VILLAGE OF VOLENTE

SIGN ORDINANCE

ORDINANCE NO. 2007-O-86

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, AMENDING THE REGULATION OF SIGNS WITHIN THE VILLAGE LIMITS, PROVIDING FOR THE FOLLOWING: NAME, LEGISLATIVE FINDINGS; PURPOSE; DEFINITIONS; PERMIT REQUIREMENT; VARIANCE PROCEDURE; PROHIBITIONS ON CERTAIN SIGNS; REQUIREMENTS FOR ON-PREMISE SIGNS; RESTRICTIONS FOR OFF-PREMISE SIGNS; SPECIFIC STANDARDS FOR CERTAIN SIGNS; ALLOWANCES FOR LIMITED NONCONFORMING SIGNS; ENFORCEMENT TO INCLUDE A MAXIMUM CRIMINAL FINE OF $500 PER VIOLATION, CIVIL PENALITIES NOT TO EXCEED $100 PER VIOLATION, AND INJUNCTIVE RELIEF INCLUDING SIGN REMOVAL; DECLARATION OF CERTAIN SIGN VIOLATIONS AS A PUBLIC NUISANCE; SEVERABILITY; EFFECTIVE DATE; PUBLIC NOTICE AND MEETING; REPEALER.

WHEREAS, the City Council of the Village of Volente seeks to provide for the orderly development of land and use of property within its corporate limits; and

WHEREAS, the City Council seeks to maintain the value of Volente's scenic and natural resources, which are the keystones of the Village's economic strength and quality of life through a comprehensive regulatory program that includes land use and development ordinances restricting signs; and

WHEREAS, the City Council finds that improperly constructed and poorly maintained signs can be safety hazards that constitute a public health risk, and can devalue adjacent properties; and

WHEREAS, the City Council finds that certain signs overwhelm the public, unduly distract and confuse motorists by diverting attention away from the roadway, and result in safety threats to vehicular and pedestrian traffic; and

WHEREAS, the City Council finds that certain signs constitute aesthetic harm by cluttering the rural landscape and highway corridors and adversely affecting the naturally scenic views and native environment; and

WHEREAS, the City Council finds that certain signs may conceal or obstruct windows, doors, or significant architectural features or details of buildings; and

WHEREAS, the City Council finds that properly constructed and maintained signs can create a

pleasing environment for residents, visitors, shoppers and the entire community; and

WHEREAS, the City Council finds it to be in the best interest of the public safety, health and general welfare to regulate the construction, design, repair, demolition, maintenance and use of signs so to preserve the quality of life for Village residents, visitors and property owners, maintain the public rights-of-way, prevent threats to public safety, prevent traffic hazards, restrict signs that unduly interfere with scenic views and constitute a public nuisance, deter signs that are detrimental to property values; and

WHEREAS, the City Council finds it to be in the best interest of the public to regulate signs so as to promote roadway and pedestrian safety, encourage effective communication with the public, improve the appearance of the Village, and uphold the principles of free speech, including commercial speech and enhance the community's small town character while preserving the authentic cultural heritage of the area within the boundaries of the Village;

WHEREAS, the City Council believes that specific provisions should be made with respect to the permitting and placement of temporary real estate signs and subdivision layout signs; and

WHEREAS, the City Council is authorized to regulate signs within the corporate limits of the Village by virtue of the Texas Constitution, the Village's police power and by the Texas Local Government Code, Chapters 51, 54, 211, 216, and 217.

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

ARTICLE 35.100 SIGN REGULATIONS

DIVISION 1. ENACTMENT PROVISIONS

Sec. 35.101 Name

This Ordinance shall commonly be referred to as the Volente "Sign Ordinance."

Sec. 35.102 Legislative Findings

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

Sec. 35.103 Purpose

This Ordinance provides standards for the erection and maintenance of signs within the Village of Volente. All signs not exempted as provided in this Ordinance shall be erected and maintained in accordance with these standards. The general objectives of these standards are to promote health, safety, welfare, convenience and enjoyment of the public, and in part to achieve the following:

(1) **Safety**: To promote the safety of persons and property by providing that signs do not:

(a) Create a hazard due to collapse, fire, decay or abandonment;
(b) Obstruct firefighting or police surveillance;
(c) Create traffic hazards by confusing or distracting pedestrians, obstacles or other vehicles or to read traffic signs; or
(d) Become obstacles that hinder the ability of pedestrians or motorists to read traffic signs.

