Filed: 10/15/2026 9:18 AM
Will F. Keeton, District Clerk
Johnson County, Texas
By: Samantha Meister, Deputy

CAUSE NO. DC-C202600735

ROSI PAREDES GARCIA, *Plaintiff*, v. CITY OF VENUS, TEXAS, *Defendant*.	IN THE DISTRICT COURT OF JOHNSON COUNTY, TEXAS Johnson County - 18th District Court _____ JUDICIAL DISTRICT

PLAINTIFF ROSI PAREDES GARCIA'S ORIGINAL VERIFIED PETITION FOR DECLARATORY JUDGMENT, APPLICATION FOR TEMPORARY INJUNCTION, AND APPLICATION FOR PERMANENT INJUNCTION

Plaintiff Rosi Paredes Garcia files this *Original Verified Petition for Declaratory Judgment, Application for Temporary Injunction, and Application for Permanent Injunction* against Defendant City of Venus, Texas.

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct Level 2 discovery under Rule 190.3 of the Texas Rules of Civil Procedure.

II. INTRODUCTION

2. When Rosi Paredes Garcia received a bright red warning notice on her front door informing her that the City of Venus, Texas, considered her home daycare to be an illegal use of her property, she was shocked.

3. Before moving to Venus to live with her daughter, Rosi ran a home daycare in Minnesota for nearly a decade.

4. But Rosi missed her daughter, and her doctor recommended that she move to a warmer climate.

5. So Rosi packed up and moved to Texas with a plan: she'd continue her home daycare from her new house, one that she and her daughter specifically picked out in the planned development of Patriot Estates in Venus because it would work wonderfully for a home daycare.

6. Rosi had good reasons to believe the plan would work.

7. The Patriot Estates Homeowners Association was on board: Rosi made sure that the HOA had no problem with her running her home daycare before she paid hundreds of thousands of dollars to fund a new construction.

8. Rosi's neighbors were on board: When Rosi began to advertise her home daycare on a local Facebook page, local parents told Rosi they were excited to have an affordable childcare option close to home.

9. And the State of Texas was on board: Rosi attended all of the required trainings and, after an official from Texas Health and Human Services Commission visited her home, the state approved Rosi to operate a "Registered Child-Care Home" under Chapter 42 of Texas's Human Resources Code.

10. Rosi is currently registered with the State of Texas to operate as a Registered Child-Care Home.

11. Plus, Texas recently passed a law that stops municipalities from getting in the way of people like Rosi who want to operate a home-based business that has no impact on her neighborhood. TEX. LOC. GOV'T CODE § 229.902.

12. But before Rosi could start taking care of children, on August 18 of 2025, Venus left a warning on her front door informing her that home childcare was explicitly *not* permitted under § 34-8(c) of Venus's Code of Ordinances.[1]

13. That section of Venus's ordinances categorically bans an assortment of home businesses: "auto repairs, painting of vehicles or boats, private schools, photo studios, dance instruction, television repair, and child day care center."

14. Rosi tried to get Venus to understand that she was trying to open a business that would help, not hurt, her neighborhood.

15. She tried asking Venus's mayor, city council, and other city officials to change the ordinance or grant her a variance so she could run a small home daycare.

16. She tried explaining to Venus that there is a Texas law that protects home businesses like hers.

17. But Rosi was told no at every turn, and so she brings this current lawsuit.

18. She urges this Court to grant her relief and hold that § 34-8 of Venus's Code of Ordinances violates the Texas Constitution and Texas law, which protect people like Rosi's right to run a business from their home that has no impact on her neighbors aside from offering them a friendly, local, and convenient child-care option.

[1] https://library.municode.com/tx/venus/codes/code_of_ordinances.

III. JURISDICTION AND VENUE

19. This Court has subject-matter jurisdiction under the Texas Constitution (TEX. CONST. art. V, § 8) and the Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE § 37.003). *See* TEX. GOV'T CODE § 24.008.

20. Venue is proper in Johnson County, Texas. *See* TEX. CIV. PRAC. & REM. CODE § 15.002(a).

21. Other than $1 in nominal damages, Rosi seeks only non-monetary relief.

22. The relief sought is within the jurisdictional limits of this Court.

IV. PARTIES AND SERVICE OF PROCESS

23. Plaintiff Rosi Paredes Garcia is a resident of Venus, Texas, in Johnson County, Texas, and co-owns the property at 123 John Laurens Drive, Venus, Texas 76084 with her daughter Nadia Paredes.

24. Defendant City of Venus is a Type A General Law municipality in Johnson County and Ellis County, Texas. As a city, Venus may be served through its "mayor, clerk, secretary, or treasurer" at Venus's offices located at 700 W. US Highway 67, Venus, Texas 76084. *See* TEX. CIV. PRAC. & REM. CODE § 17.024(b).

25. Because Rosi is challenging "the validity of [Venus's] ordinance," Venus "must be made a party." TEX. CIV. PRAC. & REM. CODE § 37.006(b).

V. FACTUAL ALLEGATIONS

Rosi moves to Texas to be near family.

