VILLAGE OF VOLENTE
Version 7

ORDINANCE NO. _____

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, AMENDING THE ZONING REGULATIONS IN THE VILLAGE CODE BY ADDING LANGUAGE TO ARTICLE 30, SECTIONS 30.105 THROUGH 30.136, AND SECTION 30.306 TO ADD FOR THE ALLOWANCE OF SPECIAL AND TEMPORARY PERMITS FOR TEMPORARY USES IN VARIOUS ZONING CATEGORIES AND ENFORCEMENT PROVISIONS TO IMPOSE PENALTIES AND INJUNCTIVE RELIEF; PROVIDING FOR AN EFFECTIVE DATE; SEVERABILITY; AND COMPLIANCE WITH THE PUBLIC NOTICE AND MEETING REQUIREMENTS.

WHEREAS, the Village of Volente has adopted zoning regulations within the corporate limits of the Village of Volente; and,

WHEREAS, the Planning and Zoning Commission of the Village of Volente has recommended to the Village Council that the certain special and temporary uses may be allowed in various zoning categories thru a permitting process and to provide penalties and injunctive relief language be modified to be consistent with other zoning ordinances in the Village Code; and,

WHEREAS, the Village Council has concluded that the recommendation of the Planning and Zoning Commission should be accepted and that the additions and amendments to Section 30.105 through Section 30.136 and Section 30.306 of Article 30 of the Village Code be made as set forth below;

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE OF VOLENTE, TEXAS, THAT THE ZONING REGULATIONS IN ARTICLE 30, SECTIONS 30.100 THROUGH SECTIONS 30.306, OF THE VILLAGE OF VOLENTE CODE OF ORDINANCES IS AMENDED AS FOLLOWS:

Section 1. Legislative Findings

The recitals above made in the Preamble are hereby deemed to be the Factual and Legislative Findings of the Village Council, and are hereby incorporated within this Ordinance.

Section 2. Section 30.100 of the Village Code of Ordinances is amended to provide as follows:

Addition to Section 30.105 Definitions the following:

Accessory Building: Will be any temporary or permanent structure having a roof or other covering and designed for or used for shelter or enclosure for any person, animal or property of any kind including but not limited to tents, awnings or vehicles situated on private property and used for the purpose of a building. The word "building" includes the word "structure". An Accessory Building is a subordinate building, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the land.

Accessory Food Sales: Sales of foods intended for consumption by humans or pets produced, made, marketed and sold in accordance with Austin Travis County Health Department rules and regulations that must be sold in a structure, whether mobile or otherwise, within an area not exceeding 150 square feet.

Event Center: A venue, building or a complex of buildings for hire (not including places of worship or public buildings) with the purpose of hosting a variety of gatherings where food, beverages, alcohol, music, or dancing may be offered in connection with life cycle events (including but not limited to, birthdays, anniversaries, weddings, reunions); corporate or professional functions (including but not limited to seminars, meetings, lectures, retreats); other special events (included but not limited to, charitable events, fundraising, art shows, holiday parties, photography shoots and motion picture filming); and incidental facilities (included but not limited to, kitchen or administrative offices).

Temporary Event Center: A temporary venue, building or complex of buildings for hire (not including places of worship or public buildings) with the purpose of hosting a variety of gatherings where food, beverages, alcohol, music, or dancing may be offered in connection with life cycle events (included but not limited to, birthdays, anniversaries weddings, reunions); corporate or professional functions (included but not limited to, seminars, meetings, lectures, retreats); other special events (for example charitable events, fundraising, art shows, holiday parties, photography shoots and motion picture filming); and incidental facilities (included but not limited to, kitchen or administrative offices), on a residential (R-1) lot, tract, acreage, and/or land with the purpose of hosting a variety of gatherings.

Special Use: A special and temporary use of a property not normally permitted under a property's designated zoning classification that may be authorized by the City Council on a temporary basis, if the applicant can show, to the satisfaction of the City Council after a public hearing, that the use requested meet applicable conditions and standards contained in Article 30.