(2) **Communications efficiency:** To promote the efficient transfer of information in sign messages provided that:

(a) Those signs which provide public safety messages and information are given priorities;
(b) Businesses and services may identify themselves;
(c) Customers and other persons may locate a business or services;
(d) No person or group is arbitrarily denied the use of the sight lines from the public rights-of-way for communication purposes;
(e) Persons exposed to signs are not overwhelmed by the number of messages presented and are able to exercise freedom of choice to observe or ignore such messages, according to the observer's purpose; and
(f) Preserve the right of free speech exercised through the reasonable use of signs.

(3) **Landscape quality and preservation:** To protect the public welfare and to enhance the appearance and economic value of the landscape, by providing that signs:

(a) Do not interfere with scenic views;
(b) Do not create a nuisance to persons using the public rights-of-way;
(c) Do not create a nuisance to occupants of adjacent and contiguous property by their brightness, size, height, or movement;
(d) Are not detrimental to land or property values;
(e) Do not contribute to visual blight or clutter; and
(f) Are architecturally compatible and harmonious with the structure to which they pertain and to neighboring structures.

Sec. 35.104 Scope

This Ordinance provides regulatory standards throughout the Village's incorporated municipal boundaries and its entire extraterritorial jurisdiction.

Sec. 35.105 Definitions.

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases which are not defined in this Ordinance but are defined in other ordinances of the Village of Volente shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

(1) **Advertising Devices:** Banners or streamers affixed to poles, wires, or ropes, wind operated devices, flashing lights, and other similar contrivances.

(2) **Area (*Sign Area*):** The largest area of the sign visible at any one time from any one point enclosed by a single continuous perimeter including any framing or trim enclosing a message, but not including any structural parts lying outside the limits of such sign which does not form an integral part of the message display. The sign area shall be measured on only one side of a double-faced sign provided that the two faces are parallel to each other and provided that the faces are the same size and share a common structural support.

(3) **Awning:** Any structure made of cloth or metal with a metal frame attached to a building which may be fixed or can be retracted to a position flat against the building when not in use. An approval of a right-of-way license by the City Council is required for sign projection into the public street right-of-way.

(4) **Canopy:** Any structure, other than an awning, made of cloth or metal with metal frames attached to a building which is carried by a frame supported by the ground or sidewalk. An approval of a right-of-way license by the City Council is required for sign projection into the public right-of-way, even if legs of a canopy sign project into sidewalk.

(5) **Curb Line:** An imaginary line drawn along the outermost part or back of the curb and gutter on either side of a public street, or, if there is no curb and gutter, along the outermost portion of the paved roadway, or if there is no paved roadway, along the edge of the traveled portion of the roadway.

(6) **Erect:** To build, construct, attach, hang, install, place, suspend, or affix. The term also includes the painting of signs, unless the painting constitutes routine maintenance or repair of a pre-existing sign.

(7) **Façade:** Any separate face of a building which encloses or covers usable space.

(8) **Face, Facing** or **Surface:** The surface of the sign, excluding structural trim or supports, upon, against, or through which the message is displayed or illustrated on the sign.

(9) **Free Standing Service Facility:** Automatic bank teller machine, film photo finishing outlet or other similar facility located in a free-standing structure devoted solely to such use as an accessory to one or more principal buildings.

(10) **Height (*Sign Height*):** The vertical distance between the base of the sign at the nearest natural or finished grade to the highest part of the sign or any attached component.

(11) **Incombustible Material:** Any material which will not ignite at or below a temperature of 1200 degrees Fahrenheit and will not continue to burn or glow at that temperature.

(12) **Responsible Person:** Any person who erects, relocates, expands or structurally alters a sign within the Village of Volente. The term includes a person who owns, rents or leases the property upon which a sign is erected, relocated, expanded, or structurally altered within the Village. The term also includes a person who owns a sign or the structure upon which a sign is placed or publicly displayed.

