

ORDINANCE NO. 2016-O-XX

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, PROVIDING ZONING DISTRICTS, ZONING REGULATIONS, AND STANDARDS FOR THE DEVELOPMENT AND USE OF LAND WITHIN THE CITY; ESTABLISHING A BOARD OF ADJUSTMENT AND PROVIDING RULES AND REGULATIONS FOR THE BOARD; PROVIDING REGULATIONS FOR CONDITIONAL USE PERMITS AND NON-CONFORMING USES AND STRUCTURES; PROVIDING DEFINITIONS, SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the Village of Volente desires to adopt Zoning regulations pursuant to the provisions of Chapter 211 of the Texas Local Government Code to promote the public health, safety, morals and general welfare of the citizens of the Village of Volente and to protect and preserve places and areas of historical, cultural and architectural importance and significance Within the Village of Volente;

WHEREAS, the provisions of this ordinance are consistent with the provisions of the Comprehensive Plan for the Village of Volente and are designed to achieve the purposes set forth in Sections 211.003 and 211.004 of the Texas Local Government Code;

WHEREAS, the Village of Volente has complied with the notice and public hearing requirements of Section 211.006 of the Texas Local Government Code;

WHEREAS, the Village of Volente has established a Planning and Zoning Commission (“Commission”) pursuant to Section 211.007 of the Texas Local Government Code and has received the preliminary report and a recommended Zoning ordinance from the Commission;

WHEREAS, the Village of Volente desires to adopt the following Districts, Zoning regulations and standards for the Development and use of the land Within the Village of Volente

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

TABLE OF CONTENTS

ARTICLE 30 ZONING REGULATIONS..... 4

DIVISION 1. GENERAL PROVISIONS 4

Sec. 30.100 Authority: 4

Sec. 30.101 Title: 4

Sec. 30.102 General Purpose and Intent: 4

Sec.30.103 Jurisdiction and Intent: 4

Sec. 30.104 Definitions: 5

Sec. 30.105 Application: 15

Sec. 30.106 Exemptions: 15

Sec. 30.107 Reserved for future Use: 15

DIVISION 2. ZONING DISTRICTS AND REGULATIONS 15

Sec. 30.108 General Requirements and Limitations: 15

Sec. 30.109 Establishment of Zoning Districts and Categories 19

Sec. 30.110 Zoning of Annexed Areas: 20

Sec. 30.111 Residential General Provisions (SR, SR1, SRR, SRC, MFR) 20

Sec. 30.112 Single Family Residential - District "SR": 20

Sec. 30.113 Single Family Residential Historical - District "SR1": 21

Sec. 30.114 Single Family Residential Ridgetop - District "SRR": 21

Sec. 30.115 Single Family Residential Cluster - District "SRC": 21

Sec. 30.116 Multi-Family Residential - District "MFR": 21

Sec. 30.117 Open Space – District "OS": 21

Sec. 30.118 Private Way for General Use – District "PWGU": 22

Sec. 30.119 Government or Institutional District – District "GOV": 22

Sec. 30.120 Commercial General Provisions, Uses and Limitations (C1, C2, C3): 23

Sec. 30.121 Commercial Retail – District "C1": 23

Sec. 30.122 Commercial Retail with Restaurant – District "C2": 24

Sec. 30.123 Commercial Marina/Entertainment – District "C3": 24

Section 30.124 Utility District – District "UD": 25

Sec. 30.125 Planned Development District – PDD: 26

DIVISION 3: BOARD OF ADJUSTMENT ESTABLISHMENT 28

Sec.30.126 General Provisions: 28

Sec.30.127 Rules of Procedures: 29

Sec.30.128 Authority of Board: 30

Sec.30.129 Limitations on Authority of Board: 31

Sec.30.130 Variances: 31

Sec.30.131	Procedures.....	32
Sec.30.132	Appeals to the Board.....	33
Sec.30.133	Finality of Decisions; Judicial Review	33
DIVISION 4: SPECIAL PROVISIONS		33
Sec.30.134	Conditional Use Permit.....	33
Sec. 30.135	Changes and Amendments to Zoning Ordinances and Districts, and Administrative Procedures	36
Sec. 30.136	Nonconforming Uses.....	38
Sec. 30.137	Nonconforming Structures:.....	39
DIVISION 5: ADMINISTRATION		40
Section 30.138 Planning and Zoning Commission.....		40
Sec.30.139	Administrative Procedures for Changes and Amendments to Zoning Regulations and Districts	44
Sec.30.140	Ordinance Interpretation.....	47
Sec.30.141	Fees	48
Sec.30.142	Amendments.....	48
Sec.30.143	Violations	48
Sec.30.144	Enforcement.....	48
DIVISION 6: GENERAL PROVISIONS		48
Sec.30.145	Construction.....	48
Sec.30.146	Amendment and Repeal	49
Sec.30.147	Severability:	49
Sec.30.148	Effective Date.....	49
Sec.30.149	Open Meetings	49
Sec.30.150	Penalty	49
Chart 1	50
Chart 2	51
Chart 3	51

ARTICLE 30 ZONING REGULATIONS

DIVISION 1. GENERAL PROVISIONS

Sec. 30.100 Authority: This article is pursuant to the police powers of the Village of Volente and under the authority of the Constitution and general laws of the State of Texas, including particularly *Chapter 211 of the Texas Local Government Code*.

Sec. 30.101 Title: This article shall be known, and may be cited, as the Zoning ordinance of the Village.

Sec. 30.102 General Purpose and Intent: The primary purposes of this article are to promote the public health, safety and the general welfare of the Village and its present and future residents; provide reasonable regulations and requirements to protect, preserve, improve and provide for the public health, safety and general welfare of the present and future citizens of the Village; and to establish a framework of Zoning guidelines and criteria which will provide for and support the Development of a quality living and work Environment by incorporating provisions requiring all future Development and redevelopment to provide a compatible plan for residential, commercial and industrial uses, while providing reasonable protections for both the public and persons having an ownership interest in property affected by these regulations. This article should be administered and applied to result in Development superior to that otherwise achievable and to promote the following purposes:

- A. Assist the safe, orderly, healthful and coordinated Development of the Village;
- B. Conserve existing and future neighborhoods;
- C. Protect and conserve the value of real property throughout the community;
- D. Conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;
- E. Protect and preserve places and areas of historical and cultural importance and significance to the community;
- F. Prevent the overcrowding of land and avoid undue concentration of population or land uses, thereby encouraging high quality Development and innovative design;
- G. Lessen congestion in the streets and provide convenient, safe and efficient circulation of vehicular and pedestrian traffic;
- H. Facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
- I. Promote compatible residential, commercial and industrial uses to harmoniously relate future Development and redevelopment to the existing community and facilitate the Development of adjoining properties;
- J. Standardize the procedure and requirements for Zoning to provide administrative efficiency and property owner rights; and
- K. Provide the context for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the Village.

Sec.30.103 Jurisdiction and Intent: The requirements of this article shall apply to all property within the Village; provide for the implementation of Zoning regulations; provide a voluntary guide for uses within the Extraterritorial Jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and applied in a manner to give effect to the Village comprehensive plan. This article has been made with reasonable consideration among other things, for the character of the District and its peculiar suitability for the particular uses specified, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village consistent with the Village

comprehensive plan. Nothing herein shall be construed to grant a "permanent" zoning. The intent of this article is to supplement the minimum standards for the Development of land Within the Village as contained in the Village's Subdivision Ordinance and Site Development Ordinance, and applicable construction codes. If only the minimum standards are followed, as expressed by the various ordinances regulating land Development, a standardization of Development will occur. Such will produce a monotonous urban setting and is not encouraged.

Sec. 30.104 Definitions: The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this article. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word "person" means any human being or legal entity and includes a corporation, a partnership and an incorporated or unincorporated association. The words "used or occupied" as applied to any land or Building shall be construed to include the words intended, arranged, or designed to be used or occupied. Any definition not expressly prescribed herein shall, until defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices.

Access means a way of approaching or entering a property.

Accessory Use means a use that is customarily a part of the principal use, a use which is clearly incidental, subordinate and secondary to the permitted use, and which does not change the character thereof. See: Accessory Structure.

Accessory Structure means a subordinate Building detached and used for a purpose customarily incidental to the main Structure such as a private garage for automobile storage, tool house, bath house or greenhouse as a hobby, home workshop, children's playhouse, storage house, garden shelter, garage apt or guest house but not involving occupancy by paying tenants.

Adjacent means abutting and directly connected to or bordering.

Adult is defined as a person over the age of eighteen (18) years old.

Alcoholic Beverages-Off-Premises means Convenience Store or similar facility which sells beer, wine or liquor for off-premises consumption.

Alcoholic Beverages-On-Premises means an establishment or facility which sells beer, wine or mixed drinks, which contain alcoholic beverages for on-premises consumption.

Alcoholic Beverage(s) means the alcohol, or any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

Amortization means a method of eliminating non-conforming uses by requiring the termination of the non-conforming use after a specified period.

Amusement (Indoor) means an amusement enterprise wholly enclosed in a Building which is treated acoustically so that noise generated by the enterprise is not audible at the lot line.

Amusement (Outdoor) means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open.

Annexation means the incorporation of land area into the Village with a resulting change in the boundaries of the Village.

Animal(s) means any animate being that is not a human.

Apartment see Dwelling Unit

Applicant means a person applying for Zoning Approval under this article.

Approval means the final Approval in a series of required actions.

Average Grade Plane means the average of the lowest point of Natural Grade at the Foundation and the highest point of a Natural Grade at the foundation.

Bar means any business establishment required to have a state license for the sale of Alcoholic Beverages-On-Premises consumption.

Bed and Breakfast means an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight transient guests on a paying basis.

Block means an area enclosed by streets, normally to be divided into lots to be occupied by or intended for buildings; or if the same word is used as a term of measurement, it shall mean the distance along one side of a Street between the nearest two streets which intersect said Street on said side.

Board means the Board of Adjustment of the Village of Volente, Texas.

Board of Adjustment means a committee appointed by the Council to consider Variances from the regulations of the Zoning ordinance pursuant to § 211.008 of the Texas Local Government Code and that is given the authority set forth in this article and in § 211.009 of the Texas Local Government Code.

Boat Dock means a noncommercial dock associated with a single family residence for which no compensation is or will be received by the owner(s) of the dock for its use. This definition also includes swim platforms and piers. A floating dock located on Lake Travis that occupies more than 1,500 square feet of water surface area, excluding the square footage occupied by the gangway, shall be considered a Marina Facility. Any dock structure exceeding 1,500 square feet may be subject to LCRA's *Highland Lakes Marina Ordinance*, as amended.

Buffering means an area within a property or site, generally Adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sound from the site to Adjacent properties and vice versa. See also Screening.

Building means any structure, either temporary or permanent, having a roof or other covering designed or used for the shelter or enclosure of any person, Animal, or property of any kind.

Building Footprint means the foundation, base or support of a building or structure.

Building Ordinance or Construction Code means the construction codes and related ordinances of the Village providing standards, requirements and regulations for site Development and the construction and erection of buildings and structures within the Village, including, but not limited to, the electrical code, plumbing code, building code and minimum housing code, adopted by the Council from time to time.

Building Permit means a permit issued by the Village which is required prior to commencing construction or reconstruction of any structure.

Building Plot means the land, lot, lots or tract of land upon which a building or buildings are located, or upon which they are to be constructed, including yards.

Building Setback means a line or lines designating the interior limit of the area of a lot within which the Building Footprint of structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no Structure or building may be erected between a building and the corresponding lot line.

Carport means an Accessory Structure with one or more sides, covered with a roof and constructed specifically for the storage of one or more motor vehicles (including watercraft), being not more than 1000 square feet. A Carport is not an Accessory Structure if built as an integral part of the original primary Structure having an indistinguishable, continuous roof structure.

Church means a place of worship and religious training of recognized religions including on site housing of ministers, rabbis, priests, nuns and similar staff personnel.

City means the Village of Volente, Texas.

Clinic means a public or private establishment for the examination and treatment of patients on an outpatient basis by an individual or group of doctors, opticians, veterinarians, or other similar medical professionals.

Commission means the Planning and Zoning Commission of the Village.

Common Area means privately owned land and Improvements within a Development including buildings, common open space, central services and utilities, streets, walks, parking areas, fencing and Screening walls, landscaping, and any other elements and facilities under common ownership and available for the use of all owners or tenants.

Common Open Space means that portion of the Common Area which is designated for outdoor recreation area, Private Park, play lot, plaza, athletic court, swimming pool, fountain, stream or pond, ornamental landscaping or natural vegetation offering visual amenity, and which is open to general view and conveniently accessible to pedestrians within the project.

Communication or Telecommunication see the Village's Telecommunications Ordinance

Community Center (Public) means a Building and grounds owned or leased and operated by a governmental body for the social, recreational, health or welfare of the community served.

Community Center (Private) means a recreational facility, including both indoor and outdoor facilities, for use by residents and guests of a particular residential community development, Subdivision or membership group.

Comprehensive Plan or Master Plan means the comprehensive plan of the Village and adjoining areas adopted by the council, including all its revisions as defined by *Chapter 219 of the Texas Local Government Code*. The plan may indicate the general locations recommended for various land uses, transportation routes, public and private buildings, streets, Parks, and other public and private developments and Improvements, to include detailed plans for water and sewer facilities. Such plan is the overall Development plan for the Village adopted to provide long-range Development policies and may include all specified individual elements thereof among which are the plans for land intensities; land subdivision; circulation; and community facilities, utilities and services. The Comprehensive Plan or Master Plan does not constitute Zoning regulations or establish District boundaries.

Conceptual Site Plan means a scaled drawing representing an area of land to be improved/developed and indicating the legal boundary of said property and the nature and extent of all existing and proposed improvements to said project.

Conditional Use means a use which may be permitted in a District, subject to meeting certain conditions or procedures established by the council. No conditional use shall be permitted in any location where it will be inconsistent with the existing adjacent and nearby uses.