Special and/or Temporary Event: Is an event, occurrence or happening involving the following Special Uses allowed by the City Council on a temporary basis and pursuant to a Special Use Permit issued under this Article 30. Special Events include but are not limited to the following Special Uses and similar types of uses:

Carnival or circus
Outdoor Market or Vending from Temporary Booths, Tents, Trailers, or other similar devices
Stage, set or staging area for the professional filming of motion pictures, documentaries, educational or training films, or similar media
Music event, concert, or rave held either for commercial profit, or for fundraising before a private audience.
Festival, celebration, or special fundraising event
Any other temporary event or activity not listed above, and not identified as a permitted use in the zoning regulations, Article 30.

Addition of the following Sections to 30.125

Sec. 30.1251 Special and Temporary Uses: Authorization Required

(a) The following special/temporary uses may be authorized by the City Council on a temporary basis by the Special Use Permit:

Special Use	District Allowed
Accessory building	R-1, R-1R, R-1C, R-2
Accessory food sales	GOV, C-2, C-3
Event Center requiring TABC license or permit for premises	C2, C3
Farmers/Artisan Market	GOV, C-2, C-3
Temporary Event Center Small Group	R-1

(b) **Permit Required.** No Special Use shall be established, operated, or maintained except as authorized by a Special Use Permit issued in accordance with the requirements of this section.

(c) **Special Use Permit Issued by City Council.** A Special Use Permit may be issued only for the Special Uses specified in this Section, and only in the districts where it

is authorized. A Special Use Permit may be issued by the City Council acting after a public hearing is conducted in accordance with **Section 30.136** (b) (1) (i) (Note of addition to this section will read as follows: For Special or Temporary Requests involving real property, or for special or temporary use, the Planning and Zoning Commission shall hold at least one (1) public hearing on each application) filed under Article 30 of this Code and a recommendation on the proposed use from the Planning and Zoning Commission to the City Council in accordance with this section.

(d) **Application.** An application for a Special Use Permit shall be made in writing in a form prescribed by the City Council and shall be accompanied by **(1)** a non-refundable fee as set forth by ordinance or resolution of the City Council and **(2)** such information as may be required (including a site plan) in order to properly review the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, and operational data including if requested by the City, a traffic study, parking and the projected number of attendees.

(e) **Report by City Inspector**. The City's appointed designate, the Mayor or City Administrator shall visit the site of the proposed Special Use and the surrounding area and shall prepare findings to be delivered to the members of the Planning and Zoning Commission and to the City Council at least one (1) week prior to the public hearing date as set forth in **Section 30.130(c).**

(f) **Notice--Public Hearing by Planning and Zoning Commission.** The Commission shall hold a public hearing on each application for a Special Use Permit in accordance with the procedures in **Section 30.130 (c).**

(g) **Review and Recommendation by the Planning and Zoning Commission.**

(1) The Commission shall review the application for a Special Use Permit to determine whether the proposed Special Use complies with each of the general criteria in **Section 30.1252**, and with each of the specific criteria in **Section 30.1253** applicable to the proposed Special Use, and shall make a separate finding thereon for each criterion.

(2) The Commission shall not recommend approval of an application unless it finds that the proposed Special Use as presented or as modified by the Commission complies with each of the general and applicable specific criteria.

(3) A recommendation of approval may be conditioned on the applicant's adoption of and compliance with specified changes, additions, limitations, safeguards, or effective time periods designed to assure

compliance with the criteria and to protect the public health, safety and welfare of the surrounding properties and the City as a whole.

(4) For sites where the applicant owns the improvements and the improvements do not comply with current development standards, the application for a Special Use Permit shall depict all improvements proposed to bring the site into conformance with all zoning regulations in effect at the time of application submittal. If compliance with zoning regulations at the time of application submittal is not feasible, the Special Use Permit may be recommended for approval by the Zoning Commission conditioned upon the applicant receiving a zoning variance from the Board of Adjustment.

(5) The Commission shall forward its findings and recommendations to the City Council in writing.