(13) **Ordinary Repairs and Maintenance:** Routine upkeep of existing signs, such as painting, patching holes, replacing hardware, replacing light bulbs. This term does not include alterations to the size, shape, orientation, height, or location. Ordinary repairs and maintenance does not require a Village permit.

(14) **Outparcel:** A structure, building, lot, or other facility that services or is otherwise a part of a larger property or enterprise but which is detached from or located a distance from the larger property.

(15) **Permittee:** A person receiving a permit pursuant to the provisions of this Ordinance.

(16) **Person:** Any natural person, firm, partnership, association, corporation, company or organization of any kind.

(17) **Setback Clearance Zone:** That area enclosed by drawing an imaginary line connecting two points located within fifteen (15) feet of the curb line of any corner of a street intersection, street/driveway intersection, or street/alley intersection, within which signs over two (2) feet in height and less than eight (8) feet in height are prohibited. The setback clearance zone prevents signage from interfering with the line of site for pedestrian and vehicular traffic.

(18) **Sign:** An outdoor structure, display, light device, painting, drawing, message, plaque, poster, billboard, writing, pictorial representation, illustration, emblem, symbol, design or other thing that is designed, intended or used to advertise or inform. As used in this Ordinance, the term specifically includes any structure or a part thereof, or is attached to or in any manner represented on a building or other structure, and is placed out of doors in view of the general public and is used for purposes of advertisement, identification, or expression.

(19) **Sign, Agricultural:** A sign identifying the farm or ranch on which it is placed and advertising the produce, crops, animals or poultry raised or quartered thereon.

(20) **Sign, Apartment Name:** A sign for the identification of an apartment building or complex of apartment buildings.

(21) **Sign, Awning:** An on-premise sign that is mounted or painted on or attached to an awning, canopy or marquee such that the sign does not project more than one (1) foot above, below or beyond the physical dimensions of the awning, canopy, or marquee.

(22) **Sign, Billboard:** An off-premises sign having a total surface area that exceeds sixty-four (64) square feet. Billboards are prohibited. No person shall erect a billboard.

(23) **Sign, Canopy:** An on -premise sign that is mounted or painted on or attached to an awning, canopy or marquee such that the sign does not project more than one (1) foot above, below or beyond the physical dimensions of the awning, canopy, or marquee.

(24) **Sign, Construction:** A temporary sign identifying the property owner, architect, contractor, engineer, landscape architect, decorator or mortgagee engaged in the design, construction or improvement of the premise on which the sign is located.

(25) **Sign, Development:** A temporary sign related to the promotion of new land developments and located on the premises involved in the development.

(26) **Sign, Double Faced** (*Back to Back*)**:** An advertising structure with two closely located signs with faces in opposing directions, with less than a 15 degree angle between the sign faces. Any structure with more than a 15 degree angle between sign faces will constitute two signs.

(27) **Sign, Flashing:** A sign, the illumination of which is not constant in intensity when in use, but not including illuminated signs that indicate the date, time or temperature, or other public service information shall be considered a flashing sign. No person shall erect a Flashing Sign.

(28) **Sign, Free-Standing:** Any sign supported by uprights or braces placed into or upon the ground and not attached to any building. Standards for off-premise advertising are addressed separately in Section 5, below.

(29) **Sign, Home Occupation:** Any sign located on a residential tract upon which the owner/occupant of the residence operates a small business as a secondary use.

(30) **Sign, Illuminated:** Any sign which has characters, letters, figures, designs or outlines illuminated externally by electric lights or internally by luminous tubes. The term includes a sign illuminated in any manner by an artificial light source of any kind, either detached from the sign or a part thereof. Signs that are only incidentally and indirectly

illuminated as a result of a site's lighting plan primarily designed as security lighting or landscape lighting are not illuminated signs.

(31) **Sign, Institutional:** A sign identifying a school, church, hospital or similar public or quasi-public institution.

(32) **Sign, Marquee:** See "Sign, Awning."

