAVINGS, PUBLICATION AND CODIFICATION; DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Point Venture (“Village Council”) seeks to provide for the public health, safety and welfare of its citizens; and

WHEREAS, pursuant to Section 51.001 of the Texas Local Government Code, the Village of Point Venture may adopt and amend ordinances for the good government, peace and order of the Village, as necessary or proper for carrying out a power granted by law to the Village; and

WHEREAS, pursuant to Chapters 342 of the Texas Health and Safety Code and 217 of the Texas Local Government Code, the Village of Point Venture may define and declare what constitutes a nuisance, may establish penalties for same, may abate and remove nuisances and may regulate weeds, brush, high grass, refuse and rubbish; and

WHEREAS, the Village Council has previously adopted rules and regulations for public nuisances and Firewise Community standards, as codified in Chapter 7 of the Village of Point Venture Code of Ordinances; and

WHEREAS, the Village Council finds the amendment of the adopted rules and regulations for public nuisances and Firewise Community standards is necessary for the good government, peace and order of the Village.

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

SECTION 1. Findings of Fact. All of the above recitals and premises are hereby found to be true and correct legislative and factual findings of the Village Council of the Village of Point Venture, Texas and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Amendment. The Code of Ordinances of the Village of Point Venture, Texas is hereby amended by renaming the title of Article 7.04 of Chapter 7 as follows:

**“VILLAGE OF POINT VENTURE, TEXAS
CODE OF ORDINANCES**

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CHAPTER 7 HEALTH AND SANITATION

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ARTICLE 7.04 LITTER CONTROL”

SECTION 3. Amendment. The Code of Ordinances of the Village of Point Venture, Texas is hereby amended by deleting Section 7.04.007 of Chapter 7.

SECTION 4. Amendment. The Code of Ordinances of the Village of Point Venture, Texas is hereby amended by deleting Article 7.05 of Chapter 7 thereof and substituting therefor a new Article 7.05 of Chapter 7 to provide as follows:

**“VILLAGE OF POINT VENTURE, TEXAS
CODE OF ORDINANCES**

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CHAPTER 7 HEALTH AND SANITATION

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ARTICLE 7.05 ENVIRONMENT

7.05.001 Definitions

When used in this article, the following definitions shall apply, unless the context clearly indicates otherwise:

Garbage means decayable waste from a public or private establishment or restaurant.

Neighborhood means (1) a platted subdivision or (2) property contiguous to and within 300 feet of a platted subdivision.

Premises means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property

Refuse means garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

Rubbish means nondecayable waste from a public or private establishment or residence, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans.

7.05.002 Prohibitions; Violations; Declaration of Public Nuisance

- (a) The following conditions on property are prohibited with the village:
 - (1) The accumulation of stagnant water or the existence of any condition that may produce disease.
 - (2) The accumulation of filth, carrion, or other impure or unwholesome matter.
 - (3) The existence of weeds, grass or brush, save and except crops that are regularly cultivated, at a height greater than twelve (12) inches within one hundred fifty (150) feet of any property line which abuts a street right-of-way or a developed premises or within one hundred fifty (150) feet of any building or structure.
 - (4) The accumulation of refuse, including yard waste, on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle.
 - (5) The accumulation of rubbish on premises in a neighborhood for 10 days or more, unless the rubbish is completely enclosed in a building or is not visible from a public street.
 - (6) The maintenance of premises in a neighborhood in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests.
 - (7) The existence of a tree, brush or other vegetation, or a portion thereof, that:
 - (A) is at a height of less than 12 feet above the pavement of a street or alley;
 - (B) grows on the curb or edge of the street or alley; or
 - (C) obscures a motorist's or pedestrian's view of any street, street intersection, traffic control device or sign.
- (b) Any owner or occupant of property upon which a condition set forth in subsection (a) of this section exists or any person causing, permitting or allowing such a condition shall be deemed in violation of this section.
- (c) It shall be the duty of any owner or occupant of property on which any condition set forth in subsection (a) of this section exists to abate such violation.
- (d) Each condition prohibited in subsection (a) of this section is specifically declared to be a public nuisance, and as such, may be abated by the village.

7.05.003 Notice

- (a) In the event that any owner of property within the village fails to comply with the provisions of section 7.05.002, it shall be the duty of the building official to give seven (7) days' notice to such person that the village may do the work required and pay for the work done and charge the expenses to the owner of the property.

- (b) The notice shall be given:
- (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - (3) If personal service cannot be obtained:
 - (A) By publication at least once;
 - (B) By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (c) If the village mails a notice to a property owner in accordance with subsection (b), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- (d) In a notice provided under this section, the village may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the village without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the village has not been informed in writing by the owner of an ownership change, then the village without notice may take any action permitted and assess its expenses as provided by V.T.C.A., Health and Safety Code, section 342.007.