Convenience Store means a retail establishment selling a variety of consumables, notions and/or similar items, usually serving as a convenient outlet to a neighborhood.

Council means the governing body of the Village.

County means Travis County, Texas.

Developer means the legal owner of land to be improved and/or Subdivided or his/her authorized representative.

Development means the construction or placement of any buildings, utilities, Access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, or the deposit of refuse, waste or fill. Lawn and Yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and Street repair, and any construction maintenance and installation which does not require land disturbance or result in additional Impervious Cover, shall also not constitute development.

District means a zoned section or sections of the Village for which regulations governing the use of buildings and premises, the Height of buildings, the size of yards, and the intensity of use are uniform.

Drive Approach means a paved surface connecting the Street to a lot line.

Driveway means the surface connecting a drive approach with a parking space, Parking Lot, loading dock or garage.

Dwelling (Multi-family) means a single Structure designed to accommodate two (2) or more households.

Dwelling (Single-family) means a detached Building having accommodations not more than one family.

Dwelling (Two-family) or Duplex means a detached Building designed and constructed with two (2) separate living units under a single roof by two families.

Dwelling Unit means a Building or portion of a Building arranged, occupied or intended to be occupied as residential unit designed to accommodate one (1) household for living, sleeping, eating, cooking and sanitation.

Easement means a grant by the property owner of the use of a strip of land for stated purposes.

Environment means the aggregate of social and physical conditions that influence the life of the individual and/or community.

Extraterritorial Jurisdiction (ETJ) means that geographic area outside the corporate boundaries of the Village as established pursuant to §§42.021 and 42.022 of the Texas Local Government Code.

Facility for the Care of Substance Dependent Persons means a facility offering resident or outpatient treatment to alcoholic or narcotic patients.

Filing Date means, with respect to Zoning applications, the date at which the Village deems an application administratively complete.

Flood Plain means a body of land susceptible to flooding from any source. Floodplain elevation for land adjoining Lake Travis or the 100 year floodplain, as established by FEMA, is 722 mean sea level (msl) as of the adoption of this ordinance. The 100-year floodplain is used by FEMA to administer the federal flood insurance program.

Floor Area means the total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding cellars, Carports or garages.

Foundation means lowest load bearing portion of a residence or Building as it meets the ground.

Front Yard means a space extending the full width of the lot between any Building Setback line and the front lot line, and measured perpendicular to the Building at the closest point to the front lot line.

Governing Body means the Village council.

Grading means any act by which soil, rock, or mineral matter is cut into, dug, quarried, uncovered, removed, displaced, or relocated, and includes the removal of vegetative cover, excavation, and land leveling.

HOA Neighborhood Park means a privately owned parcel of land, within a subdivision, dedicated solely for recreational use by persons in such Subdivision and their guests, and maintained by the residents of said subdivision.

Height means the vertical distance from the highest point of a Building to the Average Grade Plane, excepting any chimney, spire or ventilator on a building.

Home Based Occupation means a commercial use customarily carried on in the home by members of the occupant family.

Home Owners Association (HOA), means an incorporated, non-profit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a Subdivision is automatically a member, (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common property, and (c) the charge, if unpaid, becomes a lien against the property.

Hotel means a Building in which lodging is provided and offered to individual transient guests, but not excluding permanent guests, and may include a café, drugstore, clothes, pressing shop, barber shop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a lodging house, or an apartment. To be classified as a hotel an establishment shall contain a minimum of six (6) individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, and the use and upkeep of furniture. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include a hospital, sanitarium, or nursing home as defined in §156.001, *Tex. Tax. Code*.

Impervious Cover means a surface that reduces the amount of infiltration of water into the earth (ex. asphalt, building, gravel surface). The calculation of Impervious Cover shall be determined in accordance with the current LCRA Technical Manual.

Improvement(s) means a valuable addition made to property (usually real estate) amounting to more than mere repairs and maintenance, costing labor or capitol, and intended to enhance its value, beauty, or utility or to adapt it for new or further purposes. Generally, buildings, but may also include a permanent Structure or other development, such as a street, sidewalks, sewers, utilities, etc.

Loading Space means an Off-Street space for the parking of a vehicle while loading or unloading merchandise or materials from commercial or industrial vehicles.

Lot Lines means the lines bounding a lot.

Lot Width means the distance between the lot sides at the Front Setback line of a lot.

Manufactured Home means a Manufactured Home or mobile home as defined by the Tex. *Occupants Code* 1201.003(18), meaning a Structure constructed *on or after* June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, built on a permanent chassis, designed for use as a Dwelling with or without permanent Foundation when the Structure is connected to the required utilities, transportable in one or more sections, and in the travelling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet. See also *Mobile Home*.

Marina means any commercial or public Structure or combination of structures for mooring or servicing of watercraft, with more than three mooring slips, and including all structures (docks, breakwaters, etc.) and associated anchoring facilities (e.g., fuel facilities, Restaurants, etc.) which abut the water-based entity.

Minimum Building Square Feet means the square footage computed from the outside dimensions of the Dwelling or structure, excluding attached garages, attics, basements, open or screened porches.

Mobile Home means Manufactured Home or Mobile Home as defined by the Tex. *Occupants Code* 1201.003(20), meaning a Structure constructed before June 15, 1976. built on a permanent chassis, designed for use as a Dwelling with or without permanent Foundation when the Structure is connected to the required utilities, transportable in one or more sections, and in the travelling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet. See also *Manufactured Home*.

Motel means a Building or group of detached, semi-detached or attached buildings containing guest rooms with automobile storage space provided in connection therewith, which Building or group is designed, intended or used primarily for the accommodation of automobile travelers, including groups designated as auto cabins, motor courts, motels and similar designations.

Natural Grade means the grade, or ground elevation, existing before construction, excavation, or grading.

Nonconforming Structure means a Structure or Building which was lawful prior to the adoption, revision or amendment of the Zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the District.

Nonconforming Use means a use which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the District.

Off-Street Parking means an off-street parking lot located Adjacent or contiguous to a retail, commercial or office district.

Open Space means an area included in any Side, Rear or Front Yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, porches and plant material.

Park or Playground means an open recreation facility or park owned and operated by a public agency such as the Village or the school District and available to the general public for neighborhood use, but not involving lighted athletic fields for nighttime play.

Parking Lot means an improved parking area to accommodate the vehicles which utilize any multiple family, retail, commercial, office, business or industrial property.

Permitted Use means a use specifically allowed in the applicable Districts without the necessity of obtaining a Conditional Use Permit.

Personal Care Facility means a facility that provides supervised living arrangements for persons with physical or mental disability, which by reason of federal or state law, is not subject to limitations set forth in deed restrictions or single family Districts. This definition includes a community-based residential home operated by (i) The Texas Department of Mental Health and Mental Retardation, (ii) a community center operated under *Section 3.01, Texas Mental Health and Mental Retardation Act (Article 5547-203 VATCS)*, which provides services to disabled persons; (iii) a nonprofit corporation, or (iv) any entity certified by the Texas Department of Human Resources as a provider under the intermediate care facilities for the mentally retarded program. This definition includes homes for the handicapped as defined in *42 U.S.C. Sec. 3602(h)*.

Platted Lot means a parcel of land which has been Subdivided with a Subdivision plat approved by the governmental agency within whose jurisdiction the Subdivision falls or which existed prior to a requirement it be platted or which, because of its size, is not legally required to be platted.

Portable Storage Structure means a portable building or a water storage tank of 100 square feet or less, that is not permanently attached to the ground and designed to be transportable.

Privacy Fence means a well-constructed opaque fence or screen of wood, masonry or a combination thereof at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so those gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

Private Club means an establishment required to have a state issued alcoholic beverage permit for the sale, storage or vending of Alcoholic Beverages-On-Premises to its members.

Professional Office means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions licensed by the state.

Public Building means a facility such as office buildings, and shops required by branches of local, state or federal government for service to an area such as highway department or a Village, County or service center.

Public Water System means a system for the provision to the public of water for Human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water.

Pumping Plant means a privately owned pumping facility used to pump water from a single well, lake or reservoir to more than two (2), but no more than fourteen (14), residential households or service connections within the Village's City limits.

Pumping Station means a pumping facility, other than a Pumping Plant, used to pump water from a single well, lake, or reservoir to more than fourteen (14) service connections or used for a Public Water System, as that term is defined in *Section 290.38(66) of Chapter 290, Subchapter D of the Texas Administrative Code*.

Rear Yard means a space extending across the full width of the lot between the principal Building and the rear lot line, and measured perpendicular to the Building to the closest point of the rear lot line.

Recreational Vehicle (RV) means any self-propelled or towable vehicle designed for and constructed primarily to provide temporary living quarters for recreational, camping, or travel use; primarily intended for recreational, purposes, including but not limited to a campervan, truck camper, pop-up camper, travel trailer, teardrop trailer, fifth-wheel trailer, toter-home or toy hauler.

Required Yard means the Open Space between a lot line and the buildable area within which no Structure shall be located except as provided for herein.

Restaurant means a commercial establishment engaged in the preparation and retail sale of food and beverages for on-premises consumption.

Right-of-Way means a strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water main, sanitary or storm sewer main, or for other similar purpose or use. The usage of the term "Right-of-Way" for land platting purposes shall mean that every Right-of-Way hereinafter established and shown on the Final Plat is to be separate and distinct from the lots or parcels adjoining such Right-of-Way and not included within the dimensions or areas of such lots or parcels.

Safety Services means a facility to conduct public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

Screening see Buffering

Setback means a line that marks the Setback distance from the property line, and establishes the minimum required front, side, road side or Rear Yard of a Building Plot.

Short Term Rental (STR) See Village's Short Term Rental Ordinance.

Side Yard means a space extending from the Front Yard to the Rear Yard between the Setback line and the side lot line measured perpendicular from the side lot line to the closest point of the Setback line.

Sign See the Village's Sign Ordinance.

Site Development Plan means the maps, drawings, plans and specifications indicating the proposed location and design of Improvements to be installed as part of a Development and sealed by a Licensed Professional Engineer or Architect certified in the State of Texas.

Stable means an Accessory Building for quartering horses.

Street means any public or private Right-of-Way that affords the primary means of vehicular Access to abutting property.

Street Line means that line limiting the Right-of-Way of the Street and being identical with the property line of persons owning property fronting on the streets.

Structurally Altered means any change in the supporting members of a Building, such as load bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

Structure means any construction, or a production or piece of work artificially built up or composed of parts honed together in some definite manner. That which is built or constructed: an edifice or Building of any kind. A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

Subdivide or the Act of Subdivision means the division or re-division of land into two (2) or more lots, tracts, sites or parcels for the purpose of development.

Variance means an exception to the specific requirements of this article.

Village means the Village of Volente, Texas.

Village Council or Council means the Governing Body of the Village.

Village Engineer means the Engineer for the Village or his or her designated representative, as appointed by the council.

Village Limits or Within the Village means the, or within the, incorporated boundaries of the Village.

Village Official means the officer of the Village assigned and designated by the Council from time to time to fulfill administrative duties as provided in the Local Government Code.

Warehouse means an establishment engaged in the storage of merchandise or commodities in an enclosed structure.

Water Storage Tank means an installed tank used as a water supply to buildings, filled by a water truck, well, or rainwater harvesting system, allowed to be installed in the rear and side setbacks with the property owner assuming full liability if a water storage tank installed in the Public Utility Easement (PUE) must be moved by request of a utility company.

Yard means an Open Space at Natural grade between the principal and Accessory Buildings and the adjoining lot lines, unoccupied and unobstructed by any portion of a Structure from the ground upward, except as otherwise provided herein.

Zoning means the division of the Village into districts in an effort to achieve compatible land use relationships, and the associated establishment of regulations governing the use, placement, spacing and size of land and buildings in order to achieve that compatibility as defined in *Chapter 211 of the Texas Local Government Code* and this ordinance.

Zoning Map means the official map showing the division of the Village into districts, and is hereby incorporated and made part of this article.

ANY DEFINITION NOT EXPRESSLY PRESCRIBED HEREIN SHALL, UNTIL SUCH TIME AS DEFINED BY ORDINANCE, BE CONSTRUED IN ACCORDANCE WITH CUSTOMARY USAGE IN MUNICIPAL PLANNING AND ENGINEERING PRACTICES.

Sec. 30.105 Application: The provisions of this article shall, except as specifically provided otherwise in this article, apply to all land within the jurisdiction of the Village.

Sec. 30.106 Exemptions: The provisions of this article shall not:

- A. Prohibit the continuation of plans, construction or designed use of a Building for which a Building Permit was lawfully issued and which (i) is completed in its entirety within one (1) year from the effective date of this article; and (ii) for which construction shall have been started within ninety (90) days after the effective date of this article; provided that any such building, construction or use that is not in compliance with this article shall be a nonconforming use; or
- B. Apply to permits or commitments given by the Village with reference to construction of public utility buildings prior to the passage of this article.

