

VILLAGE OF VOLENTE
Version 8

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:

38 **Section 1. Legislative Findings**

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

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

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47 **Addition to Section 30.105 Definitions the following:**

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

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

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

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71 **Occasional Residential Event:** A temporary venue, building or complex of buildings **not**
72 for hire (not including places of worship or public buildings) with the purpose of hosting
73 a variety of gatherings where food, beverages, alcohol, music, or dancing may be
74 offered in connection with life cycle events (included but not limited to, birthdays,
75 anniversaries weddings, reunions); corporate or professional functions (included but not
76 limited to, seminars, meetings, lectures, retreats); other special events (for example
77 charitable events, fundraising, art shows, holiday parties,); and incidental facilities
78 (included but not limited to, kitchen or administrative offices), on a residential (R-1) lot,
79 tract, acreage, and/or land with the purpose of hosting a variety of personal gatherings
80 that exceed greater than 150 people in attendance.

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

87
88 **Special and/or Temporary Event:** Is an event, occurrence or happening involving the
89 following Special Uses allowed by the City Council on a temporary basis and pursuant
90 to a Special Use Permit issued under this Article 30. Special Events include but are not
91 limited to the following Special Uses and similar types of uses:

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- 93
- 94 Outdoor Market or Vending from Temporary Booths, Tents, Trailers, or other
- 95 similar devices
- 96 Stage, set or staging area for the professional filming of motion pictures,
- 97 documentaries, educational or training films, or similar media
- 98 Music event, concert, or rave held either for commercial profit, or for fundraising
- 99 before a private audience.
- 100 Festival, celebration, or special fundraising event

101 **Occasional Residential Events**

102 Any other temporary event or activity not listed above, and not identified as a
103 permitted use in the zoning regulations, Article 30.

104
105 Addition of the following Sections to 30.125

106
107 **Sec. 30.1251 Special and Temporary Uses: Authorization Required**

- 108
109 (a) The following special/temporary uses may be authorized by the City Council on a
110 temporary basis by the Special Use Permit:

Special Use	District Allowed
Accessory building	C-2, C-3, GOV
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
Occasional Residential Events	R-1

- 112
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114 (b) **Permit Required.** No Special Use shall be established, operated, or maintained
115 except as authorized by a Special Use Permit issued in accordance with the
116 requirements of this section.

- 118 (c) **Special Use Permit Issued by City Council.** A Special Use Permit may be issued
119 only for the Special Uses specified in this Section, and only in the districts where it
120 is authorized. A Special Use Permit may be issued by the City Council acting after
121 a public hearing is conducted in accordance with **Section 30.136** (b) (1) (i) (Note
122 of addition to this section will read as follows: For Special or Temporary Requests
123 involving real property, or for special or temporary use, the Planning and Zoning
124 Commission shall hold at least one (1) public hearing on each application) filed
125 under Article 30 of this Code and a recommendation on the proposed use from
126 the Planning and Zoning Commission to the City Council in accordance with this
127 section.
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- 129 (d) **Application.** An application for a Special Use Permit shall be made in writing in a
130 form prescribed by the City Council and shall be accompanied by (1) a non-
131 refundable fee as set forth by ordinance or resolution of the City Council and (2)
132 such information as may be required (including a site plan) in order to properly
133 review the proposed use. Such information may include, but is not limited to, site
134 and building plans, drawings and elevations, and operational data including if
135 requested by the City, a traffic study, parking and the projected number of
136 attendees.
137
- 138 (e) **Report by City Inspector.** The City's appointed designate, the Mayor or City
139 Administrator shall visit the site of the proposed Special Use and the surrounding
140 area and shall prepare findings to be delivered to the members of the Planning
141 and Zoning Commission and to the City Council at least one (1) week prior to the
142 public hearing date as set forth in **Section 30.130(c)**.
143
- 144 (f) **Notice--Public Hearing by Planning and Zoning Commission.** The Commission
145 shall hold a public hearing on each application for a Special Use Permit in
146 accordance with the procedures in **Section 30.130 (c)**.
147
- 148 (g) **Review and Recommendation by the Planning and Zoning Commission.**
149
- 150 (1) The Commission shall review the application for a Special Use Permit
151 to determine whether the proposed Special Use complies with each
152 of the general criteria in **Section 30.1252**, and with each of the
153 specific criteria in **Section 30.1253** applicable to the proposed
154 Special Use, and shall make a separate finding thereon for each
155 criterion.
156
 - 157 (2) The Commission shall not recommend approval of an application
158 unless it finds that the proposed Special Use as presented or as
159 modified by the Commission complies with each of the general and
160 applicable specific criteria.
161
 - 162 (3) A recommendation of approval may be conditioned on the applicant's
163 adoption of and compliance with specified changes, additions,