26. Rosi ran a daycare from her home in New Brighton, Minnesota, for almost a decade before she made the decision to move to Texas.

27. While Rosi loved being a resource for the families who lived in her neighborhood, she decided to move to Texas for two reasons: to be closer to her own family and to escape the brutal Midwest winters.

28. Rosi's daughter, Nadia, had moved to the Dallas area to pursue her nursing degree.

29. And Rosi, who missed her daughter and wanted to listen to her doctor's advice that she seek a warmer climate, decided the right choice was to be near Nadia and other extended family members who lived near Dallas.

30. Together Rosi and Nadia came up with a plan to find a house where they could both live and pursue their careers.

31. The goal was to find a place close enough to Nadia's school that allowed her to continue seeking her nursing degree but with enough space so Rosi could open a new home daycare.

32. Together they found what seemed like a perfect fit: a rapidly developing neighborhood in Venus, Texas, called Patriot Estates.

33. Patriot Estates, which describes itself as a "beautiful neighborhood" that "provides families with convenience, comfort and quality all at an affordable price," is made up of all newly constructed homes.[2]

34. The roads in Patriot Estates are named after timeless symbols of America's commitment to individual liberty and the Constitution's guarantee that

[2] https://www.lgihomes.com/texas/dallas-fort-worth/patriot-estates.

Americans will always have the right to pursue happiness and oppose governmental tyranny.

35. Rosi and Nadia believed a home in Patriot Estates would be a perfect fit. The neighborhood was attracting working families who could use a nearby day-care, and the builders offered new construction floorplans that would allow Rosi to run a daycare in the home without bothering her neighbors.

36. Rosi and Nadia worked with a builder to select an option that made their home a good fit.

37. Rosi's home has a large, fenced backyard that would allow Rosi's students to play outside without being seen by the neighbors.

38. Rosi and Nadia chose a layout with two home-office-type spaces on the first floor that allow for both a baby room and a toddler room so that younger kids could nap while those a little older could continue to play and learn.

39. Rosi and Nadia made sure the Patriot Estates HOA allowed for the home business and were given the green light.

40. And so, after paying hundreds of thousands of dollars of debt to fund the new construction, Rosi and Nadia took the plunge and signed up to be the first home-owners for the lot located at 123 John Laurens Drive in Venus, Texas.

The State of Texas approves Rosi's plan to run a daycare from her home.

41. The home ended up as the perfect space for Rosi and Nadia's plan.

42. The spaces to be used for the daycare fit the bill: clean, bright, inviting, but also quiet and unobtrusive to any of Rosi's neighbors.

43. This is what the main space of the home Rosi planned to use for the daycare looks like:



44. After setting up the space, Rosi started the process to become registered under state law.

45. Regulation, inspection, and registration of home daycares like Rosi's fall under the umbrella of the Texas Health and Human Services Commission ("Commission").

46. Because Rosi wanted to keep her daycare business small and no-impact, she sought permission from the State of Texas to run what is referred to as a "Registered Child-Care Home" by the Commission.[3]

47. The Commission provides a 290-page PDF that describes the various regulations, standards, inspections, tests, and requirements Rosi must comply with to run a daycare from her home.[4]

48. But Rosi's experience in providing daycare services made her well equipped to satisfy the Commission's requirements, and so after passing all the tests and a home inspection, on June 4, 2025, the Commission issued Rosi a registration to operate a home daycare serving up to six children during normal school hours.

49. Rosi had her home reinspected on September 15, 2026, and after the Commission determined[5] that there were "0 deficiencies found out of 1041 standards evaluated," the Commission issued her current registration. A copy of that registration is attached to this petition as Exhibit A.

Venus tells Rosi that home daycares are banned by local ordinance.

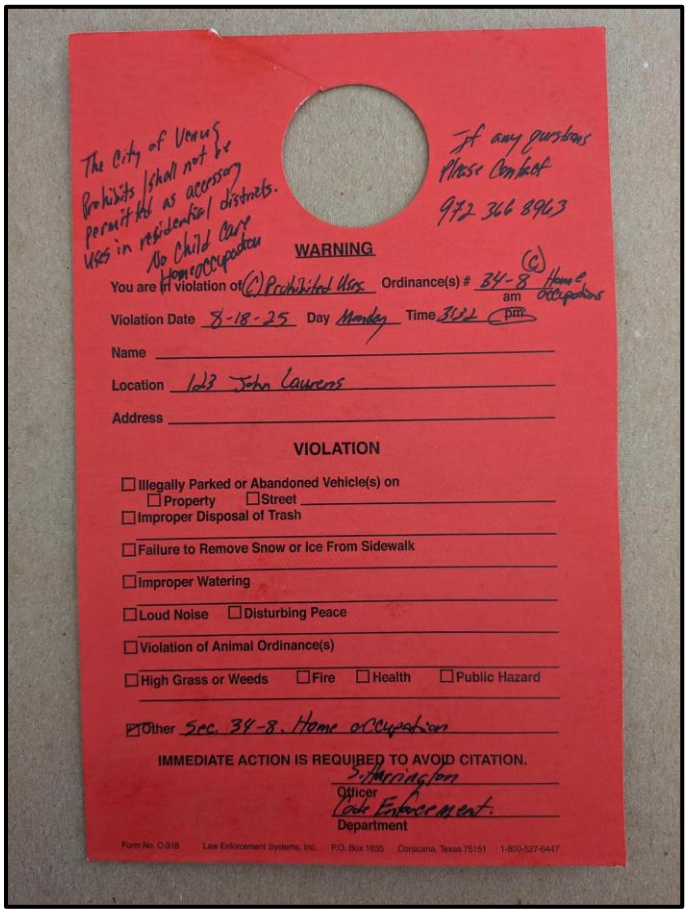
50. In the weeks after she received approval from the Commission, Rosi began to advertise her daycare on local Facebook pages.