Sec. 30.107 Reserved for future Use:

DIVISION 2. ZONING DISTRICTS AND REGULATIONS

Sec. 30.108 General Requirements and Limitations:

- A. **Conformity to Zoning District Requirements:** No Building shall be erected and no existing Buildings shall be moved, Structurally Altered, added to or enlarged, nor shall any land, building or premises be used, or designated for use for any purpose or in any manner other than provided for hereinafter in the District in which the Building, land or premises is located; provided, however, that necessary structural repairs may be made where health and safety are endangered. Furthermore, no Open Space

- surrounding any Building shall be encroached upon by a Structure or reduced in any manner, unless the same shall conform to the regulations hereinafter designated for the District in which such Building or Open Space is located.
- B. Signs and Billboards: No Sign or billboard shall be erected, moved, altered, added to, enlarged, painted, or modified unless it shall conform to the provisions of this article and all applicable Village ordinances governing the placement, location, permitting, construction and maintenance of Signs. Except as otherwise expressly authorized by ordinance, all off-premises Signs and billboards are expressly prohibited.
- C. Structures and Buildings: No Building, Structure or Accessory Structure shall be erected, converted or enlarged, nor shall any such existing Building or Structure be Structurally Altered or rebuilt, nor shall any Open Space surrounding any building be encroached upon or reduced in any manner, unless the same shall be done and completed in a manner to comply with all applicable Village codes and ordinances, and such work and Structure shall:
1. Conform to the Setback, Impervious Cover, Building site area, Building location and land use regulations hereinafter designated for the District in which such Building or Open Space is located as specified in the following Chart 1, except as specifically authorized as follows:
 - i. Structures in existence on February 1, 2003 which do not conform to the Setback or Height restrictions shall be allowed to continue and expand such use as long as such expansion does not further reduce the applicable restriction and conforms to the provisions of this ordinance.
 - ii. Not exceed the Height limit herein established for the District in which such Building is located, except as specifically authorized as follows:
 - i. The Height limits prescribed herein shall not apply to television and radio towers, Church spires, and fire water towers, chimneys, necessary public or private utilities. The Height limits and other applicable regulations for television, radio and communications towers and antennas may be established by separate ordinance.
 - ii. Public or semi-public service buildings, hospitals, institutions or schools, churches and other places of worship where permitted, may be erected to a Height not exceeding thirty five feet (35').
- D. Accessory Structures and Uses: Accessory structures designed, constructed and located for a use permitted in the District, in compliance with this article and all other applicable Village ordinances, are permitted in each District. Portable Storage Structure may be located in the Side and Rear Setbacks. See Portable Storage Structure definition.
- E. Conformity to Site Development Plan Requirements: No Structure or Building shall be erected, converted, enlarged, reconstructed or Structurally Altered unless Site Development Plan meet the requirements of the applicable Village ordinances and have been approved by the Village.
- F. Conformity to Parking and Loading Space Requirements: No Structure or Building shall be erected, converted, enlarged, reconstructed or Structurally Altered unless it conforms to the Off-Street Parking and loading requirements of this article and all other applicable Village ordinances.
- G. Conformity to Building Setback Requirements: No Yard or other Open Space provided around any Structure or Building shall be considered as providing a Yard or Open Space for a Building on any other lot.
- H. Outdoor Lighting: All outdoor lighting shall be installed and maintained in compliance with the Site Development Ordinance and all applicable Village ordinances. Such lighting shall be located and maintained in a manner as to not be directed onto any public Street or Adjacent property; provided that such Street lighting may be directed directly down upon a public street.
- I. Height and Placement Requirements: Except as otherwise specifically provided in this article, no Building Structure shall be erected or maintained within the required Building Setbacks set forth herein, or which exceeds the Height limits specified in Chart 1.
- J. Impervious Coverage: The maximum percentage of Impervious Cover shall not exceed that percentage specified in Chart 1.

- K. **Parking:** Automotive vehicles or trailers bearing current license plates and state motor vehicle inspection stickers, excluding racing cars, antique cars, and cars belonging to members of armed forces who are on active duty, shall be parked in accordance with this section and any applicable Village ordinances.
1. **Parking Regulations:** Where any Structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this article, designated on-street and Off-Street parking spaces shall be provided in a number not less than as provided in Chart 2 set forth hereinafter.
 2. **Off-Street Parking Space** means an area of privately owned land not less than nine (9) feet by eighteen and one-half (18½) feet not on a public Street with an all-weather surface. A public Street shall not be classified as such, nor shall head-in parking Adjacent to a public Street and dependent upon such Street for maneuvering space.
 3. **Parking Space** means an area that is not a Street or public Right-of-Way that is used or designed to be used for motor vehicle parking, that is not less than nine (9) feet by eighteen and one-half (18 1/2) feet, exclusive of the Driveways connecting said space with a Street. Said parking space and connecting Driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile.
 4. **Accessible Parking:** ADA compliance guidelines will apply. The location and design of accessible parking spaces shall be as required by the Texas Accessibility Standards (TAS).
 5. **Van Accessible Parking:** Aisle access requirements shall be as required by the Texas Accessibility Standards (TAS).
 6. **Maximum Parking:** The maximum number of parking spaces for a commercial or industrial use area shall not exceed 150% of the parking required in Chart 2.
 7. **Reduction of Parking:** The total number of required motor vehicle parking spaces for a non-residential use may be reduced by five percent (5%) for each of the activities listed below provided by the owners or operators up to a maximum ten percent (10%) reduction in the total number of motor vehicle spaces.
 - i. Participates in an area wide carpool/vanpool ride matching program for employees; designating at least ten percent (10%) of the employee motor vehicle parking spaces as carpool/vanpool parking and place such spaces closer to the Building than other employee parking.
 - ii. Provides showers and lockers for employees who commute by bicycle.
 - iii. Provides covered, secure bicycle parking racks or facilities.
 - iv. Provides a transit facility that is approved by the local transit authority, and related amenities. Related amenities include but are not limited to: a public plaza, pedestrian sitting areas, and additional landscaping)
 8. **Development and Maintenance Standards for Parking Lots:** Every parcel of land hereafter used as a public or private Parking Lots, including commercial parking lots, shall be developed as follows:
 - i. Off-Street Parking Lots for more than five (5) vehicles and loading areas shall be effectively screened by a Privacy Fence, hedge, or planting on each side which adjoins a residential use or property situated in a residential area.
 - ii. Except for parking to serve residential uses, parking and loading areas a
 - iii. Adjacent to or within residential Districts or Adjacent to residential uses shall be designed to minimize disturbance of residents.
 - iv. Access isle shall be of sufficient width for vehicular turning and maneuvering.
 9. **Council Determination:** Off-Street parking and On-Street parking for all uses not within the categories above shall be adequate to meet the anticipated needs and shall be determined by the Council using standards outlined for special exceptions with a view towards providing adequate parking and carrying out the general scheme of the parking requirements set out herein.

10. Special Exception: The Council may grant a special exception to allow two more uses to share parking spaces upon showing that the particular uses in question will require parking at different times. Any spaces the Council allow to be shared count towards the number of spaces each use must provide.
- L. Uses are Noncumulative: Uses within each District are restricted solely to those uses expressly permitted in each District and are not cumulative unless so stated.
- M. Mandated Exceptions: To the extent required by state or federal law, a Personal Care Facility is an additional Permitted Use in any District, provided that:
1. Homes and residential units not designated and constructed in compliance with ordinance and code requirements applicable to multiple occupancy residential buildings and nursing homes shall meet the following requirements:
 - i. The Structure shall comply with the provisions of the Village's construction codes that are applicable to nursing homes;
 - ii. There shall be two (2) parking spaces plus one (1) additional space for each three (3) residents;
 - iii. There shall be not less than fifty square feet (50 sf) of each living space within a sleeping room for each occupant assigned to such room;
 - iv. There shall be not less than one hundred seventy five (175) square feet of living area in the Structure for each occupant/resident of the Structure and attendant on duty; and
 - v. The Structure and operations shall comply with the standards established by the Texas Department of Human Services as licensing standards for personal care facilities for a Type B facility.
 2. The Home must meet all applicable State licensing requirements
 3. A Personal Care Facility must have at least one (1) paid staff member on duty twenty four (24) hours per day and one supervisor for each six (6) residents during
 4. A Personal Care Facility may not have more than fifteen (15) residents.
- N. Manufactured Home HUD Code and Mobile Home: In addition to conforming to all other regulations herein, Manufactured Housing must be connected to permanent utilities and skirted.
- O. Recreational Vehicles: Storage of a property owner's RV or a tenant's RV is allowed. An RV may not be stored in any Easement or Setback area, except in a Driveway in a Side Setback. RV parking and use by visitors, by property owners during home construction/major remodeling, for emergency purposes, or by a governmental public utility or law enforcement agency while engaged in their official duties, is temporarily allowed for a maximum length of 30 continuous days, with an annual maximum time limit of 3 months total. There must be a minimum of 14 days between stays. To exceed the time provisions or the use restrictions in this ordinance, a permit must be issued by the Village. No RV may be permitted to remain on any lot as a permanent residence, either by property owners or tenants. Permanent residence is defined as the vehicle being attached directly to a power and/or water source and/or sewage facility, or used for more than 30 days at a time or more than 3 months during a calendar year.
- P. Home Based Occupation: means a commercial use customarily carried on in the home
1. By members of the occupant family,
 2. Without structural alterations in the principal Building or any of its rooms,
 3. Without the installation of machinery or additional equipment other than that customary to normal household operations,
 4. With no more than 1 employee other than immediate family, and
 5. Which does not cause the generation of other than normal noise, pedestrian and vehicular traffic.

6. It is incidental to a residential use and subject to the following limitations:
 - i. The home occupation shall be conducted entirely within a Dwelling Unit which is the bona fide residence of the practitioner(s);
 - ii. The residential character of the lot and Dwelling shall be maintained; the exterior of the Dwelling shall not be Structurally Altered; and no additional buildings shall be added on the property to accommodate the home occupation;
 - iii. The occupation shall not produce external noise, vibration, smoke, odor, fumes, electrical interference, involve the storage of weapons or dangerous materials, or waste run-off outside the Dwelling Unit or on the property surrounding the Dwelling Unit; and
 - i. No vehicle used in connection with the home occupation which requires a commercial driver's license to operate shall be parked on any Street Adjacent to the property.

Sec. 30.109 Establishment of Zoning Districts and Categories

- A. The Village is hereby divided into thirteen (13) Districts. The use, Height and area regulations as set out herein shall be uniform in each District where applicable or as provided elsewhere in this ordinance. The Districts are as established in Chart 3.
- B. Zoning Map: The location and boundaries of the Districts herein established are shown upon the Zoning Map, which is hereby incorporated and made a part of this article; provided that such uses as listed but not shown on the Zoning map are provided for future growth and use upon amendment of the comprehensive plan. The City Secretary maintains the Zoning Map together with all notations, references, and other information shown thereon and all amendments thereto.
- C. District Boundaries: Where uncertainty exists with respect to the boundaries of the established districts as shown on the Zoning Map, the following rules shall apply:
 1. Where District boundaries are indicated as approximately following the centerlines of streets or highways, Street lines or highway Right-of-Way lines shall be construed to be said boundaries.
 2. Where District boundaries are so indicated that they approximately follow the lot lines, such Lot Lines shall be construed to be said boundaries.
 3. Where District boundaries are so indicated that they are approximately parallel to the center lines or Street lines of streets, or the center lines of Right-of-Way lines of highways such District boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on said map.
 4. In Subdivided property, the District boundary lines on the Zoning Map shall be determined by the use of the scale appearing on the map.
 5. If a District boundary line divides a property into two (2) parts, the District boundary lines shall be construed to be the property line nearest the District line as shown.
 6. Whenever any Street or other public way is vacated by the council, the District shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the Districts as extended.
 7. Where streets on the ground differ from streets shown on the Zoning Map, those on the ground shall control.

Sec. 30.110 Zoning of Annexed Areas:

- A. Interim Zoning District. All territory hereafter annexed to the Village shall be automatically classified on a temporary basis as Single Family Residential District "SR", pending subsequent action by the Commission and Council for permanent zoning; provided that upon application, by either the Village or the property owner of the land being annexed, for Zoning other than Agricultural, notice may be given and hearings held in compliance with Chapter 211 of the Texas Local Government Code and, upon annexation, such property may be permanently zoned as determined by the Council after considering the commission's recommendation.
- B. Permits in Interim Zoned Areas: In an area temporarily classified as Single Family Residential District "SR", no permits for the construction of a Building or use of land other than uses allowed in said District under this article shall be issued by the Village.

Sec. 30.111 Residential General Provisions (SR, SR1, SRR, SRC, MFR)

- A. Purpose and Permitted Uses – Applicable to all Residential Districts See specific residential districts._
- B. General Permitted Uses – Applicable to all Residential Districts:
 - 1. Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
 - 2. Public Buildings, including libraries, museums, police and fire stations.
 - 3. Real estate sales offices during the Development of a residential Subdivision of 20 lots or more, and not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved or converted to a Permitted Use within a period of one (1) year, specific permission must be obtained from the Council for said display houses to remain.
 - 4. Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
 - 5. Water supply reservoirs, Pumping Plants and water towers.
- C. Conditions and Limitations - Applicable to all Residential Districts:
 - 1. See Chart 1.
 - 2. See Chart 2.
 - 3. Privacy Fences, if installed, that face public streets, roadways or Right-of-Way must have the finished side facing the public street, roadways or Right-of-Way.
 - 4. Home based occupation - see Section 30.108(P)

Sec. 30.112 Single Family Residential - District "SR":

Purpose and Permitted Uses. Permits a detached Dwelling (Single-Family) with a minimum of 1,000 square feet of living area, and related Accessory Structures, on a minimum lot size of one acre.

Sec. 30.113 Single Family Residential Historical - District "SR1":

Purpose and Permitted Uses. Lots, legally platted prior to February 1, 2003, which are less than one acre in size or do not conform to the minimum Lot Width provisions for SR. Permits a detached Dwelling (Single-family) with a minimum of 1000 square feet of living area, or 500 square feet of living area for lots under ½ acre.

Sec. 30.114 Single Family Residential Ridgetop - District "SRR":

- A. Applicability: District SRR is applicable to all land areas as defined by the ridgetop Zoning District as shown on the Official Zoning Map and/or Ridgetop Plan (Plate 10-2, Comprehensive plan, October 2004).
- B. Purpose and Permitted Uses: Permits a detached Dwelling (Single-family) with a minimum of one thousand (1,000) square feet of living area, and related Accessory Structures, on a minimum lot size of one acre.

Sec. 30.115 Single Family Residential Cluster - District "SRC":

Purpose and Permitted Uses: Permits a detached Dwelling (Single-family) with a minimum of one thousand (1,000) square feet of living area, and related Accessory Structures, on a minimum lot size that does not cause the Development to exceed one (1) home per one acre.

Sec. 30.116 Multi-Family Residential - District "MFR":

- A. Purpose and Permitted Uses: Permits detached duplexes, three and four unit residences with a minimum of one thousand (1000) square feet of living area per unit and related Accessory Structures on at least one quarter (1/4) acre per unit with a total lot size no smaller than one (1) acre.

