

VILLAGE OF VOLENTE

**MUNICIPAL COURT OF RECORD
ORDINANCE 2023-O-218**

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, ESTABLISHING A MUNICIPAL COURT OF RECORD IN THE VILLAGE OF VOLENTE; PROVIDING FOR JURISDICTION; PROVIDING FOR THE APPOINTMENT OF A MUNICIPAL JUDGE AND ALTERNATE JUDGES; PROVIDING FOR THE APPOINTMENT OF A COURT CLERK, ESTABLISHING POWERS AND DUTIES OF THE COURT AND ITS PERSONNEL; PROVIDING A REPEALER; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, Texas Government Code Section 30.0003 authorizes the governing body of a municipality to create a municipal court of record; and,

WHEREAS, The Village Council of the Village of Volente seeks to provide for the enforcement of its municipal ordinances through a Municipal Court of Record; and,

WHEREAS, the Village Council hereby determines that the creation of a municipal court of record is necessary to provide a more efficient disposition of cases arising in the Village of Volente and

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

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Article A2.003 of Appendix A, Fee Schedule, of the Village of Volente Code of Ordinances is hereby amended so to read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Underlined text shall be added, and struck-through shall be deleted as indicated in *Attachment A*.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The Village Secretary is hereby directed to record and publish the attached rules, regulations and policies in the Village's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED THIS, THE 16th DAY OF May 2023.

VILLAGE OF VOLENTE:



Thomas Blauvelt, Mayor

ATTEST:



Lacie Hale, City Secretary

Exhibit A

**MUNICIPAL COURT
OF RECORD**

SECTIONS:

1.MUNICIPAL COURT OF RECORD ESTABLISHED:

There is created a unified court of record (“court”) which shall be known as the Municipal Court of Record in the Village of Volente, Texas and is hereby established pursuant to Texas Government Code Chapter 30, Subchapter A, and the terms set forth therein are hereby adopted governing the operation of the court.

1. JURISDICTION

- 1.1. All cases pending in the municipal court of and from the effective date of this ordinance shall be processed and adjudicated by the municipal court of record, regardless of the date of offense.
- 1.2. The court has concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the Village and are punishable only by fine.
- 1.3. The Municipal Court shall have exclusive original jurisdiction in all criminal cases arising under any ordinances of the Village in which the punishment is by fine only, and where the maximum fine for the offense charged does not exceed \$2000, and where the offense charged arose within the corporate limits of the Village (or outside of the corporate limits but within an area over which the Village has jurisdiction and control under the laws of the state).
- 1.4. The municipal court of record shall have civil jurisdiction for the purpose of enforcing the Village’s ordinances enacted under Subchapter A, Chapter 214, Local Government Code; Subchapter E, Chapter 683, Transportation Code; concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Local Government Code, within the Village’s territorial limits and property owned by the Village located in the Village’s extraterritorial jurisdiction for the purpose of enforcing health and safety or nuisance abatement ordinances; and authority to issue (a) search warrants for the purpose of investigating health and safety or nuisance abatement ordinance violations, and (b) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

2. MUNICIPAL JUDGE

- 2.1. The municipal judge shall have all the powers and authority granted by state law, and the ordinances of Village of Volente and shall perform all the duties as prescribed by the laws of the State of Texas, and the ordinances of Village of Volente.

- 2.2. The office of the judge of the municipal court shall be filled by appointment by the Village council. The person appointed to the office of the judge of the municipal court shall be the presiding judge of the municipal court of record of the Village of Volente.
 - 2.2.1. be a resident of the State of Texas;
 - 2.2.2. be a citizen of the United States;
 - 2.2.3. be a licensed attorney in good standing with the State Bar of Texas; and
- 2.3. Compensation for the office of municipal judge shall be set from time to time by the Village Council. The salary will not be based directly or indirectly on fines, fees, or costs collected by the court.
- 2.4. Appointment of Assistant or Additional Judges: The Village Council may appoint such assistant judges as may be necessary to perform the duties of the Judge of the Municipal Court; or a temporary judge to act for the Judge in the case of his temporary absence or disability; and such assistant, additional or temporary judges shall receive such compensation as may be set by the Council.
- 2.5. The municipal court judge or judges shall serve for a two-year term that coincides with the mayor's term of office. The first appointed judge shall serve until the expiration of the mayor's term. In the event of a vacancy, the council may appoint a judge to serve for the remainder of the un-expired term of office. A judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the council, continue to serve for another term of office beginning on the date the previous term of office expired.
- 2.6. If more than one municipal judge is appointed to serve, the Village council shall appoint one of the judges as the presiding judge. The presiding judge shall:
 - 2.6.1. maintain a central docket for cases filed within the territorial limits of the Village of Volente over which the municipal court of record has jurisdiction;
 - 2.6.2. provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the court;
 - 2.6.3. request the jurors needed for cases that are set for trial by jury;
 - 2.6.4. temporarily assign judges or substitute judges to exchange benches and to act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the court; and

2.6.5. supervise and control the operation and clerical functions of the administrative department of each court, including the court's personnel, during the proceedings of the court.