51. A few nearby families were eager to sign up, and Rosi began to prepare to officially open the daycare business from her home.

---

[3] The applicable statutory scheme uses the phrase "Family home" but both mean the same thing: "a home that provides regular care in the caretaker's own residence for not more than six children under 14 years of age, excluding children who are related to the caretaker." TEX. HUM. RES. CODE § 42.002(9).
[4] https://www.hhs.texas.gov/sites/default/files/documents/chapter-747-homes.pdf.
[5] https://childcare.hhs.texas.gov/Public/OperationDetails?operationId=1534961&resCareFlag=false.

52. But before she was able to provide a single day of childcare to the working families of Venus, Rosi saw that Venus placed a bright red warning notice on her front door:



53. Venus's warning said Rosi was "in violation" of city ordinance and that she must take "immediate action" to "avoid citation." A copy of the warning is attached here as Exhibit B.

54. Venus's warning to Rosi was based on Venus Code of Ordinances § 34-8, which governs home businesses. A copy of the relevant Venus Ordinances are attached here as Exhibit C.

55. Under Venus Code of Ordinances § 34-8, home businesses in Venus must satisfy eight conditions:

1) Only the members of the immediate family occupying the dwelling shall be engaged in the home occupation.

2) The home occupation shall be conducted only within the enclosed area of the dwelling unit or the garage.

3) No more than 25 percent of the area of one story of the principal building shall be devoted to the home occupation.

4) There shall be no exterior alterations which change the character thereof as a dwelling, other than those signs permitted in the district.

5) No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.

6) No use shall create smoke, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the average residential use in the district.

7) The home occupation shall not create any increase in vehicular flow or parking by more than two additional vehicles at a time and shall not create greater pedestrian traffic than normal for the district.

8) No more than one advertising sign with a maximum of four square feet of a non-illuminating nature may be placed on the main building.

56. Venus's ordinance provides examples of businesses that "can often be conducted" at home in compliance with the city's municipal code: "handicraft, dressmaking, preserving, accountant, artist, author, consultant, individual tutoring (music lessons included), millinery, attorney, and realtor." Venus, Tex. Code of Ordinances § 34-8(b).

57. But that same ordinance also provides a list of businesses that are *categorically* banned from being operated from a home, because those businesses "have a

tendency to violate the provisions for home occupations, and thereby, impair the character of residential areas." Venus, Tex. Code of Ordinances § 34-8(c).

58. Those banned businesses are: "auto repairs, painting of vehicles or boats, private schools, photo studios, dance instruction, television repair, and child day care center." Venus, Tex. Code of Ordinances § 34-8(c).

59. The result is that Venus has a categorical ban on home daycares, both explicitly and implicitly.

60. Because Venus's ordinances require that a business' activities take place "only within the enclosed area of the dwelling," someone like Rosi could not provide children with "outdoor play" required by Texas law. *See* 26 TEX. ADMIN. CODE § 747.2104.

61. This is even though Rosi has a totally private and safely enclosed backyard, where the children could have their outdoor playtime without ever being seen by a passerby. This is what the backyard looks like:



Venus tells Rosi it will not allow her to operate a home daycare under any circumstances.

62. After receiving the warning, Rosi began to reach out to Venus to see if the city would join the State of Texas in approving her home daycare.

63. Oscar Ortiz, the head of zoning, planning, and economic development for Venus, told Rosi via e-mail that the only way she could operate her daycare was to convince the members of city council to change the law.

64. Rosi gave it a try. Her daughter, Nadia, sent an e-mail to Venus's city council and mayor explaining that her mother was registered and experienced, that local parents were ready to use her services, and that caring for children was Rosi's very "way of life."

65. The mayor responded that although he "recognized the important role that childcare providers play in the community," he was "not able to support initiating an ordinance change to allow home daycares in residential districts."

66. And when Rosi and Nadia appeared before the city council during a September 15, 2025 meeting, they were told that opening a daycare would not benefit Venus.

67. Despite Rosi's efforts to convince her local politicians to aid her, the provisions of Venus's ordinances that ban her from running the same daycare the State of Texas has approved remain on the books.

Venus tells Rosi it will not comply with the Texas law that protects no-impact home businesses from local governments.

68. The State of Texas has a new law that prevents cities like Venus from getting in the way of people like Rosi who want to run a business from their home that has no impact on their neighbors.

