

Village of Volente

ORIGINAL

ORDINANCE NO. 2003-O-01

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, ESTABLISHING A TEMPORARY 120-DAY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF SUBDIVISION PLATS, SITE DEVELOPMENT PLANS, BUILDING PERMITS OR ZONING APPLICATIONS FOR LAND WITHIN THE VILLAGE OF VOLENTE, AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; PURPOSE; COMPLIANCE REQUIREMENT; DURATION; SCOPE OF JURISDICTION; APPLICABILITY; VARIANCE CONSIDERATION; TEMPORARY SUSPENSION; ENFORCEMENT, INCLUDING CRIMINAL FINES AND CIVIL PENALTIES; CONFLICTING PROVISION; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Village of Volente (“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 Village Council were duly elected following an election held May 3, 2003; and

WHEREAS, the City Council of Volente (“Council”) desire to study and evaluate the impact of development; document development at the time of incorporation; and consider regulations that seek to provide for the orderly and safe development of land and use of property within its Village limits (i.e. incorporated municipal boundary) and to avoid development that may constitute a public nuisance, impose an unreasonable burden on public infrastructure, or unreasonably disturb and devalue adjoining properties; and

WHEREAS, the Council seeks to preserve the health, safety and general welfare of the community by enacting comprehensive development, subdivision and zoning regulations that provide for orderly growth, insure that the impact of development has an acceptable impact on the distinctive character of the community and preserve the cultural and aesthetic character of the Village; and

WHEREAS, the Council seeks to promote a positive Village image reflecting order, harmony and pride, thereby strengthening the economic stability of the Village’s commercial, cultural, environmental, historical, residential and scenic areas; and

WHEREAS, the 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; and

WHEREAS, the Council is in the process of seeking consultants to diligently work with the Council in researching and preparing to adopt comprehensive subdivision, zoning, water quality and building codes; and

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

WHEREAS, the Council finds that a temporary moratorium is necessary and prudent so that the Council may study and adopt appropriate administrative and regulatory rules and procedures; and

WHEREAS, the Council recognizes the importance of development permits and/or approvals to the community, the City Council desires to implement this moratorium for a stated and fixed time period, and to include a variance provision for cases of necessity and undue hardship.

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

SECTION 1. Enactment Clauses

- A. 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.
- B. Purpose.** This Ordinance prohibiting applications for subdivision, zoning, building permits or development permits is adopted so that the City Council may promote the public health, safety and general welfare within the Village through the regulation of the subdivision of land and laying out of neighborhoods and commercial, industrial or residential developments. The purpose of this Ordinance includes but is not limited to preserving the status quo in order to allow the City Council reasonable time to review, conduct research, receive public input, evaluate and establish reasonable policies, and prepare comprehensive subdivision and zoning ordinances. This Ordinance provides temporary regulations while the Village Council enact the appropriate administrative and regulatory rules and procedures.
- C. Compliance Requirement.** Except as provided in Section 2 of this Ordinance, no applications for subdivision plats, site development plans, building permits or zoning applications will be accepted for filing or processed and no such permits or approvals will be issued by the Village until (1) 120 days after enactment of this Ordinance, or (2) repeal of this Ordinance by the City Council, whichever is sooner.
- D. 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. If the City Council determines that this 120-

day period is insufficient for the Village to fully complete its study of and planning for the area within the Village, this Ordinance may be extended as reasonable and necessary upon a majority vote of the City Council.

- E. Scope of Jurisdiction.** The provisions of this Ordinance shall apply within the incorporated municipal boundary of the Village of Volente.
- F. Applicability.** This Ordinance applies to property used or intended for use for commercial, industrial, and/or multi-family residential purposes. This Ordinance shall not apply to legally permitted properties upon which construction commenced prior to May 20, 2003; nor shall this Ordinance apply to properties that have received a site development permit from Travis County, Texas, prior to May 20, 2003; nor shall this Ordinance apply to single-family residential properties to be constructed on a legal, platted lot in existence on or prior to the date of enactment of this Ordinance. Properties to which this Ordinance does not apply shall comply with the development rules and regulations applicable to development in the unincorporated portions of Travis County, Texas, and the City Council, or its designee, shall refer to said rules and regulations in determining the compliance and legality of the development of properties exempted from the application of this Ordinance, until such time as the City Council enacts different development rules and regulations.
- G. Definitions.** The term “construct” shall include the leveling or clearing of land; grading; altering drainage patterns; subdividing; platting; creating roads or parking lots.

SECTION 2. Variance Consideration

- A. Requirements.** An owner of property within the Village may request a variance from the requirements of this Ordinance if there are: (1) Special circumstances or conditions imposing an undue hardship on the property owner; or (2) a vested legal right to proceed.
- B. Process for Application.** A written application setting forth the basis for the requested variance must be submitted to the Village Secretary. A variance may be granted by the City Council if it finds that special circumstances or conditions affecting the property in question justify the variance, and that the granting of the variance will not have an adverse effect on the accomplishment of the goals of the moratorium established by this Ordinance. Requests for variances may only be considered at regular meetings of the City Council, and any application for a variance must be submitted at least 10 days prior to the date of the regular City Council meeting at which the request is to be considered.

SECTION 3. Construction Permits

A. Permits Required. No person shall construct or expand a non-residential structure without applying for and receiving a permit from the Village.

B. Temporary Suspension. The Village's acceptance, review and approval of all subdivision plats, site development applications, or zoning applications within the Village of Volente municipal boundaries is hereby temporarily suspended and prohibited.

SECTION 4. 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.

SECTION 5. Conflicting Provisions

In the case of any conflict between the other provisions of this Ordinance and any existing ordinance of the Village, the provisions of this Ordinance will control.

SECTION 6. Severability

If any provision of this Ordinance or the application thereof to any person or set of circumstances is held to be unconstitutional, invalid, or unenforceable, the validity of the remaining portions of this Ordinance shall not be affected thereby, this being the intent of the City Council in adopting this Ordinance and all provisions of this Ordinance are declared severable for that purpose.

SECTION 7. Effective Date.

This Ordinance shall take effect immediately upon its approval by the City Council.

PASSED AND APPROVED this, the 20th day of May 2003, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of the Village of Volente, Texas.

[Redacted Signature]

Jan Yenawine, Mayor

Attest:

[Redacted Signature]

Jennifer L. Zufelt
City Secretary