(33) **Sign, Moving:** Any sign which moves or has moving parts other than parts which indicate time or temperature.

(34) **Sign, Name Plate:** A sign which is located on the premises, giving the name and/or address of the owner or occupant of a building or premise.

(35) **Sign, Off-Premise:** A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located. The term also includes a sign that does not refer exclusively to the name, location, persons, accommodations, sale, lease, construction, or activities of or on the premises where it is erected. The premises of a shopping center include the outparcels.

(36) **Sign, Political:** A sign announcing or advocating support of candidates for public office or ballot propositions connected with any local, state or federal election.

(37) **Sign, Portable:** A transportable sign of durable construction on wheels, skids, legs, or framing including trailers and searchlights, the principal intent of which is for advertising or promotional purposes, and which is not designed nor intended to be permanently affixed to a building, other structure or the ground. A portable sign that only has its wheels removed shall still be considered a portable sign. Portable signs are prohibited. No person shall erect a portable sign.

(38) **Projecting Sign:** Any sign which is attached to a building or other structure and extends beyond the line of the building or structure or beyond the surface of that portion of the building or structure to which it is attached. A marquee is a projecting sign for this portion of the ordinance. Horizontal Projecting Sign means any sign which is greater in width than in height. Vertical Projecting Sign means any sign which is greater in height than in width.

(39) **Sign, Temporary Subdivision Layout:** An on-premise sign showing the plat of a new subdivision consisting of six or more lots.

(40) **Sign, Temporary:** Any sign that is used temporarily and is not permanently mounted, constructed of cardboard, cloth, canvas, fabric, plywood, or similar lightweight material. A portable sign is not a temporary sign.

(41) **Sign, Vehicle:** A sign affixed to a vehicle not customarily and regularly used to transport persons or properties.

(42) **Sign, Wall:** An on-premise sign affixed to, or painted on, the facade of a building such that the wall is the supporting structure for, or forms the background surface of the sign and which does not project more than eighteen (18) inches perpendicular to the wall. A wall sign shall include canopy signage associated with gasoline service stations and shall be limited to gas price, name, and company identification. A fence sign shall be considered a wall sign.

(43) **Structural Trim:** The molding, battens, capping, nailing strips, lattice, and platforms which are attached to the sign structure.

(44) **Temporary Real Estate Signs:**
A sign not to exceed four (4) square feet, that advertises the sale, rental or lease of the premises upon which the sign is located.

(45) **Village:** The Village of Volente, an incorporated municipality located in Travis County, Texas. As applied in this Ordinance, the term encompasses area in the incorporated municipal boundaries (i.e., city limits). The term may also refer to employees, agents or other designee of the Mayor and/or City Council of the Village of Volente.

DIVISION 2. SIGN PERMITS

Sec. 35.106 Permit Required

Except as provided in the section of this ordinance on nonconforming signs, it is unlawful for any person to erect, construct, expand, relocate, or structurally alter, within the Village of Volente, any sign without first obtaining a permit from the Village and paying the required fee(s). No permit is required for ordinary repair and maintenance. Failure to obtain a required sign permit subjects the property owner/lessee to enforcement action under this Ordinance as a responsible person. A permit is required to reconstruct a damaged or deteriorated non-conforming sign. A permit is not required for demolition of a sign.

Sec. 35.107 Application for Sign Permit

Application for a sign permit must be made on a form provided by the Village and shall contain and have attached the following information:

(1) Name, address and telephone number of the applicant;

(2) Name and firm of person erecting sign;

(3) If applicant is not the owner of real property where sign is proposed to be erected, written consent of the property owner;

(4) Location of building, structure, address or legal lot and block to which or upon which the sign is to be attached or erected;

(5) A site plan indicating position of the proposed sign and other existing advertising structures in relation to nearby buildings or structures, north arrow, and scale of drawing, property lines, curb lines, adjacent streets, alleys, curb cuts, setback clearance zone.

(6) Copy of stress diagrams or plans, when needed, containing information as to safety and structural integrity of sign. Note that the Village assumes no liability for safety & structural integrity.