2.7. The municipal court judge or judges are each hereby appointed as municipal officers. A municipal court judge may be removed from office in the same manner that municipal officers may be removed from office.

3. CLERK OF THE COURT, OTHER COURT PERSONNEL;

3.1. The Village Secretary or someone designated by the Village Secretary or Village Administrator shall serve as the clerk of the municipal court of record. The clerk shall perform duties in accordance with state law and Village ordinances.

3.2. During proceedings of the court, the clerk and other court personnel shall serve at the direction of the judge of the municipal court. At all other times, other court personnel shall serve at the direction of the Village secretary.

3.3. The court clerk shall acquire and maintain a seal in conformance with state law for the Village of Volente Municipal Court of Record.

3.4. The court clerk shall supervise the selection of persons for jury service in the municipal court of record.

3.5. The court clerk may appoint one or more deputy clerks who, when acting in such capacity, shall have the same authority as the clerk of the municipal court.

4. COURT REPORTER

4.1. The Municipal Court Clerk may appoint a court reporter who must meet the qualifications provided by law for official court reporters. The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the Court. The court reporter is not required to record testimony in any case unless the Judge or one of the parties requests a record in writing, and files the request with the Court before trial.

4.2. The court reporter is not required to be present during the proceedings of the municipal court of record provided that the proceedings that are required to be recorded are recorded by a good quality electronic recording device. The recording shall be kept and stored for a 20 day period beginning the day after the last day of the proceeding, trial or denial of motion for a new trial, whichever occurs last. If the case is appealed, the court reporter shall prepare the reporter's record.

5. MUNICIPAL PROSECUTOR

The duly appointed Village Attorney, or deputy Village Attorney, shall serve as prosecutor in the Municipal Court.

6. COURT COSTS AND FEES

- 6.1. Court costs shall be assessed pursuant to and in compliance with the state statutes.
- 6.2. All costs and fines imposed by the Municipal Court shall be paid into the treasury for the use and benefit of the Village.
- 6.3. In cases where a defendant requests a jury trial and is subsequently found guilty, the judgment, at the discretion of the Judge, may include the costs of the jury fees not in excess of that provided by statute.
- 6.4. In the event a case is appealed from the Municipal Court, the defendant shall pay the following costs in an amount established in the Village of Volente Fee Ordinance:
 - 6.4.1. preparation of the Clerk's record; the preparation fee does not include the fee for an actual transcription of the proceedings.
 - 6.4.2. preparation of the Reporter's record, and the fee for an actual transcription of the proceedings.

7. APPEALS

- 7.1. A defendant has the right of appeal from a judgment or conviction in the Village of Volente Municipal Court of Record. The State has the right to an appeal as provided by Article 44.01, Texas Code of Criminal Procedure, as amended. The County Courts at Law of Travis County, Texas have jurisdiction of appeals from the Village of Volente municipal court of record.
- 7.2. The appellate court shall determine each appeal from the court on the basis of the errors that are set forth in the appellant's motion and that are presented in the clerk's record and reporter's record, if any, prepared from the proceedings leading to the appeal. An appeal from the court shall not be by trial de novo.
- 7.3. To perfect an appeal, the defendant must file a motion for new trial not later than ten (10) days after the date on which the judgment and sentence are rendered. The motion must be in writing and must be filed with the clerk of the court. The motion constitutes the assignment of error on appeal. A ground or an error not set forth in the motion is waived. If the court does not act on the motion before the expiration of thirty (30) days after it is filed with the clerk, the motion is overruled by operation of law.
- 7.4. After an order overruling a motion for new trial, the defendant shall give written notice of appeal and pay a \$25.00 fee for the preparation of the clerk's record not later than ten (10) days after the date on which the motion is overruled. The court shall note the

payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant. This fee does not include the cost for the actual transcription of the record.

- 7.5. The appellant shall pay for any reporter's record containing a transcription of the proceedings unless the court finds, after a hearing in response to an affidavit by the defendant, that the defendant is unable to pay or provide security for the reporter's record. If the court so finds, the court shall order the reporter to prepare the record without charge to the defendant. Before the recorded proceedings are transcribed, the defendant shall, unless found by the court to be unable to pay for the reporter's record, post a cash deposit with the municipal court for the estimated cost of the record. The cash deposit shall be based on an estimate provided by the court reporter or the length of proceedings as indicated by the electronic record the proceedings, if any, the cost of the court reporter, typing, and other incidental services. If the cash deposit exceeds the actual cost of the reporter's record, the court reporter shall refund the difference to the defendant. If the cash deposit is insufficient to cover the actual cost of the transcription, the defendant must pay the additional amount before the transcription may be submitted. If a case is reversed on appeal, the court will refund to the defendant any amounts paid for the reporter's record.
- 7.6. The record on appeal must substantially conform to the provisions relating to the preparation of a record on appeal in the Texas Rules of Appellate Procedure and the Texas Code of Criminal Procedure, as amended.

End of Exhibit A