

**ORDINANCE #282-2003**

**AN ORDINANCE REPEALING ORDINANCE #170-94, AND DECLARING IT TO BE UNLAWFUL TO ALLOW RUBBISH, TRASH, BRUSH, ETC. TO ACCUMULATE ON ANY PREMISES; PROVIDING FOR THE REMOVAL OF RUBBISH, BRUSH AND OTHER MATTER AND THE MOWING OF GRASS, WEEDS, AND OTHER PLANTS ON TRACTS OR PARCELS OF LAND WITHIN THE CITY OF VENUS; AUTHORIZING THE CITY TO REMOVE OR MOW SAME AND ATTACH A LIEN FOR PAYMENT OF SUCH EXPENSE; PROVIDING FOR THE FORECLOSURE OF SUCH LIENS; PROVIDING THAT THIS ORDINANCE: SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Venus, Texas, is a Type A general-law municipality located in Johnson County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas;

WHEREAS, Chapter 342 of the Texas Health and Safety Code authorizes local regulation of sanitation and this ordinance is predicated on that authority;

WHEREAS, the City Council of the City of Venus has determined that the existence of stagnant water, rubbish, trash, brush and other objectionable, unsightly or unsanitary matter or grass, weeds, or uncultivated plants of a height greater than twelve (12) inches on average or growing in rank profusion on any premises is injurious to the public health, safety and welfare; and

WHEREAS, the City Council deems it expedient to require the owners of property within the City to cut or cause to be cut, and remove or cause to be removed all such rubbish, trash, brush, grass, weeds, plants or other matter in order to protect the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS:**

**SECTION 1. PROHIBITING TALL GRASS, WEEDS AND STAGNATE WATER**

It shall be unlawful for any owner, occupant or anyone having supervision or control of any lot, tract or parcel of land, occupied or unoccupied, improved or unimproved, within the City to permit grass, weeds (cultivated wildflowers excluded) or any plant that is not cultivated to grow to a greater height than twelve (12) inches on an average or to grow in rank profusion upon the premises. With respect to lots, tracts or parcels of land of two (2) or more acres under single ownership, the provisions of this section shall not be applicable to any area in excess of one hundred (100) feet from any open public street or way and in excess of one hundred (100) feet from any adjacent property under different ownership on which any building is located or on which any improvement exists. It shall be unlawful to permit, suffer or allow stagnate water or any other unwholesome condition that may produce disease to exist or remain on one's property or property under one's control.

## **SECTION 2. PROHIBITION ON ADJACENT PARKWAYS**

It shall be unlawful for any owner, occupant or anyone having supervision or control of any lot, tract or parcel of land occupied or unoccupied, improved or unimproved within the City to permit grass, weeds or any plant that is not cultivated to grow in rank profusion or to a height greater than twelve (12) inches on an average in or upon the parkway adjacent to same or the area between the property line and the curb line.

## **SECTION 3. PROHIBIT TRASH, RUBBISH, BRUSH, FILTH, CARRION, ETC.**

It shall be unlawful for any owner, occupant or anyone having supervision or control of any lot, tract or parcel of land occupied or unoccupied, improved or unimproved within the City to permit the accumulation of trash, rubbish, brush, filth, carrion and other impure or unwholesome matter, or other unsightly objectionable or unsanitary matter of whatever nature upon such property. It shall be unlawful for a person to bring, deposit, or have in the municipal limits a carcass or other offensive or unwholesome substance or matter; and the City may require a person to remove or destroy any offensive or unwholesome substance or matter, filth, putrid or unsound beef, pork, or fish, or hides or skins of any kind that the person is responsible for placing or keeping in the city. If the person does not comply with this Section the Mayor may authorize a municipal officer and/or employee to remove and/or destroy the offending material and/or require the owner of a dead animal to remove the dead animal to a place designated by the municipality's governing body.