69. Texas Local Government Code § 229.902, titled "Authority to Regulate Home-Based Businesses," was passed to stop "[t]he governing body of a municipality" from "prohibit[ing] the operation of a no-impact home-based business" like Rosi's day-care.

70. Under that statute, a home-based business is considered no impact when:

a. It does not have more people in the home than the "municipal occupancy limit for the property" allows;

b. It "does not generate on-street parking or a substantial increase in traffic through the area";

c. It "operates in a manner in which none of its activities are visible from a street"; and

d. It "does not substantially increase noise in the area or violate a municipal noise ordinance."

71. After their efforts to have Venus consider changing its ordinance, Rosi and Nadia sent a follow-up e-mail to Mr. Ortiz explaining that Rosi will run the day-care in a way that fits the definition of no impact under Texas Local Government Code § 229.902.

72. Rosi and Nadia explained to Mr. Ortiz that because the daycare would have six kids at most, would have no visible signs, all outdoor play would occur quietly

in Rosi's fully fenced backyard, and parents would stagger pick-up and drop-off times so they could all park in Rosi's driveway, the business would be "no impact" under Texas Local Government Code § 229.902.

73. On October 30, 2025, Mr. Ortiz wrote to Rosi and Nadia to inform them that while Venus was aware of Texas Local Government Code § 229.902, the city was unwilling "to authorize a home-based daycare" because Venus lacked the resources to ensure that no parent would ever park on the street during pick up or drop off.

74. Then another Venus city official told Rosi that "all [she had] been authorized" to tell Rosi is that a "no impact home business does not need any permission from anyone to operate."

75. But given Mr. Ortiz's emails and the fact that Rosi was given a written warning that her business was in violation of Venus's ordinances before it ever opened, Venus has made it clear it will attempt to shut down Rosi's home daycare even if she operates it in a no-impact manner as defined in Texas Local Government Code § 229.902.

Venus confirms there is no pathway for Rosi to operate a home daycare.

76. As a final effort, Rosi requested a meeting with Mr. Ortiz to apply for a variance or change in her zoning.

77. But Mr. Ortiz made it clear that Venus's ordinances do not allow someone in Rosi's position to seek relief.

78. As he put it in a July 29, 2026 e-mail: "The Zoning Board of Adjustment (ZBOA) does not grant variances to allow for a daycare" and so Rosi's request to run a daycare "does not qualify to be in a ZBOA meeting."

79. Any further efforts to obtain approval from Venus would be futile, as Mr. Ortiz put it: "it is not possible to grant a variance that allows for a use that is not permitted." A copy of the e-mail correspondence relating to Rosi's request for a variance or rezoning is attached here as Exhibit D.

80. All conditions precedent have been performed or have occurred.

VI. INJURY TO PLAINTIFF

81. Venus is causing Rosi imminent, irreparable harm in the form of threatened enforcement of Venus, Texas Code of Ordinances § 34-8, which subjects her to threatened citation, fines, and prosecution.

82. Rosi is ready, willing, and able to operate her home daycare.

83. If Rosi operates her home daycare business over Venus's threat of code enforcement, she will be subject to a misdemeanor charge and fines of up to $2,000 per day. *See* Venus, Tex. Code of Ordinances § 34-4.

84. Based on her communication with Venus and the large red enforcement warning placed on her front door, Venus has shown its intent to prosecute Rosi if she operates her home daycare.

85. Rosi's plan to run the daycare was the entire reason she chose to build and move into the home she currently lives in.

86. Rosi spent dozens of hours setting up her home daycare space and setting up learning plans for the various ages of children she planned to offer daycare services to.

87. Rosi spent dozens of hours going through the state's testing and inspection process required for her to set up a registered childcare home.

88. Rosi's desire to provide childcare to her neighbors is not just a business idea, but it is also fundamental to her sense of self and her desire to be a part of her local community.

89. While Rosi currently has a job at a daycare facility, she is an employee and not an owner.

90. Rosi prefers to work as her own boss, to set her own hours, and to run her own business.

91. She takes pride in being an entrepreneur and small business owner and prefers both the added freedom and added responsibility that comes along with running her own daycare.

92. Venus is causing Rosi irreparable harm in the form of not being able to operate her home business.

93. Venus is causing Rosi irreparable harm in the form of threatened citation, fines, and prosecution.

94. Venus is causing Rosi irreparable harm in the form of her constitutional rights being violated.

95. But for Venus's refusal to comply with state law prohibiting it from enforcing its ban on home daycares, Rosi would operate her home daycare.

96. If the Court enjoins Venus from enforcing Venus Code of Ordinances § 34-8, Rosi will quickly begin operating her home daycare that is registered by the State of Texas.

97. If the Court enjoins Venus from enforcing Venus Code of Ordinances § 34-8, Rosi will require any parents who drive to pick up their children from her home daycare to park in her driveway.