Sec. 30.117 Open Space – District "OS":

- A. Purpose: An Open Space District is a tract of land provided as a general benefit for the Village or a Subdivision hereof. Common Open Space must be usable for recreational purposes or must provide visual aesthetic and environmental amenities. The uses authorized for the Common Open Space should be appropriate to the scale and character of the surrounding development; considering its size, density, expected population, topography, and the number and type of dwellings to be provided. As a minimum, the total Open Space shall not be less than required for Park land by the Subdivision regulations of the Village. Common Open Space should be improved for its intended use, but Open Space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and Improvements to be located in the Common Open Space must be appropriate to the uses which are intended therefore and must conserve and enhance the common open space.
- B. Existing Open Space Properties within the Village: The following properties, located within the corporate limits of the Village of Volente, are Open Space properties:
 - 1. Mollberg Park

2. Friendship Park
- C. Permitted Uses:
 1. Conservation area;
 2. Outdoor recreational and athletic facilities;
 3. Outdoor swimming pools;
 4. HOA Neighborhood Parks, common open spaces, common open area, playgrounds, and play fields;
 5. Wildlife sanctuaries.
- D. Conditions and Limitations:
- E. See Chart 1.
- F. See Chart 2.

Sec. 30.118 Private Way for General Use – District "PWGU":

- A. Purpose: A Private Way for General Use property is a tract of land provided, at the time of subdividing, as a general benefit for the property owners within the subdivision. The Zoning Map of the Village of Volente identifies properties zoned PWGU.
- B. Permitted Uses: Permitted uses for this District are as described in the original plat or deed restrictions.
- C. Construction or Improvement: Construction or Improvement within this District shall be permitted in accordance with the Site Development Ordinance and any other applicable ordinances provided the Applicant can demonstrate compliance with any deed restrictions and the authority to develop.

Sec. 30.119 Government or Institutional District – District "GOV":

- A. Purpose: This District is intended to establish appropriate areas for uses that provide important community services often requiring large amounts of land.
- B. Permitted Uses: Facilities owned and operated by the federal government, the state or political subdivisions thereof. Examples include:
 1. Public grounds
 2. Fire station and safety services;
 3. Uses required by public transportation services;
 4. Public athletic fields, sports facilities, playgrounds, parks, greenbelts, recreational centers, Community Centers, and swimming pools;
 5. Accessory Uses customarily incidental to any of the foregoing permitted uses.
- C. Conditions and Limitations:
 1. See Chart 1.
 2. See Chart 2.
 3. Only land abutting a major street.
 4. Adequate space for required Off-Street Parking and buffering is required.

Sec. 30.120 Commercial General Provisions, Uses and Limitations (C1, C2, C3):

- A. Purpose and Permitted Uses – Applicable to all Commercial Districts:
1. See specific Commercial Districts.
 2. The Zoning Map will reflect the following Commercial zones generally. If a use falls under the permitted or conditional uses for a District, the property must be in accordance with the conditions and limitations of Chart 1 of said district. Should the property not conform to those standards, then the use will be disallowed.
- B. Screening of Non-Residential Uses from Residential Districts or Uses - Applicable to all Commercial Districts: All lots, or parts of lots, which are improved with a predominantly non-residential use and whose side or rear lines are adjacent to a residential District or use, not separated by a public Street or roadway, shall be screened from such residential District or use in accordance with the Village's Nonpoint Source Pollution Control, Subdivision, Site Development and Construction Ordinances.
- C. Compliance with Additional Village Regulations and Ordinances - Applicable to all Commercial Districts: All commercial and industrial uses must comply with the noise, nuisance, and sign standards of the Village.
- D. General Permitted Uses – Applicable to all Commercial Districts:
1. Light retail for day-to-day needs and convenience shopping;
 2. Professional Offices;
 3. Bed and Breakfast;
 4. Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work;
 5. Water supply reservoirs, Pumping Plants and water towers.
- E. General Conditions and Limitations– Applicable to all Commercial Districts:
1. See Chart 1.
 2. See Chart 2.
 3. Privacy Fences, if installed, that face public streets, roadways or rights of way must have the finished side facing the public street, roadways or Right-of-Way.
 4. That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration, or similar nuisances and that such odors, smoke, dust, noise, or vibration does not exceed the permitted levels established by Village regulations when measured at the property line.
 5. Sidewalks, Driveways and Parking Lots must be surfaced in a non-dusting, non-erodible and pedestrian friendly material (excluding any portion of the property used for parking and within the floodplain);
 6. Required yards and outdoor areas shall not be used for display, sale of vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas;
 7. Buffering and Screening of loading and storage facilities shall comply with the Village's Site Development Ordinance.
 8. All parking and loading must be Off-Street Parking. See Sec. 30.108(k)
 9. Drive-in or fast food Restaurant not permitted

Sec. 30.121 Commercial Retail – District "C1":

- A. Purpose: This District permits a mix of light commercial uses, generally retail trade, service industries, and stores that distribute goods and materials dependent upon raw materials refined elsewhere.

B. Additional Conditions and Limitations:

1. Uses within the C1 District must be conducted wholly within an enclosed building, except for delivery or sales conducted within an outdoor area that is suitably landscaped, screened or fenced;
2. Facility for the Care of Substance Dependent Persons

Sec. 30.122 Commercial Retail with Restaurant – District "C2":

A. Purpose: This District allows a mix of light commercial uses, generally retail trade, service industries, and stores that distribute goods and materials dependent upon raw materials refined elsewhere as well as Restaurants and dining establishments.

B. Additional Permitted Uses:

1. Restaurants with or without alcohol

C. Additional Conditional Uses Permitted Upon Authorization of Council:

1. Facility for the Care of Substance Dependent Persons

Sec. 30.123 Commercial Marina/Entertainment – District "C3":

A. Purpose: This District permits any commercial Structure or combination of structures used for docking, mooring, storage, and servicing of watercraft with more than three mooring slips including structures and associated anchoring facilities which abut the establishment.

B. Additional Permitted Uses:

1. Boat Docks;
2. Mooring slips;
3. Parking Lots;
4. Administrative offices related to the permitted uses of this district;
5. Boat and trailer storage;

C. Additional Conditional Uses Permitted Upon Authorization of Council:

1. Bar, nightclub, Private Club, dance hall, and social club.
2. Dry stacks.
3. Fueling stations.
4. Light retail for convenience shopping (includes ship store);
5. Restaurant with or without alcohol;
6. Boat, water craft and other rental activity.
7. Commercial Amusement (Indoor) and Commercial Amusement (Outdoor).
8. Boat services, repair and towing

D. Additional Conditions and Limitations:

1. All Marinas shall comply with provisions of the Lower Colorado River Authority's rules governing Marinas and be permitted by LCRA.

Section 30.124 Utility District – District “UD”:

- A. Purpose. This District is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. The site for a Permitted Use of the UD District should also contain adequate space for required Off-Street parking and for Buffering from residential districts.
- B. Permitted Uses: Electrical and telephone substations for local use. Permitted uses Adjacent to residential properties must receive prior authorization and Approval by the Planning and Zoning Commission and Council before beginning any Development project including site development, tree removal, construction of facilities, and operations:
- C. Conditional Uses Permitted Upon Authorization of Council:
 1. Wireless telecommunications facilities, subject to the Village’s Telecommunications Ordinance.
 2. Water intake facilities and Pumping Stations.
 3. Facilities required by public or private utility providers.
 4. Public or private utility substations and distributing centers, regulation centers, and underground stations.
 5. Water supply reservoirs and towers.
 6. Public Water Systems. Such a system must have at least fifteen (15) service connections or serve at least twenty five (25) individuals at least sixty (60) days out of the year. This term includes:
 - i. Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.
 - ii. Two (2) or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty five (25) individuals but owned by the same person, firm or corporation and located on Adjacent land will be considered a Public Water Systems when the total potential service connections in the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty five (25) or greater at least sixty (60) days out of the year.
 - iii. Without excluding other meanings of the terms “individual” or “served,” an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system. As defined by *Section 290.38(66) of TAC Chapter 290, Subchapter D* (the Regulations of the Texas Commission on Environmental Quality).
 7. Accessory Uses incidental to any of the foregoing conditional uses.
- D. Conditions and Limitations:
 1. See Chart 1.
 2. See Chart 2.
 3. Buffering and Screening of loading and storage facilities shall comply with the Village’s Site Development Ordinance.
 4. That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration, or similar nuisances and that such odors, smoke, dust, noise, or vibration does not exceed the permitted levels established by Village regulations when measured at the property line.
 5. Sidewalks, Driveways, and Parking Lots must be surfaced in a non-dusting, non-erodible and pedestrian friendly material (excluding the portion of the property used for parking that is within the floodplain).

Sec. 30.125 Planned Development District – PDD:

- A. Permitted Uses: A PDD may be comprised of a combination of residential, multifamily, and commercial uses. Each designated PDD District will have unique standards and requirements that are described in the adopting ordinance for that district. A PDD can also include utilities, but only those directly related to the proposed development.
- B. Description of a PDD: The outer boundary of each PDD Zoning District shall be shown on a map. Each PDD must be wholly contained within the incorporated Village City limits and cannot extend either into the future Village's Extraterritorial Jurisdiction or into another Village's Extraterritorial Jurisdiction. The Village, however, may conditionally approve a Preliminary Site Development Plan (defined below) contingent on the areas outside of the Village's City limits being annexed into the Village prior to Approval of the Final Site Development Plan. Said map will include a descriptive legend, the specific boundaries of the area proposed for use authorized for in any other District, and percentage of the total area of such PDD which will comprise each such separate use, and all notations, references, and other information shown thereon, shall be adopted by ordinance.
- C. Flexible Planning: When considering a PDD, the unique nature of each proposal for a PDD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, Setbacks for public utilities, signage requirements, curbs, gutters, sidewalks and Street lights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, and/or single use districts.
- D. Application Processing: The process for the filing of an application, requirements for notice and advertisement of public meetings, procedures for protest of the establishment of PDD designation and other related actions shall be the same as those provided for in the rezoning process as described in this article. In addition to the PDD process being a re-zoning process, the Approval of the Final Site Development Plan for a PDD will substitute for the Approval of the Site Development Plan and the Site Development Permits required by the Village's Site Development Plan Ordinance. However, the owner of land zoned as a PDD must comply with the provisions of the Village's Subdivision ordinance, except for those provisions modified by this Ordinance, and must apply for and receive the necessary Building Permits prior to construction of Improvements in a PDD.
- E. Preliminary Site Development Plan: The request for rezoning to a PDD must be accompanied by a proposed Preliminary Site Development Plan. The Preliminary Site Development Plan is to enable the Commission and Council to understand the proposed PDD in sufficient detail to make an informed decision prior to rezoning the property. Its purpose is also to provide sufficient detail that the Council can comply with the standard established by this ordinance that the Commission will recommend and the Council will approve the Final Site Development Plan if it substantially conforms to the Preliminary Site Development Plan. A Preliminary Site Development Plan for the entire property within the PDD shall be considered by the Commission and Council prior to any recommendation to, or consideration by, the Village Council to re-zone the property as a PDD. Approval of the Preliminary Site Development Plan is an integral part of the PDD Approval process and the property will not be re-zoned as a PDD unless the Council at the same time approves the Preliminary Site Development Plan. An acceptable Preliminary Site Development Plan will contain the following information in enough detail that the Commission and Council are able to determine that the PDD complies with the standards established by this ordinance prior to rezoning the property.
 - 1. The name, address, and telephone number of the Landowner and the Developer;
 - 2. The name of the proposed project;
 - 3. The location of the proposed project;
 - 4. The names and addresses of adjoining property owners within 500 feet of the proposed site;

5. A location map;
 6. All existing streets, Driveways, buildings, watercourses, flood plains, and significant environmental features;
 7. The proposed location, type/use and size of the following:
 - i. Buildings and structures, except for single family residential lots which need only show the location of such lots;
 - ii. Streets, drives, and curbs, except that the exact locations need not be established in the Preliminary PDD Plan;
 - iii. Off-Street Parking Lots, except that the exact location need not be established in the Preliminary PDD Plan;
 - iv. Sidewalks, landscaping, common/green space, other amenities, except that the exact locations need not be established in the Preliminary PDD Plan; and
 - v. How lighting to achieve "Dark Skies" standards will be handled conceptually.
 8. Existing and proposed utilities;
 9. Estimated percentage of Impervious Cover for the entire PDD, not to exceed 25%;
 10. Proposed location of water quality facilities;
 11. Average density of residential structures per one acre of residential land in the PDD, not to exceed an average of one Structure per acre;
 12. A PDD must include parkland and useable Open Space at a minimum rate of .02 acres per residential unit projected for the fully developed PDD.
 13. Proposed Building Front Yard Setback lines, proposed Side Yard Setback lines, proposed Side Yard Setback lines, and proposed Rear Yard Setback lines.
 14. Minimum lot sizes and any landscape buffers.
 15. Any other proposed departures or deviations from the Village's Zoning and Site Development Ordinances. Applicants are advised that under the Non-Point Source Pollution Control Ordinance, there is limited flexibility to modify Development standards because the Village is subject to the terms of an interlocal agreement with the LCRA concerning the enforcement of water quality standards.
- F. Final Site Development Plan. The Final Site Development Plan will conform to the approved Preliminary Site Development Plan in all major aspects. Unless the PDD is to be developed in sections, the Final Site Development Plan will include the specific detail and information required by the Village's Site Development Ordinance. If the PDD is to be developed in sections, the Final Site Development Plan must include the specific detail and information required by the Village's Site Development Ordinance for the first section to be developed and must be amended for each additional section to be developed to include the specific detail and information required by the Village's Site Development Ordinance prior to the Development of that section. A Final Site Development Plan or an Amended Final Site Development Plan must be approved by the Village Council prior to construction in a section being commenced.
- G. Size and Rules applicable to a PDD. The Village Council, after public hearing and proper notice to all parties affected and after recommendation from the Planning and Zoning Commission, may zone any tract of land equal to or greater than fifty (50) acres as a PDD. Under a PDD, the following rules apply:
1. The Approval of any proposed PDD or combination of uses proposed therein shall be subject to the discretion of the Village Council, and no such Approval will be inferred or implied.
 2. Permitted uses are those listed under the applicable District(s) for the land use for that tract of land in the PDD. In approving a PDD, additional uses may be permitted other than those listed and specific listed uses may be prohibited that are in the applicable District.