(h) **Hearing before City Council.** The City Council shall review an application for a Special Use Permit at a public hearing in accordance with the procedures in Section 30.129 after receiving findings and a recommendation from the Zoning Commission.

(i) **Review and Action by City Council.**

(1) The City Council shall determine whether the proposed Special Use complies with each of the general criteria in **Section 30.1252** and with each of the special criteria in **Section 30.1253** applicable to the proposed use and shall make separate findings thereon or adopt the findings made by the Commission.

(2) The City Council may condition its approval of an application on the applicant's adoption of and compliance with of specified changes, additions, limitations, safeguards, or effective time periods designed to assure compliance with the criteria and to protect the public health, safety and welfare of the surrounding properties and the City as a whole.

(3) The City Council shall not grant a Special Use Permit unless it finds that the proposed Special Use, as presented or as modified by the Council, complies with each of the general and applicable specific criteria. If the application meets all such criteria, the Council shall approve the application.

(j) **Temporary Special Use Permit**. A Temporary Special Use Permit may be granted by the City Council on the terms and conditions determined by the City Council for a period not to exceed thirty (30) consecutive calendar days or less.

An Applicant for a Temporary Special Use Permit shall submit an application to the City setting forth the location and all terms of the proposed use, accompanied by written approval of the owner of the property on which the use is proposed. The procedures for public notice and hearing in **Section 30.130 (c)** for Planning and Zoning do not apply to Temporary Special Use Permits. Applications by charitable organizations for a Temporary Special Use Permit to operate a carnival or other amusement activity may be granted for a period not to exceed fourteen (14) consecutive calendar days on the terms and conditions approved by the City Council.

Sec. 30.1252 General Criteria Applicable to All Special Uses and Temporary Special Uses

A proposed Special Use or Temporary Special Use must comply with the following criteria:

(a) The appearance, size, density and operating characteristics of the proposed Special Use are subject to the Effective Compatibility and Buffering Standards set forth in Article 33 of the Village, including but not necessarily limited to Section 33.316 and 33.319.

(b) The proposed Special Use will not have an adverse effect on the value of surrounding properties nor impede the development of undeveloped properties;

(c) The proposed use will not create a nuisance nor otherwise unreasonably interfere with a neighbor's use and enjoyment of its property or the operation of its business;

(d) Notification of the events and all pertinent data about the event will be given to the Fire and Law Enforcement agencies at the time the Application is filed with the City.

(e) All Applicants will be required to supply a phone number that will be answered on a 24/7 basis throughout the time period of the event. This person will be someone in a position of ownership, control, or management that can address problems with the event.

(f) The proposed Special Use will not create any street parking.

(g) The proposed Special Use will conduct it activities according to the following the following timetables:

Weeknights Monday thru Friday	Beginning no earlier than 9 AM and ending no later than 6 PM.
Weekends Friday and Saturday	Beginning no earlier than 12:00 Noon and ending no later than 11 PM.
Sundays	Beginning no earlier than 12:00 Noon and ending no later than 6 PM.

(h) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and

(i) The proposed use complies with all other applicable provisions of this Code and other ordinances and regulations of the City.

(j) In determining the approval of the Temporary Special Use Permit the City will consider the following:

1 The amount of acreage, and the dimensions of the acreage or lot.
2 The number of persons attending the use.
3 The amount of noise that may be created.
4 Since these Special Uses will take place within residential areas the frequency of events and a limit on the number of persons attending the events may be imposed in the permit.

Sec. 30.1253 Specific Criteria Applicable to Individual Certain Special Use Permits and Temporary Special Uses Permits

(A) **Accessory Food Sales.** In addition to the general criteria applicable to all Special Uses, a Special Use for Accessory Food Sales shall be operated and maintained in accordance with the following conditions and limitations:

(1) Accessory food sales shall occur in a structure, whether mobile or otherwise, in an area not exceeding 150 square feet.

(2) The Special Use shall be operated either by the owner or lessee of improved property on which the Special Use is located, or pursuant to a written agreement with such owner or lessee.

(3) The structure housing the Special Use shall not be located on any roadway or fire lane. The Special Use shall not be located so as to impede pedestrian traffic on any sidewalk.