VII. CAUSES OF ACTION

FIRST CAUSE OF ACTION
(TEXAS LOCAL GOVERNMENT CODE §§ 51.012 AND 229.902: PREEMPTION – FACIAL AND AS APPLIED)

98. Rosi hereby incorporates the allegations set forth above in paragraphs 1 to 97, all of which are fully re-alleged here.

99. Under Article XI, § 5 of the Texas Constitution, a city ordinance that is "inconsistent with . . . the general laws enacted by the Legislature of this State" is invalid and otherwise unenforceable.

100. This limit is also statutory: "[T]he governing body of a municipality may adopt, enforce, or maintain an ordinance or rule only if the ordinance or rule is consistent with the laws of this state." TEX. LOC. GOV'T CODE § 51.002.

101. Venus is a Type-A General Law city.

102. As a Type-A General Law city, Venus may adopt an ordinance only if it is "not inconsistent with state law." TEX. LOC. GOV'T CODE § 51.012.

103. Venus, Texas Code of Ordinances § 34-8 is inconsistent with state law.

104. The Texas Legislature passed legislation designed to stop municipalities like Venus from telling everyday Texans they cannot use their homes to run a business that has no impact on their neighbors.

105. The goal was, as Governor Abbott put it, to "reduce barriers for small businesses and prioritize ordinary Texans."[6]

106. Section 229.902(b)(1) of the Texas Local Government Code was passed into law to stop exactly what Venus is doing here: adopting and enforcing ordinances that "prohibit[] the operation of a no-impact home-based business."

107. Under Texas Local Government Code § 229.902(a)(3), a home-based business is considered "no-impact" when 1) its operation does not require the property to exceed a municipal occupancy limit; 2) the business "does not generate on-street parking or a substantial increase in traffic"; 3) the business "operates in a manner in which none of its activities are visible from a street"; and 4) the business "does not substantially increase noise in the area or violate a municipal noise ordinance, regulation, or rule."

108. But Venus, Texas Code of Ordinances § 34-8 bans many businesses that are no-impact under Texas Local Government Code § 229.902.

109. Any home business that conducts *any* activity in a backyard, regardless of whether it is "visible from a street," is banned in Venus. *See* Venus, Tex. Code of Ordinances § 34-8(a)(2).

---

[6] https://gov.texas.gov/news/post/governor-abbott-signs-laws-to-reduce-barriers-for-small-businesses-in-fort-worth.

110. And any auto repair, vehicle or car painting, private school, photo studio, dance instruction, television repair, or child daycare center home-business is categorically banned in Venus, regardless of whether it fits Texas Local Government Code § 229.902's definition of a no-impact business. *See* Venus, Tex. Code of Ordinances § 34-8(c).

111. Any portion of Venus's ordinances that prohibits a no-impact home-based business as defined in Texas Local Government Code § 229.902 is facially invalid and thus unenforceable.

112. Venus cannot categorically ban home businesses without the ability for those businesses to show they have no impact under Texas Local Government Code § 229.902.

113. The provisions of Venus's home-based business ordinance that prevent Rosi from operating her no-impact home daycare business are invalid and otherwise unenforceable as applied to her.

114. This is because Rosi's home daycare meets the definition of a no-impact home-based business under Texas Local Government Code § 229.902(a)(3).

115. Rosi's home daycare will have no employees and will take care of no more than six children at a time, placing her well below the occupancy limit for her property.

116. Rosi's home daycare will not generate on-street parking because parents will stagger pick-up and drop-off times and utilize her driveway for those purposes.

117. Rosi's home daycare will not generate on-street parking because some parents will likely carpool or walk to pick up their children from Rosi's house.

118. A maximum of six cars arriving at different times will not substantially increase the amount of traffic on Rosi's street.

119. The daycare will operate entirely within her home and her fenced back-yard, making all business activity invisible from the street.

120. And having a maximum of six children occasionally playing quietly in Rosi's enclosed backyard will not substantially increase the noise of her neighborhood, which has plenty of children that play outside during the day.

121. Venus's position that it lacks the resources to continuously surveil Rosi's home to ensure her daycare is always operating in a no-impact manner is not a lawful reason to ban her home business under Texas Local Government Code § 229.902.

122. No government has the resources to maintain total and complete compliance with its laws.

123. Just like Venus cannot ban individuals from driving cars because it lacks the resources necessary to ensure all drivers obey every streetlight and traffic law, it cannot ban Rosi from operating her daycare because it lacks the resources to continuously monitor Rosi for compliance with all applicable laws.

124. Rosi is suffering injuries as a result of Venus's violations of Texas law.

125. Under the Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE §§ 37.001 *et seq.*), Rosi respectfully requests the Court enter a judgment declaring that Venus, Texas Code of Ordinances § 34-8 is facially invalid to the extent it

conflicts with Texas Local Government Code § 229.902. Rosi further requests that the Court enter a judgment declaring that, because Rosi's home daycare business is a no-impact business as defined by Texas Local Government Code § 229.902, she may operate her business regardless of any provisions in Venus's Code of Ordinances that would otherwise prohibit the business.