164 limitations, safeguards, or effective time periods designed to assure
165 compliance with the criteria and to protect the public health, safety
166 and welfare of the surrounding properties and the City as a whole.

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

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

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

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

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

193
194 (2) The City Council may condition its approval of an application on the
195 applicant's adoption of and compliance with of specified changes,
196 additions, limitations, safeguards, or effective time periods designed
197 to assure compliance with the criteria and to protect the public
198 health, safety and welfare of the surrounding properties and the
199 City as a whole.

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

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207 (j) **Temporary Special Use and Occasional Residential Event Permit.** A
208 Temporary Special Use or an Occasional Residential Event Permit may be granted

209 by the City Council on the terms and conditions determined by the City Council
210 for a period not to exceed thirty (30) consecutive calendar days or less. An
211 Applicant for a Temporary Special Use Permit shall submit an application to the
212 City setting forth the location and all terms of the proposed use, accompanied by
213 written approval of the owner of the property on which the use is proposed. The
214 procedures for public notice and hearing in **Section 30.130 (c)** for Planning and
215 Zoning do not apply to Temporary Special Use Permits. Applications by charitable
216 organizations for a Temporary Special Use Permit to operate a carnival or other
217 amusement activity may be granted for a period not to exceed fourteen (14)
218 consecutive calendar days on the terms and conditions approved by the City
219 Council.

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221 **Sec. 30.1252 General Criteria Applicable to All Special Uses and Temporary Special and**
222 **Occasional Residential Event Uses**

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224 A proposed Special Use or Temporary Special Use or Occasional Residential Event
225 must comply with the following criteria:

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

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

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

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

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

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249 (f) The proposed Special Use will not create any street parking. **Exception**
250 **Occasional Residential Events.**

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

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Weeknights Monday thru Friday Beginning no earlier than 9 AM and ending no later than 9 PM.

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Weekends Friday and Saturday Beginning no earlier than 9:00 AM and ending no later than 11 PM.

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Sundays Beginning no earlier than 9 AM and ending no later than 6 PM.

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Exceptions: Planning and Zoning and the City Council may determine that in certain circumstances where these times may be extended or Shorten for example Daylight Savings Time, Spring Break, and Summer Vacation.

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(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

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

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

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(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:

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

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(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.

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- (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 commercial property zoned for such commercial sales.

- (1) **(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;

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- (e) Availability of existing market space in the area; and
- (f) Public health, safety and welfare.

(2) Permanent Use Not Created; No Abandonment or Vacation

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.

(3) Application Requirements

(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.

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(4) 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. 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.
2. 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.
3. The vendor's-current sales tax permit is available on site for inspection at all times of operation.
4. All supplies and storage shall be kept in a neat and orderly fashion within the vendor's space.
5. 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.
6. 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.

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

(c) An employee of the City, the Mayor, 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) Hours of Operation/Parking on Streets

- (1)** The Farmer's/Artisan Market shall only operate between the hours of 8:00 a.m. to 9:00 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.

421 (2) Vehicle parking on streets surrounding the Farmer's/Artisan
422 Market for the setup or tear down of vendor displays or
423 deliveries shall not be parked longer than fifteen (15)
424 minutes on streets open to traffic.
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426 **(6) Permit Term and Renewal**

427 (a) All permits issued under this Section are valid for a term as
428 determined by Planning and Zoning and the City Council.

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430 (b) All permits issued under this Section are non-transferable and
431 a separate permit is required for each Farmer's/Artisan
432 market area.
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434 (c) No permits may be automatically be renewed.