7.05.004 Abatement by Village; Lien For Village's Expenses

- (a) If any person fails or refuses to comply with the provisions of section 7.05.002 after notice as provided in section 7.05.003, then the village may do such work or cause the same to be done in order to bring the property into compliance and may pay the expenses for doing or having the work done on the property and cause the expense to be assessed in the form of a lien on the property upon which such expense is incurred.
- (b) A statement of expenses shall be filed by the mayor or his designated representative with the county clerk, and upon filing, the village will have a privileged lien on the property, inferior only to tax liens and liens for street improvements. The amount of such expenditures shall bear ten percent (10%) per annum interest from the date of payment by the village until paid by the property owner. For any such expenditures and interest, suit may be instituted and foreclosure had in the name of the village, and the statement, or a certified copy thereof, shall be prima facie proof of the amount expended on such work.

7.05.005 Additional Authority To Abate Dangerous Weeds

- (a) The village may abate, without notice, weeds that:
 - (1) Have grown higher than 48 inches; and
 - (2) Are an immediate danger to the health, life, or safety of any person.
- (b) Not later than the 10th day after the date the village abates weeds under this section, the village shall give notice to the property owner in the manner required by section 7.05.003.
- (c) The notice shall contain:
 - (1) An identification, which is not required to be a legal description, of the property;
 - (2) A description of the violations of the ordinance that occurred on the property;
 - (3) A statement that the village abated the weeds; and
 - (4) An explanation of the property owner's right to request an administrative hearing about the village's abatement of the weeds.
- (d) The village shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the village a written request for a hearing.
- (e) An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the village's abatement of the weeds.
- (f) The village may assess expenses and create liens under this section as it assesses expenses and creates liens under section 7.05.004. A lien created under this section is subject to the same conditions as a lien created under section 7.05.004.

7.05.006 Lot Maintenance

- (a) The purpose of this lot maintenance section is to reduce the risk of fire hazard in order to protect lives and property within the village. Maintenance of lots, both developed and undeveloped, is key to keeping the village safe and beautiful. The Village of Point Venture is a Firewise Community. In keeping with the Firewise program principles, notwithstanding the prohibitions of section 7.05.002, the following conditions are prohibited:
 - (1) All branches larger than four (4) inches diameter on trees located six feet or less from the ground.
 - (2) Grass, weeds and brush higher than twelve (12) inches.
 - (3) Vegetation, or a portion thereof, that is at a height of less than 12 feet above the pavement of a street or alley.
 - (4) Vegetation, or a portion thereof, that grows on the curb or edge of street.
 - (5) Vegetation, or a portion thereof, that obscures a motorist's or pedestrian's view of any street, alley, street intersection, traffic control device or sign.
 - (6) The placement of yard waste at the street or curb, except within forty-eight (48) hours of a scheduled pick up of such yard waste.

- (b) It is each individual property owner's responsibility to provide for the landscaping of the owner's property, including cutting limbs from trees, removing dead trees from private property and disposing of yard waste.

7.05.007 Penalty

Any person violating any of the provisions of this article shall be subject to a fine, upon conviction in the municipal court, in accordance with the general penalty provided in section 1.01.009 of this code. Each and every day that the premises shall remain in a condition in violation of the terms of this article shall constitute a separate offense.”

SECTION 5. Repeal. All provisions of the ordinances of the Village of Point Venture in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the Village of Point Venture not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 6. Severability. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be illegal, invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of any remaining provision of the Code of Ordinances or the Code of Ordinances as a whole.

SECTION 7. Savings. All rights and remedies of the Village of Point Venture are expressly saved as to any and all violations of the provisions of any ordinances regulating public nuisances and Firewise Community standards which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 8. Publication and Codification. The Village Secretary of the Village of Point Venture is hereby directed to publish the Caption, Penalty and Effective Date of this Ordinance as required by Section 52.011 of the Texas Local Government Code. The Village Secretary is further directed to have this Ordinance codified at the next available codification update.

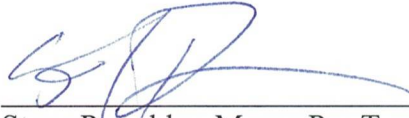
SECTION 9. Open Meeting. The Village Council of the Village of Point Venture hereby finds and determines that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 10. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2000.00), in accordance with the enforcement and penalty provisions, and a separate offense shall be deemed committed each day or part of a day during or on which a violation occurs or continues.

Further, if the Village Council of the Village of Point Venture determines that a violation of this Ordinance creates a threat to the public safety, the Village may bring suit in the District Court to enjoin such violation and may exercise all available remedies as allowed by law.

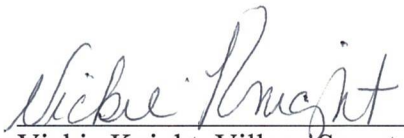
SECTION 11. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

DULY PASSED AND ADOPTED by the Village Council of the Village of Point Venture, Texas, on the 19th day of January 2022.



Steve Perschler, Mayor Pro Tem

ATTEST:



Vickie Knight, Village Secretary

APPROVED AS TO FORM:

Caroline Kelley, Village Attorney