3. Conditional uses are those uses listed as conditional uses under the applicable Districts. Those land uses in a PDD require the same Conditional Use permit required under other Districts and is in addition to the grant of Approval for the PDD.
 4. In approving a Planned Development District, no standards required for a land use by the Districts for the uses proposed may be modified unless the provisions of the PDD expressly permits such modifications, and in no case may standards be modified more than the maximum deviations authorized by this PDD District ordinance.
 5. In approving a PDD, the Village Council may require additional standards deemed necessary to create a reasonable transition to, and protection of, Adjacent property and public areas, including but not limited to, light and air, orientation, type and manner of construction, Setbacks, lighting, landscaping, management associations, open space, and Screening.
 6. The Commission and Village Council, in approving modifications to standards and regulations, shall be guided by the purposes for the Zoning provisions established for the land uses being proposed in the PDD and the general intent of this Article.
 7. All written and oral representations made in connection with the Preliminary Site Development Plan or Final Site Development Plan become conditions upon which the PDD is approved.
 8. All regulatory standards contained in the Village's Zoning and Development Ordinances for which a deviation or departure has not been approved in a Preliminary or Final Site Development Plan are the regulatory standards applicable in the PDD.
- H. Amendments. Consideration of amendments to a Planned Development District will take into consideration the effect of the proposed Development on the remainder of the property, Adjacent properties and the neighboring communities. Amendments to the final site plan or any planned Development conditions that are substantive shall require public hearings in the manner required for any other Zoning change.
- I. Expiration. If development equal to at least twenty-five (25%) percent of the cost of installing streets, utilities and drainage in the PDD, or, if the PDD is approved to be developed in sections or phases, if Development equal to at least fifty (50%) percent of the cost of installing streets, utilities and drainage in the first section or phase of the PDD has not occurred on a Planned Development tract or lot within five (5) years after the date of Approval, such Approval shall expire; and may only be renewed after application is made therefore, notice is given and public hearings are held by the Commission and Village Council to evaluate the appropriateness of the previously authorized Planned Development Approval. Any such application for renewal or extension shall be considered in the same manner, and under the same rules, regulations and ordinances then in effect, as a new application for zoning.
- J. Ordinance Amendment. Every PDD approved under the provisions of this Article is considered an amendment of this Article as to the property involved, and to the Comprehensive plan. All PDDs will be referenced on the Zoning District Map, and a list of such Planned Development districts shall be maintained as an appendix to this Article.

DIVISION 3: BOARD OF ADJUSTMENT ESTABLISHMENT

Sec.30.126 General Provisions:

- A. Creation: In accordance with Chapter 211.008 of the Texas Local Government Code, there is hereby created a Board of Adjustment (hereafter referred to as the "board") for the purpose, in appropriate cases and subject to appropriate conditions and

safeguards, to make special exceptions to the terms of this article that are consistent with the general purpose and intent of this article.

- B. Board Membership: The Board shall be composed of five (5) Board members and two alternate members who:
 - 1. Are residents of the Village of Volente; and
 - 2. Have demonstrated their civic interest, general knowledge of the Village, independent judgement, interest in Zoning and Zoning issues, and ability to attend meetings; and
 - 3. By reason of their occupations and the areas of the Village in which they reside are broadly representative of the Village.
- C. Appointment of Board Membership: The Council shall appoint the five (5) Board members and the two alternate members. The alternate member(s) shall attend meetings and vote on matters before the Board of Adjustment if one or more of the Board members is unable to attend.
- D. Terms of Office; Filling of Vacancies: The terms of two (2) of the members shall expire on January 1st of each odd-numbered years, and the terms of three (3) of the members shall expire on January 1st of each even-numbered years. The term of one of the alternate members shall expire on January 1st of each odd-numbered year and the term of the other alternate member shall expire on January 1st of each even-numbered year. Place numbers one through five shall identify the members of the Board. Board members may be appointed to successive terms. A member of the Board shall serve until his or her successor is appointed and installed. The Council shall fill vacancies for the uncompleted term of any vacant position. Newly appointed members shall be installed at the first regular Board meeting after their appointment.
- E. Removal of Board Members: The Council may by majority vote remove a Board member or an alternate member for cause, including lack of confidence, incompetence, corruption, misconduct, or malfeasance, on a written charge after a public hearing. Any Board member who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Board. This subsection shall not apply to a Board member who applied for and received an excused absence from the Board chairperson prior to the meeting(s) at issue. Any Board member who no longer resides within the corporate boundaries is deemed to have automatically vacated his/her position on the Board.
- F. Motions at Board Meeting:
 - 1. A motion may be made by any Board member other than the presiding officer. The presiding officer may second a motion and may vote on all matters considered by the Board.
 - 2. A motion before the Board shall require a majority vote of the Board members present and voting, except as provided in Section 30.127 of this article.
- G. Disqualifications from Voting: A Board member shall disqualify himself/herself from voting whenever the Board member has a personal or monetary interest in a matter before the Board that is substantially different from the interest of the other citizens of the Village, or if the value of the Board member's property or interest in property will be affected in a substantially different manner than other citizen's properties or interest in properties within the Village.

Sec.30.127 Rules of Procedures:

- A. Organization and Officers:
 - 1. Officers:
 - i. The Village Council shall choose the Chair and Vice Chair.
 - ii. In the absence of both the Chairperson and Vice-Chairperson, the Board shall elect an Acting Chair.

- iii. The City Secretary shall attend to the correspondence of the Board and shall cause to be given such notices as are required and in the manner prescribed by law.
 2. Rules of Order: Roberts Rules of Order, as amended, shall be the Board's final authority on all questions of procedure and parliamentary law not covered by this section.
 3. Adoption of Rules of Procedures: The Board by majority vote shall adopt rules of precedes that conform to this section.
- B. Meetings:
1. Quorum: A quorum for a Board meeting shall be three (3) Board members, except action on cases during a Board meeting in accordance with Section 30.128 of this article shall require at least four (4) Board members present and voting.
 2. Agenda: The City Secretary shall prepare an agenda for each meeting of the Board, and shall attach to each agenda a report of matters pending further action by the Board. The City Secretary shall post a copy of the agenda in City Hall as required by law.
 3. Special Meetings: Special meetings for any purpose may be held: on the call of the Chairperson, or on request of two (2) or more Board members and by giving written notice to all Board members deposited in the mail at least 72 hours before the Board meeting, or as may be scheduled by a majority of the Board at any previous meeting. The convening authority shall determine the time and place of the special meeting.
 4. Public Meetings: All meetings of the Board shall be open to the public. Any party in interest may appear in his/her own behalf or be represented by legal counsel_ or agent.
- C. Official Records:
1. Official Records: The official records shall be the minutes of the Board, together with all findings, decisions and other official records of the Board.
 2. Recording of Vote: The minutes of the Board's proceedings shall show the vote of each member, or indicate a member's absence or failure to vote.
 3. Records Retention: All matters coming before the Board shall be filed in the Village's records. Original papers of all requests and proposals shall be retained as part of the permanent record.
 4. Public Records: The official records and citizen requests filed for Board action in special meetings shall be on file with the Village and shall be open to public inspection during customary work hours.

Sec.30.128 Authority of Board:

- A. The Board shall have the authority granted in Sections 211.008 through 211.011 of the Texas Local Government Code and those established herein, to exercise powers and to perform duties including the following:
 1. Hear and decide special exceptions to the terms of this article when this article requires the Board to do so;
 2. Authorize, in specific cases, a Variance from the terms of this article if the Variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this article would result in unnecessary hardship, and so that the spirit of this article is observed and substantial justice is done; and
 3. Hear and decide other matters as may be authorized by an ordinance adopted under this article.
- B. In exercising its authority under subsection (a) (1) above, the Board may reverse or affirm, in whole or in part, or modify the Village Official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the Village Official.

- C. The concurring vote of at least seventy-five percent (75%) of the full Board membership is necessary to:
 - 1. Reverse an order, requirement, decision, or determination of an Village Official;
 - 2. Decide in favor of an Applicant on a matter on which the Board is required to review under this article.
 - 3. Authorize a Variance from the terms of this article.

Sec.30.129 Limitations on Authority of Board:

- A. The Board may not grant a Variance authorizing a use other than those permitted in the District for which the Variance is sought.
- B. The Board shall have no power to grant or modify Conditional Use Permits authorized under the Zoning regulations of the Village.
- C. The Board shall have no power to grant a Zoning amendment. In the event that a written request for a Zoning amendment is pending before the committee or the council, the Board shall neither here nor grant any Variances with respect to the subject property until final disposition of the Zoning amendment.
- D. The Board shall not grant a Variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, where required, is pending on the agenda of the Commission or where applicable, by the council. All administrative and procedural remedies available to the Applicant shall have been exhausted prior to hearing by the Board.

Sec.30.130 Variances:

- A. The Board may authorize a Variance from the terms of this article when, in its opinion, undue hardship will result from requiring strict compliance. In granting a Variance, the Board shall prescribe only conditions that it deems necessary for, or desirable to, the public interest. In making the findings herein below required, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work within the proposed use, and the probable effect such Variance will have upon traffic conditions and upon the public health, safety, convenience and welfare of the Village.
- B. Conditions Required for Variance: No Variance shall be granted without first having given public notice and having held a public hearing on the written Variance request in accordance with this article and unless the Board finds:
 - 1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the Applicant of the reasonable use of the land; and
 - 2. That the Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
 - 3. That the granting of the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area; and
 - 4. That the granting of the Variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this article.
- C. Such findings of the board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and that substantial justice may be done.
- D. Findings of Undue Hardship: In order to grant a Variance, the Board must make written findings that an undue hardship exists, using the following criteria:

1. That literal enforcement of the Zoning controls will create an unnecessary hardship or practical difficulty in the Development of the affected property; and
 2. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same District; and
 3. That the relief sought will not injure the Permitted Use of Adjacent conforming property; and
 4. That the granting of a Variance will be in harmony with the spirit and purpose of this article.
- E. A Variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege of developing a parcel of land not permitted by this article on other parcels of land in the particular District. No Variance may be granted which results in undue hardship upon another parcel of land.
- F. The Applicant bears the burden of proof in establishing the facts that may justify a Variance.
- G. Special Exceptions for Nonconforming Uses: Upon written request of the property owner the Board may grant special exceptions to the provisions of Sec.30.136 of this article, limited to the following, and in accordance with the following standards:
1. Expansion of a Nonconforming Use within an existing structure; provided that, in the case of a nonconforming residential use, such expansion does not increase the number of Dwelling Units to more than the number existing when the use first became nonconforming.
 2. Change from one Nonconforming Use to another, re-construction of a Nonconforming Structure that has been totally destroyed, or resumption of a Nonconforming Use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.
 3. In granting special exceptions of Sec.30.130 if this article the Board may impose such conditions as are necessary to protect Adjacent property owners and to ensure the public health, safety and general welfare, including but not limited to conditions specifying the period during which the Nonconforming Use may continue to operate or exist before being conformed to the standards of this article.

Sec.30.131 Procedures:

- A. Application and Fee: An application to the Board shall be made in writing using forms prescribed by the Village, and shall be accompanied by an application fee, a site plan and such additional information as may be requested in writing in order to properly review the application. Such information may include, but is not limited to, plat plans, site Building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.
- B. Review and Report by the Village: The Village shall visit the site where the requested Board action will apply and the surrounding area, and shall report its findings to the Board.
- C. Notice and Public Hearing: The Board shall hold a public hearing for consideration of the application no later than forty-five (45) days after the date the application for action, or an appeal, is filed. Notice of the public hearing shall be provided to all property owners within two hundred feet (200') of the affected property at least ten (10) days prior to the public hearing, and also published in the official local newspaper at least ten (10) days prior to the public hearing.
- D. Action by the Board: The Board shall not grant an appeal or a Variance unless it finds, based upon evidence, that each of the conditions in Sec.30.129 of this article have been met. The Board may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any Variance or appeal. Violation of any such condition, limitation or safeguard shall constitute a violation of this article.

Sec.30.132 Appeals to the Board:

- A. The appellant must file with the Board and the Village Official from whom the appeal is taken a written notice to appeal specifying the grounds for the appeal. The appeal must be filed within sixty (60) days after the Village Official's decision has been rendered. Upon receiving the notice, the Village administrative official from whom the appeal is taken shall immediately transmit to the Board all papers constituting the record of Village action that is appealed.
- B. An appeal stays all Village proceedings in furtherance of the Village action that is appealed unless the Village Official from whom the appeal is taken certifies in writing to the Board facts supporting the Village Official's opinion that a stay would cause imminent peril to life or property. In that case, the Village proceedings may be stayed only by a restraining order granted by the Board or a court of record on application, after notice to the Village Official, if due cause is shown.
- C. The appellant may appear at the appeal hearing in person or by agent or attorney.
- D. The Board shall decide the appeal within four (4) weeks after the notice of appeal is filed with the Village, after which time the appeal shall be deemed automatically approved if no formal action is taken.
- E. The Board may reverse or affirm, in whole or in part, or modify the Village Official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.

Sec.30.133 Finality of Decisions; Judicial Review:

All decisions of the Board are final and binding. However, any person aggrieved by a decision of the Board may present a verified petition to a court of record which states that the decision of the Board is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition must be presented within ten (10) days after the date the Board's decision is filed in the Village subject to the provisions of *Chapter 211.011 of the Texas Local Government Code*, only a court of record may reverse, affirm or modify a decision of the Board.