## **SECTION 4. CREATES A DUTY**

It shall be the duty of any owner, occupant or anyone having supervision or control of any lot, tract or parcel of land, occupied or unoccupied, improved or unimproved, within the City to cut or cause to be cut and remove or cause to be removed, such rubbish, trash, filth, carrion, brush, grass, weeds, plants or other objectionable, unsightly or unsanitary matter as often as may be necessary to comply with the provisions of this Ordinance.

## **SECTION 5. AUTHORIZING THE CITY TO DO THE WORK AND BILL COSTS**

In the event that the owner of any lot, tract or parcel of land situated within the City shall fail to comply with this ordinance within ten (10) days of notice of violation, the City may enter upon such premises and may do such work necessary or cause such work to be done in order that the premises may comply with the requirements of this ordinance. The City may pay for the work done or improvements made and charge the expenses to the owner of the property. The notice must be given: (1) personally to the owner in writing; or (2) by letter addressed to the owner at the owner's postal address; or (3) by publication in a newspaper of local circulation in the City at least twice within ten (10) consecutive days if personal service cannot be obtained or the owner's post office address is unknown; or (4) any other form of notice authorized by Chapter 342. A statement of the costs incurred by the City to abate such conditions shall be mailed to the owner of such premises, which statement shall be paid within thirty (30) days of the date of the mailing thereof. It shall be unlawful for any person to interfere with or hinder or attempt to interfere with or hinder the City or any person appointed by the City in the correction, remedying or removal of these prohibited conditions from any premise.

## **SECTION 6. AUTHORIZE A LIEN**

The governing body of the municipality of the City of Venus may assess expenses incurred under Section 5 against the real estate on which the work is done or improvements made. To obtain a lien against the property, the Mayor or other municipal official designated by the Mayor must file a statement of expenses with the County Clerk of Johnson County. The lien obtained by the City of Venus's governing body is security for the expenditures made, and interest shall accrue at the rate of ten (10) percent on the amount due from the date of payment by the municipality. As provided by Section 342.007 of the Texas Health and Safety Code, this lien shall be inferior only to tax liens and liens for street improvements. The governing body of the municipality may bring a suit for foreclosure in the name of the municipality to recover the expenditures and interest due. The statement of expenses or a certified copy of the Statement shall be prima facie proof of the expenses incurred by the municipality in doing the work or making the improvements. The remedy provided by this Section is in addition to the remedy provided by Section 9.

## **SECTION 7. REPEALER CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances of the City of Venus, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Ordinance Mo. 170-94 is hereby repealed in its entirety; nothing herein will effect pending civil or criminal cases filed thereunder or other cases where the statute of limitations has not run.

## **SECTION 8. SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are 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 and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 9. PUNISHMENT CLAUSE**

Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this ordinance shall be fined upon conviction not less than one dollar (\$1.00) nor more than Two Hundred Dollars (\$200.00) for each offense and each day any violation of non-compliance continues shall constitute a separate and distinct offense.

A penalty may be imposed whether or not the City exercises its authority under Section 6 of this ordinance. Notice as set forth in Section 6 is not required prior to issuing a citation for violations of this ordinance.

## **SECTION 10. SAVING CLAUSE**

All rights and remedies of the City of Venus are expressly saved as to any and all violations of the provisions of any other ordinances affecting public health and sanitation 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, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts .

**SECTION 11. ENGROSS AND ENROLLMENT CLAUSE**

The City Secretary of the City of Venus is hereby directed to engross and enroll this ordinance by copying the caption, penalty clause, publication clause and effective date clause in the minutes of the City Council and by filing the ordinance in the ordinance records of the City.

**SECTION 12. PUBLICATION CLAUSE**

The City Secretary of the City of Venus is hereby directed to post or publish in the official newspaper of the City of Venus, the caption, penalty clause, publication clause and effective date clause of this ordinance in one issue of the official newspaper (provided that the official newspaper is a weekly paper) as authorized by Section 52.011 of the Local Government Code.

**SECTION 13. EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

**PASSED AND APPROVED THIS THE 8<sup>TH</sup> DAY OF OCTOBER, 2003**

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Mayor Carolyn Welcher

**ATTEST:**

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Linda Taylor, City Secretary