(4) A permit for accessory food sales shall expire immediately in the event that the retail establishment to which such Special Use is an accessory discontinues its business on the property.

(5) The operator of the Special Use shall at all times hold current certificates, permits and/or licenses required by the Travis County Health Department and any other agency of the State of Texas for operation of the food service establishment operated pursuant to the Special Use.

(6) No signs advertising any aspect of the Special Use shall be displayed except as attached to and confined to the surface area of the walls of the structure housing the Special Use.

(7) No goods or services shall be provided other than the sale of food and items incidental thereto, such as napkins and eating utensils. Sufficient signs, recyclable containers, and trash receptacles shall be provided by the operator of the Special Use to control and prevent litter incident to the Special Use.

B. Farmer's/Artisan Market: The sale of goods, wares, merchandise, produce, or products on part of a public street, sidewalk, or alley, other public lands or public easements, or on private property not zoned for such commercial sales.

(1) Definitions. For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(a) "**Artist/Artisan**" means any individual who displays or offers for sale his or her own handcrafted items.

(b) "**Farm and Food Products**" means any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, wine,

ornamental or vegetable plants. This term does not include live animals.

(c) **"Farmer/Grower"** means a person whose produce or plants are organically, sustainably or naturally grown and grown within the defined local area. Organically grown produce must be certified by the State of Texas.

(d) **"Farmer's/Artisan Market"** means a building, structure or location at which a group of two (2) or more farmers or artisans or a combination thereof, from a defined local area who directly sell to the public farm and food products, either primary or secondary producer food specialty items, handcrafted items, goods or wares, and/or natural flowers and plants at which eighty (80%) percent of itinerant vendors must have grown, reared, caught, brewed, pickled, baked, smoked or processed the goods themselves.

(e) **"Food Specialty Items"** means baked goods, jams, jellies, large-portion prepackaged products, spices, condiments, cheeses, meats, seafood and pasta. Food specialty items may or may not be intended for immediate consumption on premises.

(f) **"Handcrafted Items"** means non-machine made objects, displaying a degree of manual skill or dexterity, and include, but are not limited to, leather goods, wood carving, beadwork, basketry, pottery and jewelry, hand woven cloth and blankets and objects made there from. Such items may include elements of new materials or machine-made parts, provided that no object which is primarily mass produced or machine-made and assembled from a kit shall be considered to be handcrafted. Clothes and craft items sewn with a machine shall be considered handcrafted items.

(g) **"Itinerant Vendor"** means any local farmer, grower, producer, person or artisan with no established business location within the geographical boundaries of the City who is associated with a Permit Holder that has been issued a Farmers/Artisan Market Special Use Permit. This term excludes any business within the City related to a Home Occupation.

(h) **"Local Area"** means within the borders of the State of Texas provided no suitable product from a primary producer, farmer, artisan or grower is available within a radius of 150 miles from the City limits.

(i) **"Machine-Made"** means the producing or reproducing of an item in mass production by mechanically stamping, casting, blanking and weaving, except beads.

(j) **"Natural Flowers/Natural Plant/Natural Produce"** means propagated by seeds or cultivated by budding, grafting, layering, or other nursery techniques. The term "natural" excludes any produce/plants that have been irradiated, grown using pesticides, herbicides or chemical fertilizers, and is hormone free.

(k) **"Producer, Primary"** means all produce grown, reared or caught on the producer's land within the defined local area. For domesticated livestock or plants this means grown or finished (having spent at least 50% of its life) on the producer's land. For fish and other seafood this means caught from either inshore waters within the *local area or offshore waters along the Texas coastline.*

(l) **"Producer, Secondary"** means all produce must be brewed, pickled, baked, smoked or processed by the itinerant vendor using at least one ingredient of origin from within the defined local area (not merely bought locally). The minimum local ingredient is 10% of each product. Receipts should be kept as proof of origin for inspection.

(m) **"Permit Holder"** means an individual or representative of an organization that represents a group of small scale itinerant vendors that come together on an occasional or temporary basis as a collaborative group.