DIVISION 4: SPECIAL PROVISIONS

Sec.30.134 Conditional Use Permit:

A. Purpose and Intent:

- 1. Nature of Conditional use: A Conditional Use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given District only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of standards and conditions. This section sets forth the standards used to evaluate proposed Conditional Uses and the procedures for approving Conditional Use permit applications.
- 2. Permit Required: No Conditional Use shall be established and no Building permit shall be issued for any use designated as a Conditional Use within a District until a Conditional Use permit is issued in accordance with the provisions of this section. An application for a Conditional Use permit shall be accompanied by a Conceptual Site Plan prepared in the manner described in the Village's Site Development Ordinance. The Conceptual Site Plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the Approval standards set forth in subsection.

- B. Status of Conditionally Permitted Use: The following general rules apply to all Conditional Uses:
1. The designation of a use in a District as a Conditional Use does not constitute an authorization or assurance that such use will be approved.
 2. Approval of a Conditional Use permit shall authorize only the particular use for which the Conditional Use permit is issued.
 3. No use authorized by a Conditional Use permit shall be enlarged, extended or relocated, nor may the number of Dwelling Units be increased, unless an application is made for Approval of a new Conditional Use permit in accordance with the procedures set forth in this section.
 4. Development of the use shall not be carried out until the applicant has secured all the permits and Approvals required by the Village's code of ordinances, or any permits required by regional, State and Federal agencies.
 5. Conditional Use permits are transferrable with the sale of the property, provided that notification and a transfer request have been approved by the Council (excluding Short Term Rentals – see Village's Short Term Rental Ordinance)
- C. Conditional uses. The following listed conditional uses may be authorized subject to the terms of this subsection and compliance with all conditional terms, regulations and requirements established by the council.
1. Municipal service facilities and buildings.
 2. Amusement (Indoor) and Amusement (Outdoor) park, but not within five hundred feet (500') of any residential district.
 3. Commercial, recreational, or amusement Development for temporary or seasonal periods.
 4. Clinic.
 5. Horse and riding Stables for private use of the resident when the Stable Building is Setback from all Adjacent property lines at least fifty (50') feet, is at least one hundred (100') feet from any Adjacent residence and when the site contains minimum area of one (1) acre.
 6. Schools, public and denominational.
 7. Bed and breakfasts.
 8. Communications or Telecommunications Facility –See Village's Telecommunications Ordinance
 9. Churches, rectories, and places of worship.
 10. Short Term Rentals: See Village's Short Term Rental Ordinance
- D. Procedure. Before authorization of any conditional use, public notice shall be given and public hearings shall be held as provided in *Chap. 211, Tex. Loc. Gov't. Code*; provided that a Conditional Use permit for a period not to exceed seven (7) calendar days may be given for a use set forth in subsection (c)(3) or (c)(4) above after a public hearing is held by the Council after having received a report and recommendation from the Planning and Zoning Commission concerning the effect of the proposed use on the Adjacent and neighboring properties and neighborhoods.
1. Permit Required: No Conditional Use shall be established, operated or maintained except as authorized by a Conditional Use permit issued in accordance with the requirements of this section.
 2. Application for Conditional Use Permit:
 - i. Application Requirements: An application for a Conditional Use permit may be submitted by the property owner or by the property owner's designated representative to the Village. The application shall be accompanied by a Conceptual Site Plan prepared in accordance with the requirements of the Village's Site Development Ordinance. If a Zoning amendment is required or requested in writing, such application shall accompany the application for a Conditional Use permit.
 - ii. Subdivision Approval: If the proposed Conditional Use requires a division of land, an application for Subdivision Approval shall be submitted in conjunction with the application for a Conditional Use permit. Approval of the

Conditional Use permit shall not become effective until final Approval of the Subdivision application; provided, that if the land is to be divided in phases, the Approval of the Conditional Use permit shall take effect upon final Approval of the phase of the Subdivision containing the property on which the Conditional Use is to be located.

3. Procedures for Conditional Use Permit:

- i. Commission Recommendations: Upon receipt of the recommendation from the Village Council, the Planning and Zoning Commission shall conduct a public hearing in order to formulate its recommendations to the Council on the Conditional Use permit application except for Section (c) Item 17 Short Term Rental. Following the Public hearing, the Planning and Zoning Commission shall recommend Approval, Approval subject to modification, or denial of the proposal to the Village Council. If the appropriateness of the use cannot be assured at the location, the Planning and Zoning Commission shall recommended denial of the application as being incompatible with existing uses or with other uses permitted by right in the District.
- ii. Council Action: The Village Council shall be the final decision-maker on applications for Conditional Use permits. Following a public hearing and in consideration of the commission's recommendations, the Council shall approve, modify or deny the proposal for a Conditional Use permit. If the appropriateness of the use cannot be assured at the location, the application for Conditional Use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the District.

4. Factors for Consideration: When considering applications for a Conditional Use permit, the Planning and Zoning Commission in making its recommendation and the Village Council in rendering its decision on the application shall, on the basis of the Conceptual Site Plan and other information submitted, evaluate the impact of the Conditional Use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning and Zoning Commission and the Village Council shall specifically consider the extent to which:

- i. The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan
- ii. The proposed use is consistent with the general purpose and intent of the applicable District regulations;
- iii. The proposed use meets all supplemental standards specifically applicable to the use as established in the applicable Village code of ordinances;
- iv. The proposed use is compatible with and preserves the character and integrity of Adjacent Development and neighborhoods and, as required by the particular circumstances, includes Improvements or modifications either on-site or within the public rights-of-way to mitigate Development related adverse impacts, including but not limited to:
 - a) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and Access in case of fire.
 - b) Off-Street Parking areas, loading areas, and pavement type;
 - c) Refuse and service areas;
 - d) Utilities with reference to location, availability, and compatibility;
 - e) Screening and Buffering, features to minimize visual impacts, and/or Setbacks from Adjacent uses;
 - f) Control of Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - g) Required yards and open space;

- h) Height and bulk of structures;
 - i) Hours of operation;
 - j) Exterior construction material, Building design, and Building façade treatment;
 - k) Roadway adjustments, traffic control devices or mechanisms, and Access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets;
 - l) Provision for pedestrian Access, amenities and areas; and
 - 1) The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
 - 2) The proposed use does not adversely impact natural resources, water quality or wildlife habitat.
- E. Conditions: In approving the Conditional Use permit application, the Planning and Zoning Commission and/or the Village Official may recommend and the Village Council shall impose such conditions as are reasonably necessary to assure compliance with these standards and the purpose and intent of this article. Any conditions imposed shall be set forth in the ordinance approving the conditional use, and shall be incorporated into or noted on the Conceptual Site Plan for final Approval. The Village shall verify that the Conceptual Site Plan incorporates all conditions set forth in the ordinance authorizing the conditional use. The Village shall maintain a record of such approved conditional uses and the Conceptual Site Plan and conditions attached thereto.
- F. Prohibition on Waivers and Variances: The foregoing standards of Development shall not be subject to Variances that otherwise could be granted by the Board of Adjustment, nor may conditions imposed by the Council subsequently be waived or varied by the Board of Adjustment. In conformity with the authority of the Council to authorize conditional uses, the Council may waive or modify specific standards otherwise made applicable to the use by this article, to secure the general objectives of this article; provided, however, that the Council shall not waive or modify any Approval factor set forth in subsection (4) above
- G. Expiration and Extension: Termination of Approval of a Conditional Use for failure to commence Development and extension of the time for performance for a Conditional Use permit shall be governed by the Village's Site Development Ordinance.
- H. Amendment: No proposed or existing building, premise or land use authorized as a Conditional Use may be established, enlarged, modified, Structurally Altered, or otherwise changed from that approved in the Conditional Use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this section, and the Conditional Use permit and approved site plan are amended accordingly.
- I. Other Regulations: The Board of Adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any Conditional Use permit.

Sec. 30.135 Changes and Amendments to Zoning Ordinances and Districts, and Administrative Procedures:

- A. Declaration of Policy and Review Criteria:
- 1. The Village declares the enactment of this article governing the use and Development of land, buildings, and structures as a measure necessary to the orderly Development of the community. Therefore, no change shall be made in this article or in the boundaries of the Districts except:
 - i. To correct any error in the regulations or map;
 - ii. To recognize changed or changing conditions or circumstances in a particular locality;

- iii. To recognize changes in technology, the style of living, or manner of conducting business;
 - iv. To change the property to uses in accordance with the approved comprehensive plan; or
 - v. To make changes in order to implement policies within the comprehensive plan.
2. In making a determination regarding a written requested Zoning change, the Commission and the Council shall consider the following factors:
- i. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the Village as a whole;
 - ii. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;
 - iii. The amount of vacant land currently classified for similar Development in the vicinity and elsewhere in the Village, and any special circumstances which may make a substantial part of such vacant land unavailable for development;
 - iv. The recent rate at which land is being developed in the same Zoning classification as the written request, particularly in the vicinity of the proposed change;
 - v. How other areas designated for similar Development will be, or are unlikely to be, affected if the proposed amendment is approved; and
 - vi. Any other factors which will substantially affect the public health, safety, morals, or general welfare.

B. Authority to Amend Ordinance:

1. The Council may from time to time, after receiving a final report and recommendation thereon by the Commission and after public hearings required by law, amend, supplement, or change this article or the boundaries of the Districts specified on the District map. Any article amendment or District boundary amendment may be requested by the council, the commission, or, in writing by the owner of real property. Upon such request, the item(s) shall be posted on the next Commission agenda after proper application and notification has been made.
2. Consideration for a change in any District boundary line or special Zoning regulation may be initiated only by the property owner or his or her authorized agent or by the Commission or by the Council on its own motion when it finds that public benefit will be derived from consideration of such matter. Proof of authorization by the property owner must be submitted with the Zoning application. In the event the ownership stated on an application and that shown in Village records are different, the Applicant shall submit proof of ownership or verification that he or she is acting as an authorized agent for the property owner.
3. No person who owes delinquent taxes, fees, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the Village or County or to a state, or federal entity and which are directly attributable to a piece of property requested for Zoning shall be allowed to submit a Zoning request or amendment until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement in form satisfactory to the Village has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that the taxes have been paid.

C. Application: Applications for Zoning or for change to the existing provisions of this article shall conform to all applicable provisions of the Village's Code of Ordinances.

Sec. 30.136 Nonconforming Uses:

A. Intent of Provisions:

1. Within the districts established by this article or amendments thereto, there may exist lots and tracts where the use of the land was lawfully in existence and operating before this article was enacted, amended or otherwise made applicable to such lots and tracts but which do not now conform to the Zoning regulations of the District in which they are located. It is the intent of this article to permit such nonconforming uses to continue, as long as the conditions within this section and other applicable sections of this article are met.
2. It is further the intent of this article that nonconforming uses shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other uses prohibited elsewhere in the same District.
3. Nonconforming uses are hereby declared to be incompatible with the permitted uses in the Districts involved.
4. A Nonconforming Use shall terminate upon any sale or conveyance of the property or the abandonment of such use (see (c) below).

B. Nonconforming Status:

1. Any use of a Platted Lot or an unplatted tract of land which does not conform with the regulations of this article on the effective date hereof or any amendment hereto, shall be deemed a lawful, non-conforming use of the lot or tract provided that:
 - i. Such use of a Platted Lot or tract was lawful and was in existence and was a conforming use, lot, tract structure under the provisions of the City of Austin, Texas, Travis County, Texas and Lower Colorado River Authority applicable ordinances in effect immediately prior to the incorporation of the Village; or
 - ii. Such use of a Platted Lot or tract was lawful and was in existence and was a non-conforming use, lot, tract or structure under the provisions of the City of Austin, Texas, Travis County, Texas and Lower Colorado River Authority applicable ordinances in effect immediately prior to the incorporation of the Village; or
 - iii. Such use of a Platted Lot or tract was in existence at the time of incorporation of the Village, was a legal use of the land at such time, and has been in regular and continuous use since such time.
2. Any other use of the Platted Lot or tract which does not conform with the regulations of the District in which it is located on the effective date of this article or any amendment thereto shall be deemed to be in violation of this article, and the Village shall be entitled to enforce fully the terms of this article with respect to such use of the Platted Lot or unplatted tract.

C. Abandonment of Nonconforming Uses:

1. If a Nonconforming Use is abandoned, any future use of the premises shall conform to the provisions of this article, as amended.
2. A Nonconforming Use shall be deemed abandoned in the following circumstances:
 - i. The use ceases to operate for a continuous period of ninety (90) days; or
 - ii. Where the use occupies a structure, the structure remains vacant for a continuous period of ninety (90) days; or
 - iii. In the case of a temporary use; the use is moved from the premises.

D. Changing Nonconforming Uses:

1. A Nonconforming Use shall not be changed to another Nonconforming Use.

2. A Nonconforming Use may be changed to a conforming use; provided that, once such change is made, the use shall not be changed back to a Nonconforming Use.
 3. A conforming use located in a Nonconforming Structure may be changed to another Nonconforming Use.
- E. Expansion of Nonconforming Uses within an existing structure:
1. A Nonconforming Use may be extended within the Building Footprint of an existing structure provided that:
 - i. The Building Use was approved for expansion of such Nonconforming Use prior to the adoption or amendment of this article; and
 - ii. No alteration shall be made to the structure occupied by the Nonconforming Use, except those required by law to preserve the integrity of the structure; and
 - iii. The number of Dwelling Units occupying the structure shall not exceed the number of Dwelling Units existing at the time the use became nonconforming.
 2. A Nonconforming Use occupying a structure shall not be extended to occupy land outside the structure.
 3. A Nonconforming Use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use became nonconforming, except to provide additional Off-Street Parking or loading areas required by this article and by the applicable Village code of ordinances.
- F. Right to Proceed Preserved: Nothing contained in this section is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to *Texas Local Government Code, Section 43.002, or Sections 245.001 through 245.006.*

Sec. 30.137 Nonconforming Structures:

A. Intent of Provisions:

1. Within the districts established by this article or amendments thereto, there may exist structures which were lawfully in existence and operating before this article was enacted, amended or otherwise made applicable to such structures, but which do not now conform to the Zoning regulations of the District in which they are located. It is the intent of this article to permit such nonconforming structures to continue, as long as the conditions within this section and other applicable sections of this article are met.
2. It is further the intent of this article that nonconforming structures may only be enlarged upon, expanded or extended beyond the existing Building Footprint as long as the encroachment is not increased and all other Village regulations are met, and shall not be used as a basis for adding other structures prohibited elsewhere in the same District.