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436 (d) Persons who hold permits may submit applications for
437 additional one year terms.
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439 **(7) Permit Revocation**

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441 (a) The Mayor or the City Administrator may revoke or suspend
442 a license permit issued under this Section for good cause, a
443 violation of this Section, or a public offense or violation by
444 the applicant, sponsor, or vendor relating to the marketing
445 or sale of goods, wares, merchandise, produce products, or
446 other items at the Farmer's/Artisan Market.
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448 (b) The holder of a permit that has been revoked is ineligible for
449 a new permit for **four (4) months** from the date of revocation,
450 unless the revocation is overturned on appeal.
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452 (c) An applicant or Permit Holder aggrieved by a decision by the
453 City Administrator or the Mayor to grant or deny an
454 application, or to revoke or suspend a permit, may appeal the
455 decision to the City Council.
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457 (d) An aggrieved applicant or person whose permit has been
458 suspended or revoked may file an appeal in writing with the
459 City Administrator not later than fifteen (15) days from the
460 date of a the denial, revocation, or suspension. The appeal
461 under this section shall describe the action appealed from and
462 the reasons for the appeal.
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464 (f) The City Council shall hold a public hearing not later than the
465 45th day after an appeal is filed. The appellant, any

466 complainants, and the City investigator or other agent shall
467 have the right to present witnesses and testimony at such
468 hearing.

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

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

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478 **(8) Enforcement.**

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

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

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

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

509

510 **(9) Prohibitions**

511 The following acts are prohibited.

512 **(a)** A person may not use the term “farmer’s/artisan market”
513 to describe a market or other sales location that does not
514 meet the terms of the definition set forth in the
515 definitions for this subsection.

516 **(b)** An itinerant vendor may not sell farm and food products,
517 handcrafted items, or food specialty items at a market
518 labeled “farmer’s/artisan market” unless at least 75% of
519 the product offered by that person was grown, made or
520 processed by that person or under that person’s
521 direction. A product not grown, made or processed by
522 that person must have been purchased directly from
523 another farmer.

524

525 **(10) Relationship to Farmer’s/Artisan Market Rules**

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

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

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

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

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

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

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

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- (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 **or the Mayor** may cancel a renewal application for 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,

592 (b) the City Administrator or the Mayor finds, after notice and hearing
593 within the county where the premises are located, that the place
594 or manner in which the permittee or licensee conducts its business
595 endangers the general welfare, health, peace, morals, or safety of
596 the community and that there is a reasonable likelihood that such
597 conduct would continue at the same location under another
598 Special Use permittee.
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601 **(D) Accessory Food Sales.** In addition to the general criteria applicable to all
602 Special Uses, a Special Use Permit for Accessory Food Sales shall be operated
603 and maintained in accordance with the following conditions and limitations:
604

- 605 (1) Accessory food sales shall occur in a structure, whether mobile or
606 otherwise, in an area not exceeding 150 square feet.
607
608 (2) The Special Use shall be operated either by the owner or lessee of
609 improved property on which the Special Use is located, or pursuant to a
610 written agreement with such owner or lessee.
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612 (3) The structure housing the Special Use shall not be located on any
613 roadway or fire lane. The Special Use shall not be located so as to
614 impede pedestrian traffic on any sidewalk.
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616 (4) A permit for accessory food sales shall expire in the event that the retail
617 establishment to which such Special Use is an accessory discontinues its
618 business on the property.
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620 (5) The operator of the Special Use shall at all times hold current certificates,
621 permits and/or licenses required by the Travis County Health Department
622 and any other agency of the State of Texas for operation of the food
623 service establishment operated pursuant to the Special Use.
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625 (6) No signs advertising any aspect of the Special Use shall be displayed
626 except as attached to and confined to the surface area of the walls of the
627 structure housing the Special Use.
628
629 (7) No goods or services shall be provided other than the sale of food and
630 items incidental thereto, such as napkins and eating utensils. Sufficient
631 signs, recyclable containers, and trash receptacles shall be provided by
632 the operator of the Special Use to control and prevent litter incident to
633 the Special Use.
634
635 (8) Authorization for Accessory Food Sales pursuant to this Section shall be