SECOND CAUSE OF ACTION
(TEX. CONST. ART. I, § 19: DEPRIVATION OF ECONOMIC LIBERTY AND PROPERTY RIGHTS – AS APPLIED)

126. Rosi hereby incorporates the allegations set forth above in paragraphs 1 to 97, all of which are fully re-alleged here.

127. Article I, § 19 of the Texas Constitution provides: "No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land."

128. The "due course of the law of the land" guarantee of the Texas Constitution protects Texans' right to liberty, property, and privileges or immunities.

129. "Liberty" and "privileges or immunities" include the right to pursue a common occupation.

130. Home daycare is a common occupation that has a long American tradition.

131. There are nearly 300 registered child-care homes within a 50-mile radius of Johnson County alone. A copy of a map[7] showing the location of these registered child care homes is attached here as Exhibit E.

[7] TEXAS HEALTH & HUMAN SERVICES, https://childcare.hhs.texas.gov/Public/ChildCareSearchResults (enter Johnson County, then filter the radius and to "Registered Child-Care Home").

132. "Property" includes real property, including one's home.

133. Venus, Texas Code of Ordinances § 34-8 implicates Rosi's protected interests in the right to pursue a common occupation and use her property.

134. Accordingly, Rosi is entitled to meaningful, substantive judicial review of Venus's deprivations of her protected interests.

135. To show that an economic regulation has violated Article I, § 19 of the Texas Constitution, Rosi can demonstrate either: "(1) the statute's purpose could not arguably be rationally related to a legitimate governmental interest; or (2) when considered as a whole, the statute's actual, real-world effect as applied to the challenging party could not arguably be rationally related to, or is so burdensome as to be oppressive in light of, the governmental interest." *Patel v. Tex. Dep't of Licensing & Regul.*, 469 S.W.3d 69, 87 (Tex. 2015).

136. Venus lacks a legitimate reason for applying the ordinance to ban Rosi's home daycare business.

137. Applying the ordinance to ban Rosi's home daycare business is not rationally related to a legitimate government interest.

138. The actual, real-world effect of the ordinance—categorically banning Rosi's ability to operate a daycare of any size or impact—is so burdensome as to be oppressive in light of any legitimate governmental interest, as applied to Rosi.

139. Rosi's home daycare business would not interfere with anyone else's rights, would not affect her neighbor's quiet enjoyment of their property, and would not be a nuisance. The home daycare is harmless.

140. Having, at most, six children at a home is a normal and ordinary use of property in a residential neighborhood. Many Texans have several children of their own who live at home.

141. The government does not have a legitimate interest in preventing small groups of children from being together in a home or fully fenced backyard.

142. It is irrational and oppressively burdensome to deny Rosi the ability to run her small home daycare because she provides a much needed, basic service to a small group of children in her own home.

143. If Rosi was running her home daycare, on a few occasions throughout the day, a passerby might hear the sound of children playing in her backyard.

144. The sound of children playing in a backyard is a normal and expected noise in any residential community.

145. The government does not have a legitimate interest in preventing the sound of a small group of children playing in a person's private backyard.

146. Although Rosi will require parents to stagger pick-up and drop-off times so there is no addition to street parking in her neighborhood, the fact that a home daycare might result in a car occasionally parking in the street for a few minutes is a normal and expected thing in any residential neighborhood.

147. Pizza delivery drivers, food delivery services, and package delivery vehicles routinely park on the streets of neighborhoods like Rosi's all across the United States and Texas.

148. In fact, street parking is incredibly common in Rosi's neighborhood. This is what the next street over from Rosi's looks like on a typical day:



149. It is irrational and oppressively burdensome to categorically ban Rosi's home daycare business because it might cause minimal vehicular traffic and parking outside her home that is entirely consistent with the rest of the neighborhood.

150. Street parking is plentiful and Rosi has never observed a time when a car could not easily park directly next to her home if necessary to drop someone or something off.

151. It is irrational and oppressively burdensome to categorically ban Rosi's home daycare business because it might cause minimal vehicular traffic and parking outside her home when Venus can enforce a parking ordinance instead of categorically banning her business.

152. It is irrational to categorically ban Rosi's home daycare business because Venus does not want to spend resources to ensure that Rosi follows other laws.

153. If that were rational, a city could implement a permanent 24-hour lock-down of all citizens to save the city money on law enforcement.

154. Whatever police power Venus may have does not extend to banning a home daycare business that would be indistinguishable to any passerby from a normal single family home where a few children live.

155. Rosi is suffering injuries as a result of Venus's violation of the Texas Constitution.

156. Under the Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE §§ 37.001 *et seq.*), Rosi requests this Court enter a judgment declaring that, as applied to Rosi, the provisions of Venus's ordinances that prevent her from operating a home daycare that is registered by the State of Texas and for no more than six children violates Article I, § 19 of the Texas Constitution.

THIRD CAUSE OF ACTION
(TEX. CONST. ART. I, § 3: EQUAL RIGHTS – AS APPLIED AND FACIAL)

157. Rosi hereby incorporates the allegations set forth above in paragraphs 1 to 97, all of which are fully re-alleged here.

158. Article I, § 3 of the Texas Constitution provides: "All freemen, when they form a social compact, have equal rights."

