ORDINANCE NO. 2005-O-52

AN ORDINANCE REGARDING THE REGULATION OF FOOD ESTABLISHMENTS IN THE VILLAGE OF VOLENTE, INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, TEMPORARY FOOD ESTABLISHMENTS, MOBILE FOOD UNITS AND ROADSIDE FOOD VENDORS; ESTABLISHING A PENALTY NOT TO EXCEED TWO-THOUSAND DOLLARS PER VIOLATION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, The Village of Volente, Texas, desires to adopt regulations regulating food establishments in the Village of Volente to protect the public health and safety and allow for the organized and safe construction and operation of restaurants within the Village.

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

SECTION 1. Adoption of Texas Food Establishment Rules

(a) Village of Volente, Texas, adopts by reference the provisions of the current rules or rules as amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in this jurisdiction.

(b) **Definitions**

(i) "Authorized agent or employee": the employee of the Village or contractor providing services to the Village under this Subchapter.

(ii) "Food establishment": a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and /or a roadside food vendor.

(iii) "State rules": the State rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the Texas Food Establishment Rules.

SECTION 2 PERMITS

(a) A person may not operate a food establishment without a permit issued by the Village. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this ordinance.

SECTION 3 APPLICATION FOR PERMIT AND FEES

(a) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the Village. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

(b) Prior to the approval of an initial permit or the renewal of an existing permit, the Village shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.

(c) The fee schedule for permits issued under this ordinance is set forth in the Village of Volente fee ordinance.

SECTION 4 REVIEW PLANS

(a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the Village for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of material of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specification will be approved by the Village if they meet the requirements of the rules adopted by this ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.

(b) Failure to follow the approved plans and specification will result in a permit denial, suspension, or revocation.

SECTION 5 SUSPENSION OF PERMIT

(a) The Village may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes and imminent hazard to public health. Suspension is effective upon service of the notice required by (5) (b) of this ordinance. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.

(b) Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice,

immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Village by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The Village may end the suspension at any time if reasons for suspension no longer exist.

SECTION 6 REVOCATION OF PERMIT

(a) The Village may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the Village in the performance of its duties. Prior to revocation, the Village shall notify the holder of the permit or the person in charge, in writing, providing the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the Village by the holder of the permit within such ten day period.

(b) If no request for hearing is filed within the ten day period, the revocation of the permit becomes final.

SECTION 7 ADMINISTRATIVE PROCESS

(a) A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the Village.

(b) The hearings provided for in these rules shall be conducted by the Village at a time and place designated by it. Based upon the recorded evidence of such hearing, the Village shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the Village.

SECTION 8 REMEDIES

(a) Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more then $2000.00 dollars.

(b) The Village may seek to enjoin violations of these rules.

SECTION 9 SEVERABILITY

If any provision of this ordinance or its application to any person or circumstances is held to be illegal, invalid or unenforceable, the validity of the other provisions of this ordinance will not be affected, it being the intent of the Village Council that the

provisions of this ordinance be severable, and that such illegality, invalidity or unenforceability not affect the other provisions of this ordinance.

SECTION 10 OPEN MEETINGS

It is hereby officially found and determined that the meeting at which the enacting ordinance of this article is 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*.

SECTION 11 EFFECTIVE DATE

This article shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code.*

APPROVED THIS 29th DAY OF SEPTEMBER 2005.

VILLAGE OF VOLENTE, TEXAS

By: _____
Jan Yenawine, Mayor

ATTEST:

_____
Jennifer Zufelt, City Secretary