(n) **"Sustainably Grown"** means produce or plants that adhere to an agriculture that promotes self-reliance, resource conservation, and viability to both the natural environment and the parties involved. Sustainable agriculture incorporates the principles of organic farming although it does not need to be organically certified.

(2) Review of Effects

Before approving a Special Use Permit allowing a Farmer's/Artisan Market, the City Zoning Commission and City Council shall consider the following:

(a) Pedestrian and motor vehicle safety at and surrounding the proposed market;

(b) The effect of anticipated pedestrian and motor vehicle traffic on adjoining streets and sidewalks;

(c) The Compatibility of adjacent zoning;

(d) Cultural, sociological, economic, traditional, or historical influences that create or support placement of the proposed market;

(e) Availability of existing market space in the area; and

(f) Public health, safety and welfare.

(3) <u>Permanent Use Not Created; No Abandonment or Vacation</u>

The approval of a Special Use Permit establishing a Farmer's/Artisan Market does not create a permanent right to the permitted use, or is not to be construed to authorize abandonment or vacation of a public street, sidewalk, or alley.

(4) <u>Application Requirements</u>

(a) An application under this section shall include:

(1) The Permit Holder's name, including the organization name, mailing address, phone number, and email address.

(2) A list of all itinerant vendors, including state sales tax permit number, if applicable, or exemption certificate.

(3) A description of the merchandise intended for sale and a statement that the merchandise offered for sale has been created or produced by the itinerant vendor.

(4) A written schedule showing the days and hours of operation

(5) The exact limits or boundaries of the market.

(6) The proposed closure of any public street, sidewalk, or alley.

(7) A statement from the permit holder that the organization will not discriminate against itinerant vendors based on race, religion, sex, national origin, sexual orientation, age or disability.

(b) Two applicants may file a joint application if both applicants are engaged in a joint business venture and complete the application form and provide the information required in Subsection (4) (a) A above for both applicants. In the event a joint application is submitted both applicants are jointly and severally bound by the subject to the terms of this Section and Article 30 including all enforcement and penalty provisions.

(5) Conditions of Operation.

(a) The Permit Holder shall be responsible for insuring the following conditions of operation are adhered to:

1. That all itinerant vendors have individual licenses and certificates as promulgated by the state and/or health department. For the purpose of health permits only, Farmers Market may be defined as a temporary event. A Temporary event permit may be issued for the event and such permit may run for up to fourteen consecutive Saturdays.
2. The location of vendor spaces shall have provision for access and shall be divided in such a way to ensure movement and safety between the vendors.
3. The location of vendor spaces shall not hinder or impede pedestrian flow on any sidewalk or traffic flow on any roadway adjacent to the Farmer's/Artisan Market.
4. The vendor's–current sales tax permit is available on site for inspection at all times of operation.
5. All supplies and storage shall be kept in a neat and orderly fashion within the vendor's space.
6. Portraits offered for sale that are created on site by the portrait artist while the subject poses. Portrait artists may sell mailing tubes, protective frames, mats or glass as part of the sale.
7. Works such as sculpture or paintings, drawings, prints, or photographs and all other two (2) dimensional works of art are originals or high quality reproductions of the artist's work, consecutively numbered, signed or stamped by the

artist. Quality reproductions of two (2) dimensional works are acceptable if hand enhanced.

8. All vendors offer for sale only the type of product as listed on the statements submitted to the City Administrator unless other products are reviewed and approved by the Mayor or City Administrator, or the City designated official or agent for compliance with this Special Use Permit.

9. A vendor may not claim use of or occupy a vendor space except during the time the Farmer's/Artisan Market is authorized to operate.

10. Any spaces in the Farmer's/Artisan Market reserved for use by an organization promoting public awareness, or not-for-profit fundraising, shall not be counted towards the 20% of itinerant vendors who do not have to grow, rear, catch, brew, pickle, bake, smoke or process the goods themselves.

(b) An employee or the Mayor of the City or another governmental entity may inspect a license during operation of a Farmer's/Artisan Market.