159. Article I, § 3 of the Texas Constitution guarantees "equal rights" to all Texans.

160. A municipality violates Article I, § 3 of the Texas Constitution when it draws lines between Texans in a way that "bears no rational relationship" to a legitimate governmental interest. *Whitworth v. Bynum*, 699 S.W.2d 194, 194 (Tex. 1985).

161. Venus, Texas Code of Ordinances § 34-8 allows all home businesses that satisfy certain criteria, except for a list of categorically banned businesses that includes home daycares.

162. Any business on Venus's banned list cannot operate, regardless of whether it has the same or less impact on a neighborhood than an allowed business.

163. The categorical ban is based on Venus's assessment that those businesses *tend* to violate the other criteria for home businesses.

164. Outright banning all permutations of a home-based business because there are some hypothetical versions of those businesses that would violate Venus's home business criteria is not rationally related to a legitimate governmental interest.

165. There are hypothetical imagined versions of every business that could violate Venus's home business criteria.

166. As such, Venus's decision to ban all home daycares on the grounds that home daycares *might* violate the city's home businesses criteria, while allowing other home businesses that *might* violate those same criteria, is a facial violation of Article I, § 3 of the Texas Constitution's guarantee of equal rights under the law.

167. Venus's ban on home businesses that conduct *any* activity outside, even if that activity takes place in a manner that is entirely invisible within a fully fenced backyard, is not rationally related to a legitimate governmental interest.

168. For example, there is no rational basis for Venus to ban a home-based florist who grows a few flowers in a backyard flowerbed that is entirely invisible to their neighbors due to a large fence.

169. As such, Venus's decision to categorically ban *all* home businesses that conduct any activity in the home's backyard is a facial violation of Article I, § 3 of the Texas Constitution's guarantee of equal rights under the law.

170. Venus's ban on Rosi's home daycare, given that it would have even less impact on her neighbors than some home businesses that are allowed to operate in Venus, is a violation of Article I, § 3 of the Texas Constitution's guarantee of equal rights under the law as applied to her.

171. Venus allows businesses that have larger impacts on a neighborhood than Rosi's home daycare would have, such as giving music lessons and the added noise that comes along with teaching a novice to play a musical instrument.

172. There is no rational reason for Venus to ban providing general education of young children at a home daycare, while allowing for music lessons or other specialized education of children at a home tutoring business.

173. Rosi is suffering injuries as a result of Venus's violation of the Texas Constitution.

174. Under the Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE §§ 37.001 *et seq.*), Rosi respectfully requests this Court enter a judgment declaring that Venus, Texas Code of Ordinances § 34-8, both on its face and as applied, violates Article I, § 3 of the Texas Constitution.

FOURTH CAUSE OF ACTION
(TEX. CONST. ART. I, § 27: RIGHT TO PEACEABLY ASSEMBLE – AS APPLIED)

175. Rosi hereby incorporates the allegations set forth above in paragraphs 1 to 97, all of which are fully re-alleged here.

176. Article I, § 27 of the Texas Constitution provides: "The citizens shall have the right, in a peaceable manner, to assemble together for their common good."

177. Article I, § 27 of the Texas Constitution guarantees the fundamental right to peaceably assemble, which includes the right to meet or congregate for shared welfare or benefit.

178. This right is strongest when people assemble on their own private property and encompasses the assembly of a person and their customers as a result of a business being run from a home. *See Zaatari v. City of Austin*, 615 S.W.3d 172, 199–202 (Tex. App.—Austin 2019, pet. denied).

179. Venus, Texas Code of Ordinances § 34-8 restricts Rosi's fundamental right to assemble because it categorically bans her from gathering with local parents and their children on her private property for the common good of providing daycare in a peaceable manner.

180. Venus, Texas Code of Ordinances § 34-8 is subject to strict scrutiny. *See Zaatari*, 615 S.W.3d at 201–02.

181. Venus, Texas Code of Ordinances § 34-8 does not survive strict scrutiny because Venus cannot identify a compelling interest that justifies its restrictions on Rosi's right to peaceably assemble on her private property.

182. The regulation of property use cannot stand on its own as a compelling governmental interest, while any concern Venus might have in maintaining quiet, safe neighborhoods is already addressed by other ordinances. *Zaatari*, 615 S.W.3d at 201–02.

183. The same is true of Venus's requirement that a home business cannot conduct any activity in a fully fenced backyard, regardless of whether it would be noticeable to anyone besides those gathered in the backyard.

184. There is no compelling governmental interest that could justify Venus's abridgement of Rosi's right to assemble with local families to provide a safe space for children to be looked after and to quietly play in her home's backyard, simply because their parents paid her to take care of them.

185. Rosi is suffering injuries as a result of Venus's violation of the Texas Constitution.

186. Under the Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE §§ 37.001 *et seq.*), Rosi respectfully requests this Court enter a judgment declaring that Venus, Texas Code of Ordinances § 34-8, as applied to Rosi, violates Article I, § 27 of the Texas Constitution.