636 for a **period determined by Planning and Zoning and the City Council.**
637 Renewal of such authorization shall be for a period determined by
638 Planning and Zoning and the City Council and may be granted not later
639 than the date of expiration of the previous authorization at the discretion
640 of the City Administrative or Mayor provided the applicant has not
641 received more than two (2) validated warnings prior thereto regarding
642 violations of the Special Use or terms specify in this section. A twenty-
643 five (\$25.00) dollar administrative fee shall be paid for all administrative
644 renewal authorizations. In the event the City receives a verbal or written
645 complaint regarding the Special Use Permit holder, The City's investigator
646 or other designated agent will investigate the complaint in a timely
647 manner to determine its validity. Administrative staff shall record the
648 name, address, phone number, date and time that verbal complaints are
649 registered. In the event a complaint is validated by the City's investigator
650 or other agent, the permit holder shall receive a written warning with
651 instructions to correct the violation. If the violation has not been
652 corrected within fifteen (15) days after receipt of the second warning
653 issued by the City, the Special Use Permit shall be revoked.
654

655 **Sec. 30.1254 General **Legal** Requirements for All Special Uses and Temporary Special**
656 **Uses**

657
658 **(A) Adherence to Approved Plans, Regulations.** A Special Use or a
659 temporary use shall be established, operated, and maintained in accordance
660 with the plans, terms, conditions, and limitations contained in the permit that is
661 approved by the City Council or approved or renewed administratively by the
662 City Administrator.

663
664 **(B) False Documents or Statements.** Any individual, person, business, entity,
665 or person that submits false documents or otherwise makes a false statement
666 of a material fact on an application for a permit under this article violates this
667 article and shall be liable under the enforcement provisions of this article.
668

669
670 **(C) Enforcement.** Permitted Special Uses and the conditions of those
671 permits are integral to the zoning districts governing the respective parcels and
672 are subject to the enforcement provisions of Article 30 of the Code, including
673 but not limited to Sections 30.108 and 30.306.
674

675 **(D) Revocation.** In addition to the other grounds and procedures for
676 suspension or revocation of a Special Use Permit specified elsewhere in this
677 Article the City Council, after notice to the holder of the permit, may revoke
678 any Special Use or Temporary Use Permit for one or more of the following
679 reasons:
680

- 681 (1) A substantial violation of any of the plans, terms, conditions, and
682 limitations applicable to the Special Use;
683
- 684 (2) A substantial violation of any ordinance or regulation relating to
685 Special Use;
686
- 687 (3) Operation or maintenance of the Special Use in a manner that is
688 detrimental to the public's health or safety, or so as to constitute a
689 nuisance; and/or
690
- 691 (4) Discontinuance of the Special Use during the period permitted.
692
- 693 (5) Transfer or sale of all of or a partial interest in the real property
694 subject to the Special Use, whether such transfer is by gift, sale, lease,
695 devise, or otherwise.
696
- 697 (6) All representations made in an application become conditions of the
698 permit and noncompliance can be grounds for the revocation of the
699 permit.
700
- 701 **(E) Lapse of Permit.** A Special Use Permit shall lapse and become invalid
702 upon the expiration of **six (6) months** from the date the permit is issued unless
703 the Special Use has commenced or, is diligently pursued toward completion.
704
- 705 **(F) Transfer.** A Special Use Permit is not transferable.
706
- 707 **(G) Short-Term Food Sales.** No Special Use authorization for Accessory Food
708 Sales shall be required pursuant to this section for the following activities:
709
- 710 **(1)** School or City sponsored activities with a duration less than twenty-
711 four (24) hours;
712
- 713 **(2)** Events not exceeding seventy-two (72) hours in duration associated
714 with the opening of a new retail commercial establishment;
715
- 716 **(3)** Fund-raising activities by charitable or non-profit organizations not
717 exceeding twenty-four (24) hours in duration;
718
- 719 **(4)** Activities authorized by a Temporary Special Use permit obtained
720 pursuant to Subsection (j) of **Sec. 30.1251.**
721
- 722 **(5) Fundraising Events by the Volente Volunteer Fire Department or the**
723 **Emergency Services District #14.**
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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.

770

771 PASSED AND APPROVED on this the ____ day of November 2013, by a vote of _ ayes, _
772 nays, and _ abstentions of the Volente Village Council.

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775

VILLAGE OF VOLENTE

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Frederick Graber, Mayor

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781 ATTEST:

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Joan Jackson, Village Secretary

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