Village of Volente

SIGN MORATORIUM

ORDINANCE NO. 2004-O-28

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, REQUIRING PERMITS FOR THE ALTERATION, BUILDING, CONSTRUCTION, ERECTION, EXPANSION, INSTALLATION, MODIFICATION, REMODELING, OR RENOVATION OF SIGNS; ESTABLISHING A TEMPORARY MORATORIUM; AND PROVIDING FOR THE FOLLOWING: POPULAR NAME; FINDINGS OF FACT; A PURPOSE; DEFINITIONS; COMPLIANCE REQUIRED; SCOPE OF JURISDICTION; APPLICABILITY; EFFECTIVE DATE; DURATION; ENFORCEMENT, INCLUDING CRIMINAL FINES NOT TO EXCEED $500 AND CIVIL PENALTIES NOT TO EXCEED $1,000 PER VIOLATION; A REPEALER; SEVERABILITY; AND PROPER NOTICE AND MEETING.

WHEREAS, the Village of Volente is a newly-created governmental entity that was incorporated pursuant to the laws of the State of Texas as a Type B General-Law Municipality following an election held on February 1, 2003; and

WHEREAS, pursuant to the laws of the State of Texas, the Mayor and City Council were duly elected following an election held May 3, 2003; and

WHEREAS, the City Council of the Village of Volente seeks to provide for the orderly and safe development of land and use of property within its City Limits (i.e., incorporated municipal boundary); and

WHEREAS, the City Council finds that the historically scenic residential and recreational community needs special protection from the adverse impacts of signage spawned by the growing commercial operations in the Village; and

WHEREAS, the City Council seeks a better understanding of the effects of various signage on the scenic hillside vistas and Lake Travis ambiance within the Village; and

WHEREAS, the City Council needs a reasonable amount of time to study land use management and planning techniques for the purpose of devising a responsible land use plan for the Village; and

WHEREAS, the City Council seeks public input and professional assistance in order to preserve the small community lifestyle of the Village while also allowing for

compatible land uses, enabling free enterprise, and protecting private property rights; and

WHEREAS, the City Council plans to gather and disseminate to the public vital information relating to land use and development; and

WHEREAS, the City Council seeks to promote a positive Village image reflecting order, harmony, and pride, thereby strengthening the Village's commercial, cultural, historical, residential and scenic areas; and

WHEREAS, the City Council is in the process of diligently researching and preparing to adopt comprehensive subdivision, zoning ordinances, and building codes, and

WHEREAS, the City Council seeks to preserve the health, safety and general welfare of the community by enacting comprehensive land use regulations that provide for orderly growth, and said regulations shall provide for the erection and maintenance of signs; and

WHEREAS, the City Council has the general authority to regulate land use and development and nuisances pursuant to the Texas Constitution, the Village's police power and by the Texas Local Government Code, Chapters 51, 54, 211, 212 and 217; and

WHEREAS, the City Council has the specific authority to regulate signs by Texas Local Government Code Chapter 216; and

WHEREAS, the City Council has provided ample public notice and conducted at least one public meeting at which citizen input was solicited on this Ordinance; and

WHEREAS, the City Council finds that a ***temporary moratorium*** is necessary and prudent in order to protect the ***status quo*** so that the City Council may adopt the appropriate administrative and regulatory rules and procedures dealing with signs.

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

1. ENACTMENT CLAUSES

A. Popular Name

This Ordinance may be referred to as the Village of Volente's "Sign Moratorium."

B. Findings of Fact

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of Volente, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

C. Purpose

This Ordinance is adopted so that the City Council may promote the public health, safety, morals and general welfare within the Village through the regulation of signs in this primarily residential and recreational community. The purpose of this Ordinance is to preserve the *status quo* in order to allow the City Council to conduct research, receive public input, establish reasonable policies, and prepare necessary ordinances. This Ordinance provides temporary regulations while the City Council enacts the appropriate administrative and regulatory rules and procedures.

D. Compliance Required

It shall be unlawful for any person to alter, build, construct, erect, expand, install, modify, remodel, or renovate a sign in a manner not in compliance with this Ordinance.

E. Scope of Jurisdiction

The provisions of this Ordinance shall apply within the City Limits (i.e., incorporated municipal boundary) of the Village.

F. Applicability

This Ordinance shall not apply to signs that lawfully existed prior to the enactment date of this Ordinance.

G. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication.

H. Duration

This Ordinance is enacted for a limited duration and shall be in effect for an initial term of one hundred and twenty (120) days from the effective date, or until expressly repealed by the City Council. The City Council may by majority vote extend or reenact the moratorium created by this Ordinance as reasonable and necessary.

2. DEFINITIONS

A. General

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases that are not defined in this Ordinance but are defined in other ordinances of the Village shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

B. Specific

(1) **Alter** means to make a physical change to a sign.

(2) **Build** means to erect, install, or place a sign. The term also includes making an improvement or change to the sign.

(3) **Construct** means to insert poles or lay a foundation for a sign. The term also means to form a building by combining materials or parts.

(4) **Develop** means to make a material change in the use or character of the land, including but not limited to the placement of any building or other structure on the land.

(5) **Expand** means to add any square footage (i.e., surface area) of a sign. The term also includes any increase in the height of a sign.

(6) **Ordinary Maintenance** means activities relating to a sign that would be considered ordinary or common for upkeep of the sign, including but not limited to the replacement of existing materials with identical or in-kind materials and painting. The term expressly omits activities involving the expansion of surface area, installation of illuminating devices, increases in sign height, modification of color scheme, addition of animated or moving parts, enlargement, reduction, renovation or remodeling of signs.

(7) **Person** means any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(8) **Repair** means the maintenance of or the return to a state of utility of a sign. The term expressly omits reconstruction of a sign that has been more than fifty percent (50%) damaged or destroyed.

(9) **Sign** means a structure, display, light device, painting, drawing, message, plaque, poster, billboard, writing, pictorial representation, illustration, emblem, symbol, design or other thing that is designed, intended or used to advertise or inform. As used in this Ordinance, the term specifically includes any structure or a part thereof, or that is attached to or in any manner represented on a building or other structure, and is placed in view of the general public and is used for purposes of advertisement, identification, or expression.

(10) **Village** means the Village of Volente, an incorporated municipality located in Travis County, Texas, its agents and employees.

3. SIGN PERMITS

A. Permits Required

It shall be unlawful for any person to alter, build, construct, erect, expand, install, modify, remodel, renovate, or repair a sign without first making application to the Village and securing a Sign Permit issued by the Village.

B. Exceptions

Sign Permits are not required for ordinary maintenance and repair of existing signs.

4. TEMPORARY SUSPENSION

The Village's acceptance, review and approval of all Sign Permit applications within the City Limits (i.e., incorporated municipal boundary) is hereby temporarily suspended and prohibited.

5. ENFORCEMENT

A. Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars ($500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Civil Remedies

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:

(1) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
(2) a civil penalty up to one thousand dollars ($1,000.00) 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
(3) other available relief.

6. REPEALER

All Ordinances or parts of Ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

7. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

8. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this the 17th day of August, 2004, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of the Village of Volente, Texas.

VILLAGE OF VOLENTE

by: _____
Jan Yenawine, Mayor

ATTEST:

_____
Jennifer Zufelt, City Secretary