VIII. APPLICATION FOR A TEMPORARY INJUNCTION

187. Rosi requests that this Court grant a temporary injunction allowing her to operate her home daycare business for up to six children, so long as she maintains registration with the State of Texas, for the pendency of this case.

188. Rosi has causes of action against Venus.

189. Rosi has a probable right to recover on those claims against Venus after a trial on the merits.

190. Venus is causing and will cause Rosi imminent and irreparable injuries absent a temporary injunction, including preventing Rosi from operating her home daycare and Venus's threatened citation, fines, and prosecution.

191. Rosi has no adequate remedy at law.

192. Rosi is willing and able to post bond.

IX. APPLICATION FOR A PERMANENT INJUNCTION

193. After adjudication of this case on the merits, Rosi requests that the Court enter a permanent injunction 1) enjoining Venus from enforcing any provision of its local ordinances that would prevent Rosi from operating her home daycare business for up to six children, as her registration with the State of Texas allows, and 2) enjoining Venus from enforcing any provision of its local ordinances that would prohibit the operation of a no-impact home-based business as defined under state law.

X. ATTORNEYS' FEES AND COSTS

194. Rosi hereby requests all costs and reasonable attorneys' fees. *See* TEX. CIV. PRAC. & REM. CODE § 37.009.

XI. NOTICE TO ATTORNEY GENERAL

195. This action seeks a declaration that provisions of Venus, Texas Code of Ordinances § 34-8 are unconstitutional. Accordingly, under Texas Civil Practice and Remedies Code § 37.006(b), Rosi has caused a copy of this original petition to be served upon the Attorney General of the State of Texas, who "is entitled to be heard." The Attorney General is not required to be a party to this proceeding.

XII. REQUEST FOR BENCH TRIAL

196. Rosi requests a bench trial.

XIII. PRAYER

Rosi Paredes Garcia requests that the Court render judgment in her favor and grant her the following relief:

- An evidentiary hearing on Rosi's Application for Temporary Injunction, in which the parties present evidence;
- A temporary injunction that prohibits the City of Venus, and its officers, agents, employees, and attorneys, from enforcing Venus, Texas Code of Ordinances § 34-8 against Rosi until after a trial on the merits;
- A permanent injunction that prohibits the City of Venus, and its officers, agents, employees, and attorneys, from enforcing Venus, Texas Code of Ordinances § 34-8(a)(2) and (c);
- A declaratory judgment that Venus, Texas Code of Ordinances § 34-8 is unconstitutional as applied to Rosi under Article I, §§ 3, 19, and 27 of the Texas Constitution;
- A declaratory judgment that the provisions of Venus, Texas Code of Ordinances § 34-8 that ban specific businesses and any home business that conducts any activity outside the home are facially unconstitutional under Article I, § 3 of the Texas Constitution;
- A declaratory judgment that Venus, Texas Code of Ordinances § 34-8 is facially invalid and void to the extent it conflicts with Texas Local Government Code § 229.902 and, because Rosi's home daycare business is a no-impact business as defined by Texas Local Government Code § 229.902, Venus may not prohibit Rosi from operating her home daycare business;
- An award of $1 in nominal damages;
- An award of reasonable attorneys' fees and costs; and
- Any other relief, at law or in equity, to which Rosi is justly entitled.

Dated: October 15, 2026

Respectfully submitted,

By: /s/ Marco Vasquez Jr.
Marco Vasquez Jr. (TX No. 24115892)
Jessica Bigbie (TX No. 24134429)
INSTITUTE FOR JUSTICE
816 Congress Ave., Suite 970
Austin, TX 78701
(512) 480-5936
mvasquez@ij.org
jbigbie@ij.org

James A. Odell (FL No. 101396)*
Attorney in Charge
INSTITUTE FOR JUSTICE
2 S Biscayne Blvd., Suite 3180
Miami, FL 33131
(305) 721-1600
jodell@ij.org

Attorneys for Plaintiff Rosi Paredes Garcia

*Motion for admission *pro hac vice* forthcoming

CAUSE NO. _____

ROSI PAREDES GARCIA, *Plaintiff*, v. CITY OF VENUS, TEXAS, *Defendant*.	IN THE DISTRICT COURT OF JOHNSON COUNTY, TEXAS ____ JUDICIAL DISTRICT

VERIFICATION

Before me, the undersigned notary, on this day personally appeared Rosi Paredes Garcia, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

My name is Rosi Paredes Garcia. I am capable of making this verification. I have read *Plaintiff Rosi Paredes Garcia's Original Verified Petition for Declaratory Judgment, Application for Temporary Injunction, and Application for Permanent Injunction*. The facts, stated therein, in Paragraphs 2-10, 12, 14-17, 23, 26-32, 35-44, 46, 48-53, 61-67, 71-79, 82-91, 95-97, 115-120, 139-140, 143, 144, 146, 148, and 150 are within my personal knowledge and are true and correct

ROSI PAREDES GARCIA

RYAN ZIMMERMANN
Notary ID #130092308
My Commission Expires
January 27, 2027

Sworn to and subscribed before me by Rosi Paredes Garcia on October 12, 2026.