B. Nonconforming Status:

1. Any structure which does not conform with the regulations of this article on the effective date hereof or any amendment hereto shall be deemed a lawful, Nonconforming Structure provided that:
 - i. Such structure was lawful and was in existence as a conforming structure under the provisions of the City of Austin, Texas, Travis County, Texas and Lower Colorado River Authority applicable ordinances in effect immediately prior to the incorporation of the Village; or
 - ii. Such structure was lawful and was in existence as a Nonconforming Structure under the provisions of the City of Austin, Texas, Travis County, Texas and Lower Colorado River Authority applicable ordinances in effect immediately prior to the incorporation of the Village; or

- iii. Such structure was in existence at the time of incorporation of the Village, was a legal structure at such time, and has been in regular and continuous use since such time.
- C. Continuing Lawful Nonconforming Structures
1. A Nonconforming Structure may continue to be used, operated or occupied in accordance with the terms of the City of Austin, Texas, Travis County, Texas or Lower Colorado River Authority regulations by which it was established.
 2. A Nonconforming Structure loses its status as a Nonconforming Structure following abandonment of the Nonconforming Structure.
- D. Abandonment of Nonconforming Structures:
1. If a Nonconforming Structure is abandoned, any future use of the premises shall be in conformity with the provisions of this article, as amended, prior to the time the structure was abandoned.
 2. A Nonconforming Structure shall be deemed abandoned when the structure ceases to be occupied for a continuous period of ninety (90) days
- E. Expansion of Nonconforming Structures:
1. A Nonconforming Structure may be expanded beyond the Building Footprint of an existing structure provided that:
 - i. The expansion is into the approved buildable area of the lot and does not increase any encroachment.
 - ii. Any alteration to increase the Height of the Building cannot be made within a Setback or the encroachment of the building, and
 - iii. The number of Dwelling Units occupying the structure shall not exceed the number of Dwelling Units existing at the time the structure became nonconforming.
 2. A non-conforming structure can only be extended to occupy land outside of the Building Footprint of the Nonconforming Structure if that land is in the buildable area of the lot consistent with current regulations.
- F. Restoration of Nonconforming Structure:
1. If more than sixty percent (60%) of the total appraised value of a nonconforming structure, as determined from the records of the Travis County Central Appraisal District, has been destroyed, it may be rebuilt only in conformity with the then standards of the Village's ordinances.
 2. If less than sixty percent (60%) of the total appraised value of a Nonconforming Structure is destroyed, it may be reconstructed to its original dimensions.
 3. All restoration of non-conforming structures shall comply with the Village's construction codes.
- G. Right to Proceed Preserved: Nothing contained in this section is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to *Texas Local Government Code, Section 43.002, or Sections 245.001 through 245.006.*

DIVISION 5: ADMINISTRATION

Section 30.138 Planning and Zoning Commission

- A. Purpose: Planning and Zoning Commission is created to accomplish the following purposes:
1. To identify community needs and advise the Council of their short-range and long-range implications for the total Development of the Village;
 2. To recommend achievable community goals as a basis for long-range planning and Development programs;

3. To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals;
4. To recommend to the Village Council the adoption, amendment and repeal of various provisions in the Village Comprehensive Plan;
5. To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies;
6. To recommend to the Village Council the adoption, modification and repeal of provisions in the Village's Zoning ordinances;
7. To recommend to the Village Council the initial and changes to the Zoning of the various parcels of land in the Village;
8. To recommend to the Village Council the adoption, modification and repeal of provisions in the Village's Subdivision ordinances;
9. To recommend to the Village Council the Approval, Approval with modification or rejection of various applications for Subdivision and re-subdivision of land within the Village;
10. To recommend to the Village Council the provisions for such other ordinances as from time to time may be requested by the Village Council;
11. The Commission shall recommend boundaries for the initial Districts and appropriate Zoning regulations for each district;
12. To consider and make recommendations to the Village Council for a Variance from the Site Development, Water Quality, and/or Subdivision Ordinance requirements. A Variance is defined as permission to depart from the specific provisions in the Site Development, Water Quality and/or Subdivision Ordinances by virtue of a unique hardship on a person's property. If a Variance is recommended by the Planning and Zoning Commission, it acts as a recommendation to the Village Council to allow a Variance from specific provisions in the Site Development, Water Quality, and Subdivision Ordinances, and may provide for alternative regulatory provisions to alleviate the unique hardship which would occur from compliance with the provisions of the applicable ordinance. The recommendation for granting a Variance does not amend the Site Development, Water Quality and Subdivision Ordinances, but it is a recommendation to the Village Council to grant a specific property where there are special circumstances and/or hardships justifying deviations from the standard provisions of the Site Development, Water Quality and Subdivision Ordinances;
13. To consider and make recommendations to the Village Council, upon a request for a special exception from the Site Development, Water Quality and/or Subdivision Ordinances. A special exception may only be recommended to the Village Council for those regulations identified by the Village Council to be subject to special exceptions, and only upon a showing of the parameters established by the Village Council for granting the special exception;
14. To consider and make recommendations to the Village Council upon an appeal of the determination or order of a Village Official on an issue that affects the Site Development, Water Quality and/or Subdivision Ordinance rights of a person. Upon the filing of an appeal, all proceedings in the furtherance of the action being appealed are stayed. If facts show that the stay would cause imminent peril to life or property, the action may be stayed only if a restraining order is granted by a district court;
15. To consider and make recommendations to the Village Council regarding non-conforming uses, including establishing an Amortization period for the termination of those uses. In establishing Amortization periods for a non-conforming use, the Commission may consider the amount the owner has invested in the property, the amount of recoupment of

- the investment during the Amortization period, the availability and location of other sites, and the extent to which the non-conforming use adversely affects the neighboring property;
16. In furtherance of their recommendations to the Village Council on amendment and repeal of various provisions in the Village Master or Comprehensive Plan the Planning and Zoning Commission with Approval of the Village Council will conduct Community Surveys of the Village's residents. The Commission will make recommendations on the content of the Community Survey to the Village Council and gain their Approval prior to conducting a Community Survey.
- B. Membership and Appointment: The Planning and Zoning Commission shall be composed of five (5) permanent and two alternate members. All the members shall reside in the Village. The Village Council will consider for appointment to the Commission those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to attend meetings. The Village Council shall strive to appoint members who, by reason of their occupations and the areas of the Village in which they reside, will be broadly representative of the community.
- C. Appointment of Chair: The Village Council shall appoint the Chair of the Planning and Zoning Commission.
- D. Terms of Office; Filling of Vacancies: The terms of two of the permanent and one of the alternate members shall expire on January 1st of each odd-numbered year and the terms of three of the permanent and one of the alternate members shall expire on January 1st of even-numbered years. Place numbers one through five shall identify the permanent members of the Commission. The alternate members shall not have place numbers but can substitute for any of the permanent members if he or she is unavailable to attend a Commission meeting. Commission members may be appointed to successive terms. A member of the Commission shall serve until his or her successor is appointed and installed. The Village Council shall fill vacancies for the uncompleted term of any vacant position. Newly appointed members shall be installed at the first regular Commission meeting after their appointment.
- E. Removal of Commissioners: The Village Council may by majority vote remove a permanent or alternate Commissioner for lack of confidence, incompetence, corruption, misconduct, or malfeasance. Any permanent Commissioner who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Commission. This section shall not apply to a Commissioner who applied for and received an excused absence from the Commission chairperson prior to the meeting(s) at issue. Any Commissioner who no longer resides within the corporate boundaries is deemed to have automatically vacated his/her position on the Commission.
- F. Motions at Meetings:
1. A motion may be made by any member other than the presiding officer. The presiding officer may second a motion and may vote on all matters considered by the Commission.
 2. A motion to approve any matter before the Commission or to recommend Approval of any request requiring Village Council action shall require a majority vote of the members present and voting.
- G. Disqualification from Voting: A member shall disqualify himself/herself from voting whenever the member has personal or monetary interest in a matter before the Commission that is substantially different from the interest of the other citizens of the Village, or if the value of the member's property will be affected in a substantially different manner than other properties within the Village.
- H. Rules of Procedure:
1. Organization and Officers:
 - i. From among its members the Commission shall elect the Vice Chair. The Chair, or in his/her absence, the Vice Chairperson shall preside at all meetings, and shall decide all points or order or procedure.

- ii. In the absence of both the Chair and Vice-Chair, the Commission shall elect an Acting Chair.
 - iii. The City Secretary shall be custodian of the minutes and other official records, shall attend to the correspondence of the Commission and shall cause to be given such notices as are required and in the manner prescribed by law.
 2. Rules of Order: Roberts Rules of Order, as amended, shall be the Commission's final authority on all questions of procedure and parliamentary law not covered by these Rules of Procedure.
- I. Meetings:
 1. Quorum: A quorum shall consist of three members.
 2. Agenda: The City Secretary shall prepare an agenda for each meeting of the Commission, and shall attach to each agenda a report of matters pending further action by the Commission. The City Secretary shall post a copy of the agenda in the City Hall and to the Village website as required by law for a period of three full calendar days, not counting the day of posting, but which may count the day of the meeting.
 3. Regular Meetings: The Commission shall conduct regular meetings once a month on the second Tuesday of every month at a regularly scheduled time. The initial meeting of the Commission shall be called by the Village Council
 4. Special Meetings: Special meetings for any purpose may be held: on the call of the Chair, or on request of two or more members and by giving written notice to all members deposited in the mail at least 72 hours before the meeting, or as may be scheduled by a majority of the Commission at any previous meeting. The convening authority shall determine the time and place of the special meeting
 5. Public Meetings: Any party in interest may appear in his/her own behalf or be represented by counsel or agent
- J. Official Records
 1. Official Records: The official records shall be the minutes of the Commission, together with all findings, decisions and other official records of the Commission.
 2. Recording of Vote: The minutes of the Commission's proceedings shall show the vote of each member, or indicate a member's absence or failure to vote.
 3. Records Retention: All matters coming before the Commission shall be filed in the Village's records. Original papers of all requests and proposals shall be retained as a part of the permanent record.
 4. Public Record: The official records and citizen requests filed for Commission action in regular or special meetings shall be on file in the City Hall and shall be open to public inspection during customary work hours
- K. Application Procedures
 1. Written Request Required: Every proposal submitted for Commission action shall be made in writing. Where appropriate, the Village shall provide application forms. The proposal shall be accompanied by all prescribed fees and shall be complete in all respects before the Village shall accept it for filing
 2. Schedules and Instructions: Every proposal or request for Commission action or recommendation shall be filed, processed and considered in accordance with this section.
 3. Submission and Supporting Information: Information supporting a request or recommendation to approve or disapprove any proposal before the Commission shall be submitted through the City Secretary in writing or to the Commission in public meeting.
 4. Withdrawal of Proposal: When any Applicant desires to withdraw his or her proposal, he or she may do so by filing a written request with the City Secretary. Such request shall be effective upon the date of its official receipt, provided, however, that no such request shall be valid after notices have been mailed, except on action of the

Commission. Withdrawal of a proposal at any stage of its processing shall terminate all consideration of it by the Village, and the case file shall be closed.

- L. Duties and Powers: The Planning and Zoning Commission is charged with the duty and invested with the authority to
1. Inspect property and premises at reasonable hours when required to discharge its responsibilities under the laws of the State and of the Village.
 2. Formulate and recommend to the Village Council for its adoption a Comprehensive Plan for the orderly growth and Development of the Village and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the Village.
 3. Formulate a Zoning plan as may be deemed best to carry out the goals of the Comprehensive Plan ; hold public hearings and make recommendations to the Village Council relating to the creation, amendment, and implementation of Zoning regulations and districts as provided in the Texas Local Government Code, as amended.
 4. Exercise all the powers of a Commission as to the Approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats as provided in the Texas Local Government Code.
 5. Study and make recommendations on the location, extension, planning, vacating, and closing of public rights-of-way, Parks and other public places.
 6. Formulate and recommend to the Village Council policies and regulations consistent with the adopted Comprehensive Plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the Village.
 7. Review and make recommendations concerning Annexation of land into the Village.
 8. Hear evidence and determine the matters set forth in Sec. 30.128 of this article.

Sec.30.139 Administrative Procedures for Changes and Amendments to Zoning Regulations and Districts:

A. Application:

1. Each application for zoning, Conditional Use permit, or for an amendment or change to the existing provisions of this article shall be made in writing on an application form available at the Village, filed with the Village, and shall be accompanied by payment of the appropriate fee. The application shall also be accompanied by additional information materials, such as plans, maps, exhibits, legal description of property, architectural elevations, information about proposed uses, as deemed necessary by the Village, in order to ensure that the written request is understood. A Conceptual Site Plan shall be submitted as prescribed in the Village's Site Development Ordinance, along with any application for a Conditional Use permit
2. All Zoning applications shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of a land owner's agent to file the change request.
3. All applications for Zoning changes and amendments shall be accompanied by a traffic impact analysis, which scope and content shall comply with the Village's Site Development Ordinance.
4. Official Submission Date and Completeness of Application:
 - i. For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application, that contains all elements and information required by this article, is first submitted to the Village. No application shall be deemed officially submitted until the Village determines that the application is

complete and a fee receipt is issued by the Village. Failure by the Village to make a determination of completeness within ten (10) calendar days following the date on which the application was first received by the Village, shall result in the application being deemed complete, and the "official submission date" shall become the tenth (10th) calendar day following initial receipt of the application by the Village.