(c) An employee of the City, or designee of the City or another governmental entity may inspect a vendor space and merchandise displayed, offered for sale, or sold at a Farmer's/Artisan Market.

(d) <u>Hours of Operation/Parking on Streets</u>

(1) The Farmer's/Artisan Market shall only operate between the hours of 8:00 a.m. to 6:00 p.m. on either a Saturday or Sunday of each week. The City may also order vendors to cease operation due to security reasons or in the event of an emergency.

(2) Vehicle parking on streets surrounding the Farmer's/Artisan Market for the setup or tear down of vendor displays or deliveries shall not be parked longer than fifteen (15) minutes on streets open to traffic.

<u>(6) Permit Term and Renewal</u>

(a) All permits issued under this Section are valid for a term of up to 14 consecutive Saturdays from date of issuance.

(b) All permits issued under this Section are non-transferable and a separate permit is required for each Farmer's<u>/Artisan</u> market area.

(c) No permits may be automatically be renewed.

(d) Persons who hold permits may submit applications for additional one year terms.

(e) The City Administrator may approve a renewal application provided the applicant has not been found to have violated the terms of the permit.

(7) Permit Revocation

(a) The Mayor or the City Administrator may revoke or suspend a license permit issued under this Section for good cause, a violation of this Section, or a public offense or violation by the applicant, sponsor, or vendor relating to the marketing or sale of goods, wares, merchandise, produce products, or other items at the Farmer's/Artisan Market.

(b) The holder of a permit that has been revoked is ineligible for a new permit for one year from the date of revocation, unless the revocation is overturned on appeal.

(c) An applicant or Permit Holder aggrieved by a decision by the City Administrator or the Mayor to grant or deny an application, or to revoke or suspend a permit, may appeal the decision to the City Council.

(d) An aggrieved applicant or person whose permit has been suspended or revoked may file an appeal in writing with the City Administrator not later than fifteen (15) days from the date of a the denial, revocation, or suspension. The appeal under this section shall describe the action appealed from and the reasons for the appeal.

(f) The City Council shall hold a public hearing not later than the 45th day after an appeal is filed. The appellant, any complainants, and the City investigator or other agent shall have the right to present witnesses and testimony at such hearing.

(g) The City Council may uphold, reverse, or modify the decision by the City Administrator or the Mayor that is subject to appeal.

(f) A Special Use Permit may be revoked for giving any false, misleading, or fraudulent statements made in connection with or on the permit application.

(8) **Enforcement.**

(a) The City shall inspect all displays at least monthly to confirm compliance with this Section and any applicable laws. Upon determining that the Permit Holder is in violation of any provision of this section, the City may suspend or revoke the license.

(b) The City shall investigate complaints alleging violation of this Section provided that the complaint is in written form and signed by the complainant including the telephone number and address.

(c) The City has the authority to physically take any goods, wares, merchandise, produce products, or other items for sale by the vendor into custody for examination and investigation of compliance with this Section, provided that such taking shall be only for a reasonable period of time not to exceed thirty (30) calendar days. The City has the authority to require that a vendor demonstrate the creation or cultivation of the goods, wares, merchandise, produce products or other item at any time after issuance of the permit, in order to determine if the vendor is in compliance with this Section. If destructive testing makes the return of the item impossible, the City shall purchase the item from the vendor.

(e) If any vendor is not in compliance with this Section the Permit Holder shall be notified in writing of the violation and shall have seven (7) calendar days to come into compliance or the permit shall be suspended until the violation is cured, provided however, that if the violation is a health or safety violation, then the violation must be cured immediately.

(9) **Prohibitions**

The following acts are prohibited.

(a) A person may not use the term "farmer's/artisan market" to describe a market or other sales location that does not meet the terms of the definition set forth in the definitions for this subsection.

(b) An itinerant vendor may not sell farm and food products, handcrafted items, or food specialty items at a market labeled "farmer's/artisan market" unless at least 75% of the product offered by that person was grown, made or processed by that person or under that person's direction. A product not grown, made or processed by that person must have been purchased directly from another farmer.

