



ORDINANCE NO. 424-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS, ORDERING THE AMENDMENT OF CHAPTER 16 OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE I. IN GENERAL, OF THE CITY OF VENUS CODE OF ORDINANCES TO ADD SECTION 16-4 PUBLIC URINATION AND DEFECATION TO PROHIBIT PERSONS FROM URINATING AND/OR DEFECATING IN PUBLIC WITHIN CITY LIMITS, CONFIRMING TEXAS OPEN MEETINGS ACT COMPLIANCE, PROVIDING A SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE, PROVIDING A PUBLICATION CLAUSE, PROVIDING AN EFFECTIVE DATE, AND PROVIDING A CERTIFICATION OF ADOPTION.

WHEREAS, the City of Venus, Texas ("City"), is a Type A general law city operating pursuant to the laws of the State of Texas, by and through its duly elected council members;

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the welfare and safety of its inhabitants (TEXAS LOCAL GOVERNMENT CODE § 51.012);

WHEREAS, the City Council ("Council") of the City serves as the elected governing body; directly responsible for the promotion and protection of the public health and safety of its citizens and inhabitants;

WHEREAS, the sale of alcohol within the City was recently approved by the voters and as such, the City may soon host restaurants, lounges, bars and other establishments which will serve alcoholic beverages and which may present new public health and safety concerns requiring regulation and enforcement;

WHEREAS, city staff have reviewed how municipalities of similar size and population address the issue of public urination and defecation and have researched those city's ordinances, defenses and penalties in the process of crafting this ordinance; and

WHEREAS, the ordinances of the City are codified together in the CITY OF VENUS CODE OF ORDINANCES, hosted and managed by Municode.com as authorized and directed by TEXAS LOCAL GOVERNMENT CODE Section 53.001 and as such any new ordinance or regulation adopted should be included and codified in the Code to promote public awareness and to provide an easy way for citizens to learn of this new provision.

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

SECTION A. CHAPTER 16 AMENDMENT

Chapter 16 – Offenses and Miscellaneous Provisions, Article I. In General of the CITY OF VENUS CODE OF ORDINANCES is hereby amended to add Section 16-4 as follows:

Sec. 16-4. Public urination and defecation.

(a) It shall be unlawful for any person to urinate or defecate in any public place, public street, alley, sidewalk, yard, park, plaza, building, structure, utility right-of-way or in immediate proximity thereto, or in a place which may be viewed from a public place, at a location which has not been designated as a restroom.

(b) A person may not be found guilty of an offense under this section if the person proves as an affirmative defense that the act of urination/defecation was due to a verified medical condition (such as Crohn's disease, ulcerative colitis, irritable bowel syndrome or any other permanent or temporary medical condition) that rendered the act beyond the person's bodily control.

(c) Any person violating provisions of this section shall be deemed to be guilty of a Class C misdemeanor and upon conviction shall be fined in an amount not less than \$100.00 and not in excess of \$500.00 plus court costs. And, a person who could be charged under this Section as a Class C misdemeanor or could be charged under any other law of the state as a higher level misdemeanor or felony offense, shall not be able to choose the level of offense for prosecution purposes. The decision to prosecute, and at what level of offense, shall be solely with the police, prosecutors and/or law enforcement agency investigating/prosecuting such offense.

SECTION B. OPEN MEETINGS COMPLIANCE

That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the TEXAS OPEN MEETINGS ACT, TEXAS GOVERNMENT CODE, Chapter 551.

SECTION C. SEVERABILITY

Should any section, clause, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and/or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

SECTION D. REPEALER

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

SECTION E. PUBLICATION

The City Secretary is hereby directed, if required by law, to post or publish in the official newspaper of the City, the caption, publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, in accordance with Section 52.011 of the TEXAS LOCAL GOVERNMENT CODE. The City Secretary is also hereby directed to incorporate the provisions of this Ordinance into the CITY OF VENUS CODE OF ORDINANCES by submitting it to www.municode.com for incorporation and online publication.

SECTION F. EFFECTIVE DATE

That this Ordinance shall become effective from and after its passage.

SECTION G. CERTIFICATION OF ADOPTION

APPROVED: _____


MAYOR JAMES BURGESS

PASSED: _____

MONDAY, MARCH 14, 2016

ORDINANCE BECOMES EFFECTIVE: MONDAY, MARCH 14, 2016

I, the undersigned, City Secretary do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City of Venus City Council at a regular meeting duly convened on Monday, March 14, 2016.

ATTEST:


KATHY GLYNN, CITY SECRETARY

APPROVED AS TO FORM:

CASS CALLAWAY, CITY ATTORNEY