- ii. Zoning related applications which do not include all required information and materials will be considered incomplete, shall not be accepted for official submission by the Village, and shall not be scheduled on a Commission agenda until the proper information is provided to the Village.

B. Public Hearing and Notice:

1. For Zoning or re-zoning requests involving real property, or for Conditional Use permits, the Commission shall hold at least one (1) public hearing on each application. For proposed changes to District boundaries including re-zoning requests, notice of the Commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing before the fifteenth (15th) date of the before the public hearing. Written notice of the public hearing to occur before the Commission shall also be sent to all owners of property, as indicated by the most recently approved Village tax roll, that is located within the area of application and within two hundred feet (200') of any property affected thereby, said written notice to be sent before the tenth (10th) day before the hearing date. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, with first class postage paid, in the United States Mail.
2. For requests involving proposed changes to the text of this article, notice of the Commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing before the fifteenth (15th) day before the date of the public hearing. Changes in the text of this article which do not change District boundaries, or which do not involve specific real property, do not require written notification to individual property owners.
3. The Village may, at its option, establish additional rules and procedures for public notification of proposed Zoning changes or Development proposals such as site plans, plats and Developer agreements, which may include, but not be limited to, the posting of a Sign(s) on any property that is proposed for a Zoning change or Development by the Applicant or its agent(s). Adherence to such rules and procedures, if so established by the Village, shall be the responsibility of the Applicant and shall be required as part of a Zoning change.
4. Parliamentary procedures shall be established by the council.

- C. Failure to Appear: Failure of the Applicant or representative to appear before the Commission or the Council for more than one (1) hearing without an approved delay by the council, shall constitute sufficient grounds for the Commission or the Council to table or deny the application unless the Village is notified in writing by the Applicant that the Applicant will be unable to appear, at least seventy-two (72) hours prior to the hearing.

D. Commission Consideration and Recommendation:

1. The Commission shall function in accordance with the applicable provisions in the Village's code of ordinances.
2. The Commission shall hold a public hearing on a Zoning or re-zoning request, or application for Conditional Use permit, or a proposed text amendment to this article. After all public input has been received and the public hearing closed, the Commission shall make its recommendations on the proposed Zoning request application, and Conceptual Site Plan, if submitted, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the Village's Comprehensive Plan . The Commission may, on its own motion or at the applicant's written request, defer its recommendations until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the Commission elects to table the request,

such tabling shall specifically state the time period of the tabling by citing the meeting date whereon the request will reappear on the Commission's agenda.

3. When the Commission is ready to act upon the Zoning request, it may recommend Approval of the request as it was submitted by the applicant, Approval of the request subject to certain conditions, or disapproval of the request. The Commission's recommendation will be automatically forwarded to the Council for a second (2nd) public hearing thereon.
4. If the Commission recommends denial of the Zoning change request, it shall provide written reasons to the Applicant for the denial, if requested by the applicant. The Commission chairperson shall inform the Applicant of the right to request reasons for the denial.

E. Council Consideration and Approval:

1. Applications Forwarded From the Commission to Council: Every application or proposal shall be automatically forwarded, along with the Commission's recommendation to the Council for setting and holding of public hearing thereon following appropriate public hearing notification as prescribed in subsection B(2) above.
2. Council Action on Zoning, Rezoning, Conditional Use Permits and Text Amendment Requests: After a public hearing is held before the council regarding the Zoning application, the Council may approve the request in whole or in part, deny the request in whole or in part, table the application to a future meeting, specifically citing the Council meeting to which it was tabled, or it may refer the application back to the Commission for further study
 - i. Council Approval of a Zoning application forwarded with a Commission recommendation of Approval or Approval subject to certain conditions shall be by affirmative vote of the majority of the Council members present and voting.
 - ii. Council Approval of a Zoning application forwarded with a Commission recommendation of denial shall be by affirmative vote Council of at least seventy-five percent (75%) of the entire Council membership.
 - iii. If the Council approves the amendment request, then subsection E(4) below will apply.
 - iv. If the Council denies the request, then no other Zoning application may be filed for all or part of the subject tract of land, or for that portion of this article, or in the case of a text amendment request submitted by a property owner or citizen, for a waiting period of six (6) months following the denial. In the instance that the request was initiated by the Council and involved a proposed amendment to the text of this article, then there is no waiting period before the request can be reconsidered.
 - v. The Council may, at its option, waive the six (6) month waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.
3. Protests: For Zoning requests involving real property, an affirmative vote of at least seventy-five percent (75%) of all members of the Council shall be required to approve any change in Zoning when written objections are received from land owners of twenty percent (20%) or more of the land area covered by the proposed change, or of the land area within two hundred feet (200') of the subject property, in compliance with the provisions of Section 211.006 of the Texas Local Government Code. If a protest against such proposed amendment, supplement or change has been filed with the Village, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the land included in such a proposed change or those immediately Adjacent to the area thereof extending two hundred feet (200') therefrom, such amendments shall not become effective except by an affirmative vote of at least seventy-five percent (75%) of all members of the council.

4. Final Approval and Ordinance Adoption: Upon Approval of the Zoning request by the council, the Applicant shall submit all related material with revisions, if necessary, to the Village for the preparation of the amending ordinance. The Zoning request shall be deemed approved at the time the Council makes a decision to approve the request as submitted or with certain conditions. However, the amending ordinance will not be prepared or formally adopted until a correct description and all required exhibits have been submitted to the Village.

Sec.30.140 Ordinance Interpretation. In the interpretation and application of the terms and provisions of this article, the following regulations shall govern:

- A. Liberally Construed: In the Village's interpretation and application, the provisions of this article shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, and welfare. This Village shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
- B. Highest Standards Govern: Whenever a provision of this article and any other provision of this article, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are most restrictive or impose higher standards or requirements shall govern.
- C. Resolution of Conflicting Interpretations: Where there arises a question concerning the meaning or intent of a provision of this article, a written decision setting forth the manner in which said provision shall be interpreted and administered is encouraged. In the event any interested party takes exception to such a decision the matter may be appealed to the Board of adjustment.
- D. Written Decisions Binding: Any final written decision made as provided in subsection (c) above shall be archived and shall govern interpretation of this article until such time as an amendment of this article shall nullify such decision, or the decision is over-ruled or rescinded by the council.
- E. State Law: The terms, provisions and conditions of this article shall be interpreted and applied in a manner consistent with state law and Chapter 211 of the Texas Local Government Code
- F. Comprehensive Plan: All Zoning applications shall conform to the Comprehensive Plan for the Village and be consistent with all of the elements thereof.
 1. Where the proposed Zoning application is inconsistent with one (1) or more of the elements of the Comprehensive Plan, the Applicant may petition the Village for amendment to the particular element or elements of the Comprehensive Plan either prior to, or concurrent with, submitting a Zoning request. Inconsistency with the provisions of the Comprehensive Plan shall be grounds for disapproval of the Zoning application by the Village.
 2. Where the proposed Zoning is for a District or category provided for in this article but that is not included on the Comprehensive Plan existing on the date of this article, or not existing on the date of such application, the Applicant shall propose an amendment to the Comprehensive Plan and provide information and documentation in support of such amendment.
- G. Consistency with Village Ordinances: All Development projects within the corporate limits of the Village shall be in conformance with the Village's code of ordinances. Where the proposed Development requires a Zoning classification or Approval other than that currently applying to the property to be developed, the Developer shall make appropriate application to secure the necessary Zoning classification or Approval required for the proposed Development would comply with this article.
- H. Application of Conflicting Ordinances. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or

inconsistency between this ordinance and any other ordinance of the city, the terms and provisions of this ordinance shall govern.

Sec.30.141 Fees: To defray the costs of administering this article, the Applicant seeking Zoning Approvals shall pay to the Village, at the time of submittal, the prescribed fees as set forth in the Village's current Fee Ordinance approved by the council.

Sec.30.142 Amendments: The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this article. This article may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

Sec.30.143 Violations: Except as otherwise provided for in this article, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or Block of land within the Village's territorial jurisdiction, unless such lot, parcel, tract or Block of land conforms with this article.

Sec.30.144 Enforcement:

- A. Administrative Action: The Village shall enforce this article by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this article and good engineering practices, and the issuance of stop work orders.
- B. Stop-Work Order: The City Building Official or other duly authorized Village Official may order all work, including site clearing or other site preparation, stopped on any site where a violation of this chapter is found. Any person, including a workman on the site, who fails to comply with a stop work order shall be found guilty of a misdemeanor punishable as provided in the penalty section hereof.
- C. Penalties: Any person, firm or corporation who violates any provisions of this chapter is subject to a civil penalty of not less than one hundred dollars (\$100.00) but not more than \$2,000.00, unless otherwise stated in this chapter for a particular violation permitted by law for each act of violation and for each day of violation. The owner or tenant of any building, structure or premises and any architect, builder, agent, or other person who knowingly commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties provided herein.
- D. Court Proceedings: Upon the request of the council, the Village Attorney shall file an action in the District courts to enjoin the violation or threatened violation of this article, or to obtain declaratory judgment relief, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the Village to undertake any construction or other activity necessary to bring about compliance with the provisions of this article.

DIVISION 6: GENERAL PROVISIONS

Sec.30.145 Construction: The terms and provisions of this article shall not be construed in a manner to conflict with *Chapter 211 of the Texas Local Government Code* and if any term or provision of this article shall appear to conflict with any term, provision or condition of *Chapter 211*, such article term or provision shall be read, interpreted and construed in a manner consistent with and not in

conflict with such Chapter, and, if possible, in a manner to give effect to both. The standard and accepted rules of statutory construction shall govern in construing the terms and provisions of this article.

Sec.30.146 Amendment and Repeal: All ordinances or parts thereof conflicting or inconsistent with the provisions of this article as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this article and any other code or ordinance of the Village, the terms and provisions of this article shall govern.

Sec.30.147 Severability: If any provision of this article 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 article are declared to be severable.

Sec.30.148 Effective Date: This article shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code*.

Sec.30.149 Open Meetings: It is hereby officially found and determined that the meeting at which the enacting ordinance of this article is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code*.

Sec.30.150 Penalty: Any person who shall violate 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 two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

PASSED AND APPROVED on the XXth day of xxxxx, 2016.

Ken Beck,
MAYOR OF THE VILLAGE OF VOLENTE

ATTEST:

XXXXX, CITY SECRETARY

Chart 1
(Includes New or Remodel)

District & Category	SR	SRR	SRC	SR1	MFR	C1	C2	C3	GOV OS	UD	PDD
Minimum Lot Size	1 acre	1 acre	1 acre (2)	N/A	1 acre (6)	N/A	N/A	N/A	N/A	N/A	For regulations regarding the PDD see Section 30.124
Front Setback, feet	50	50	30	15	30	25	25	35	25	100	
Side Setback, feet (1)	20	40	20	5-20 (3)	25	15 (4)	15 (4)	20 (4)	15	25ft (50ft if abutting residential)	
Road Side Setback, feet (1)	20	20	20	15	25	15	15	20	25	50	
Rear Setback, feet	20	20	20	15	25	15 (4)	15 (4)	20 (4)	15	15ft (30ft if abutting residential)	
Height, feet	35	35	35	35	35	35	35	35	35	25	
Minimum Dwelling Unit Square Feet	1,000	1,000	1,000	1000 (500 if under 1/2 acre)	1,000	N/A	N/A	N/A	N/A	N/A	
Minimum Lot Width, feet	125	200	125	N/A	125	N/A	N/A	N/A	60	N/A	
Impervious Cover %	25 (7)	25 (7)	25 (7)	25-45 (5)	25 (7)	35-45 (8)	35-45 (8)	35-45 (8)	35	25 (7)	

1. Measured at the foremost part of the foundation or front *Setback Line*, whichever is greater
 2. Maximum density of one (1) home per acre in subdivision
 3. Value is graduated based upon lot width. Formula: Side Setback = 500/(150 - Lot Width), minimum value = 5, maximum value = 20.
 4. 35 feet when abutting Residential to include vegetative or constructed buffer/shield
 5. Value is graduated based upon lot size. Formula: Impervious Cover = -(0.0005 x Lot Size, SF) + 45 Maximum impervious cover value range is from 25-45%*
 6. Maximum density of four (4) units per acre
 7. Impervious cover shall not exceed 25% except for mitigation using rain water collection which can add up to 5% per the LCRA Technical Manual
 8. Value is graduated based upon lot size. Formula: Impervious Cover = -(0.0005 x Lot Size, SF) + 56, Maximum impervious cover value range is from 35-45%*
- *Lots over 1 acre are defaulted to the minimum value in the range, despite calculations resulting in a percentage lower than the minimum value

Chart 2

(Parking Requirements)

See Also – Section 30.108(K)

Use *	Number of Parking Spaces
Residential dwellings, single to multi-family	Two spaces minimum for each living unit,
Warehouse, Convenience Store, Offices, Retail Shop and similar uses	One space per 250 Sq. Ft. of floor area.
Restaurants, Cafés, Bars and similar uses	One space per 150 Sq. Ft. of floor area.
Marinas and similar uses	One space for every four boat slips
Hotels, Motels, Hospitals, Institutions, Commercial Amusement (indoors and outdoors), and similar uses	One space per 150 Sq. Ft. of floor area.
Utility Districts	One space per 250 Sq. Ft. of floor area.
<i>* Any use not listed above requires Planning & Zoning and/or Administrative Approval as a conditional use. Additionally, any use providing a drive-thru to customers must provide a ninety-foot (90') concrete or asphalt driveway</i>	

Chart 3

(Zoning Districts)

Designation	Zoning District Name
SR	Single Family Residential
SR1	Single Family Residential Historical
SRR	Single Family Residential Ridgeway
SRC	Single Family Residential Cluster
MFR	Multi-Family Residential
OS	Open Space
PWGU	Private Way for General Use
GOV	Governmental or Institutional
C1	Commercial Retail
C2	Commercial Retail with Restaurant
C3	Commercial Marina/Entertainment
UD	Utility District
PDD	Planned Development District