(9) Relationship to Farmer's/Artisan Market Rules

This section does not prohibit a market from imposing more stringent requirements on its vendors than those imposed by **Section 30.1253 (B).**

(C) Event Center or Temporary Event Center requiring TABC license or permit for premises:

In addition to the general criteria applicable to all Special Uses, an Event Center or Temporary Event Center requiring a TABC license or permit for premises shall be operated and maintained in accordance with the following conditions and limitations:

(1) The premises must comply with all requirements applicable to Event Centers;

(2) The premises where an alcoholic beverage is proposed to be sold must not be located within three hundred feet (300') of a church or school as measured by State law;

(3) The premises where an alcoholic beverage is proposed to be sold must not be located on property on which, two or more sides of the property abut a property in a residential zoning district;

(4) The Special Use Permit shall be reviewed administratively and renewed upon evidence that a Texas Alcoholic Beverage Commission permit has been reissued; and

(5) The City Administrator or the Mayor shall have the authority to cancel any original or renewal Special Use Permit or license and may refuse to issue any new alcoholic beverage permit or license for the same

premises for one year after the date of cancellation as permitted by the Texas Alcoholic Beverage Code.

(6) The Special Use Permit holder shall prohibit patrons from leaving the licensed premises with an unconsumed alcohol sample or glass of wine.

(7) A Special Use Permit holder may offer alcohol samples and glasses of wine in open containers and may provide them to a patron free of charge.

(8) A Special Use Permit holder must comply with all state and federal laws and regulations regarding the production and sale of wine.

(9) A Special Use Permit holder must submit a report of the activities for a permit renewal on an annual basis that includes the previous 12 months of reports to TABC of alcoholic beverages purchased, alcoholic beverages produced and total sales of alcoholic beverages.

(10) A valid permit must have been issued by the Texas Alcoholic Beverage Commission for the type of operation proposed and this permit must be current. The Special Use Permit shall be reviewed administratively and renewed upon evidence that a Texas Alcoholic Beverage Commission permit has been reissued.

(11) Additional fees are to be collected after three (3) years operation in accordance with the Texas Alcoholic Beverage Commission permit rules.

(12) The City Administrator may cancel a renewal Special Use Permit and may refuse to issue any renewal Special Use Permit or license for the same premises for one year after the date of cancellation if:

(a) the Sheriff of the County in which the premises are located has submitted a sworn statement to the City Administrator stating specific allegations that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, or safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another Special Use Permittee; and,

(b) the City Administrator finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, or safety of

the community and that there is a reasonable likelihood that such conduct would continue at the same location under another Special Use permittee.

(D) **Accessory Food Sales**. In addition to the general criteria applicable to all Special Uses, a Special Use Permit for Accessory Food Sales shall be operated and maintained in accordance with the following conditions and limitations:

(1) Accessory food sales shall occur in a structure, whether mobile or otherwise, in an area not exceeding 150 square feet.

(2) The Special Use shall be operated either by the owner or lessee of improved property on which the Special Use is located, or pursuant to a written agreement with such owner or lessee.

(3) The structure housing the Special Use shall not be located on any roadway or fire lane. The Special Use shall not be located so as to impede pedestrian traffic on any sidewalk.

(4) A permit for accessory food sales shall expire in the event that the retail establishment to which such Special Use is an accessory discontinues its business on the property.

(5) The operator of the Special Use shall at all times hold current certificates, permits and/or licenses required by the Travis County Health Department and any other agency of the State of Texas for operation of the food service establishment operated pursuant to the Special Use.

(6) No signs advertising any aspect of the Special Use shall be displayed except as attached to and confined to the surface area of the walls of the structure housing the Special Use.

(7) No goods or services shall be provided other than the sale of food and items incidental thereto, such as napkins and eating utensils. Sufficient signs, recyclable containers, and trash receptacles shall be provided by the operator of the Special Use to control and prevent litter incident to the Special Use.

(8) Authorization for Accessory Food Sales pursuant to this Section shall be for a period not to exceed six (6) months. Renewal of such authorization not to exceed six (6) months may be granted not later than the date of expiration of the previous authorization at the discretion of the City Administrative or Mayor provided the applicant has not received more than two (2) validated warnings prior thereto regarding violations of the

Special Use or terms specify in this section. A twenty-five ($25.00) dollar administrative fee shall be paid for all administrative renewal authorizations. In the event the City receives a verbal or written complaint regarding the Special Use Permit holder, The City's investigator or other designated agent will investigate the complaint in a timely manner to determine its validity. Administrative staff shall record the name, address, phone number, date and time that verbal complaints are registered. In the event a complaint is validated by the City's investigator or other agent, the permit holder shall receive a written warning with instructions to correct the violation. If the violation has not been corrected within fifteen **(15)** days after receipt of the second warning issued by the City, the Special Use Permit shall be revoked.

Sec. 30.1254 General Requirements for All Special Uses and Temporary Special Uses

(A) **Adherence to Approved Plans, Regulations**. A Special Use or a temporary use shall be established, operated, and maintained in accordance with the plans, terms, conditions, and limitations contained in the permit that is approved by the City Council or approved or renewed administratively by the City Administrator.

(B) **False Documents or Statements.** Any individual, person, business, entity, or person that submits false documents or otherwise makes a false statement of a material fact on an application for a permit under this article violates this article and shall be liable under the enforcement provisions of this article.

(C) **Enforcement.** Permitted Special Uses and the conditions of those permits are integral to the zoning districts governing the respective parcels and are subject to the enforcement provisions of Article 30 of the Code, including but not limited to Sections 30.108 and 30.306.

(D) **Revocation.** In addition to the other grounds and procedures for suspension or revocation of a Special Use Permit specified elsewhere in this Article the City Council, after notice to the holder of the permit, may revoke any Special Use or Temporary Use Permit for one or more of the following reasons:

(1) A substantial violation of any of the plans, terms, conditions, and limitations applicable to the Special Use;

(2) A substantial violation of any ordinance or regulation relating to Special Use;

(3) Operation or maintenance of the Special Use in a manner that is detrimental to the public's health or safety, or so as to constitute a nuisance; and/or

(4) Discontinuance of the Special Use during the period permitted.

(5) Transfer or sale of all of or a partial interest in the real property subject to the Special Use, whether such transfer is by gift, sale, lease, devise, or otherwise.

(6) All representations made in an application become conditions of the permit and noncompliance can be grounds for the revocation of the permit.

(E) **Lapse of Permit.** A Special Use Permit shall lapse and become invalid upon the expiration of one (1) year from the date the permit is issued unless the Special Use has commenced or, is diligently pursued toward completion.

(F) **Transfer.** A Special Use Permit is not transferable.

(G) **Short-Term Food Sales.** No Special Use authorization for Accessory Food Sales shall be required pursuant to this section for the following activities:

(1) School or City sponsored activities with a duration less than twenty-four (24) hours;

(2) Events not exceeding seventy-two (72) hours in duration associated with the opening of a new retail commercial establishment;

(3) Fund-raising activities by charitable or non-profit organizations not exceeding twenty-four (24) hours in duration;

(4) Activities authorized by a Temporary Special Use permit obtained pursuant to Subsection (j) of **Sec. 30.12S1**.

Section 3. Section 30.306 of the Village Code of Ordinances is hereby by amended to read as follows in its entirety:

Sec. 30.306 **Enforcement; Penalties and Injunctive Relief**

(A) **Penalties.** Any individual, business, entity, or person who violates any of the provisions of this article, or shall fail to comply therewith, or with any of the

requirements thereof, within the Village limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of one thousand dollars ($1,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(B) Injunctive Relief. Any individual, business, entity, or person who violates this article is also subject to suit for injunctive relief to obtain compliance with the provisions of this article.

(C) Each Day is Separate Violation. Each day of violation of any provision of this Article shall constitute a separate offense.

Section 4. Severability.

If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Effective Date

This Ordinance shall take effect upon adoption or if required by state law, after any required posting and publication of this Ordinance.

Section 6. Public Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance 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.