(7) Statement indicating whether the sign will require electricity. If so, the sign must comply with the International Electrical Code, or any successor code enacted by the Village.

(8) Copy of permit approved by Texas Department of Transportation, Texas Transportation Commission, Travis County, or successor agencies, if state law requires a state permit.

(9) Such other information as the Village requests to show full compliance with this and all other standards of the Village.

The Village is not required to act upon a permit application until it is deemed by the Village to be administratively complete.

Sec. 35.107.5 Temporary Real Estate Sign Permit

An Application for a Temporary Real Estate Sign permit must be made on a form approved by the Village and shall contain the following information:

1. Name and telephone number of applicant
2. Address and location of where sign will be located
3. Such other information as requested by Village

Sec. 35.108 Permit Issuance

Consideration, evaluation, and approval or denial of applications for sign permits will be performed by the City Council of the Village or Council's designated representative. Upon the filing of an administratively complete application for a permit, the Village shall take action on the permit application within forty-five (45) days of receipt of the application unless the applicant requests a voluntary postponement. The Village may:

(1) Examine the plans and specifications and the premises upon which the proposed sign shall be erected as needed; and

(2) Issue a permit if the proposed structure complies with the requirements of this Ordinance and all other standards of the Village of Volente. If the work authorized under an erection permit is not completed within six (6) months after the date of issuance, the permit shall become null and void.

(3) A Temporary Real Estate Sign permit shall be issued upon application and payment.

Sec. 35.109 Permit Fee

Every applicant, prior to issuance of a permit, shall pay the Village a nonrefundable fee in an amount determined by current sign permit rates as may from time to time be established and modified by the City Council.

Sec. 35.110 Revocation of Permit

The Village may revoke any permit where there has been a violation of the provisions of this Ordinance or a misrepresentation of fact on the permit application.

Sec. 36.111 Exemptions

The following signs are exempt from the permit requirements of this Ordinance:

(1) **Construction Signs** temporarily identifying the architect, engineer, developer or contractor when placed upon construction sites and not exceeding thirty-two (32) square feet in area. Such signs shall not be erected prior to issuance of a building permit and shall be removed no later than seven (7) days after completion of the project.

(2) **Flags** of any governmental entity or agency, or any patriotic, religious, charitable, civic, educational or fraternal organization not exceeding forty (40) square feet in area and thirty (30) feet in height.

(3) **Garage Sale Signs** advertising the date, time and location of a garage sale, estate sale, or yard sale. These signs must not exceed four (4) square feet in area. Such signs shall be posted no more than three (3) days prior to and removed one (1) day after the sale.

(4) **Hand-held Signs** of a not set on or affixed to the ground and not exceeding ten (10) square feet in area.

(5) **Historic Signs** that are an integral part of the historic character of a landmark building or historic district.

(6) **Holiday Signs** used as temporary displays or decorations customarily associated with any national, state, local or religious holiday or celebration. Such signs shall be erected no more than forty-five (45) days before and removed no later than fourteen (14) days after the celebration.

(7) **Home Occupation Signs,** provided that there is no more than one sign per residence, and the sign is no larger than eighteen inches by eighteen inches (18" x 18") and is setback at least ten (10) feet from edge of the road.

(8) **Public Signs** regulating vehicular or pedestrian traffic or designating or giving direction to streets, schools, hospitals, historical sites or public facilities.

(9) **Memorial Signs**, commemorative plaques or tablets denoting a building name and/or date of erection of a location of historic significance and not exceeding four (4) square feet in area.

(10) **Occupational Signs** identifying the different tenants occupying a professional office, or commercial building not exceeding two (2) square feet in area.

(11) **Political Signs** containing primarily a political message if the political signs are on private property, are not located within the public right-of-way, do not exceed a surface area of thirty-six (36) square feet, are not artificially illuminated, and do not have moving parts.

(12) **Property Identification Signs** indicating address and not exceeding two (2) square feet in area.

(13) **Special Events Signs** that are temporary and in conjunction with special events such as a philanthropic campaign or church, school, circus, carnival or other community activity. Such signs shall not exceed thirty-two (32) square feet in area, shall not be erected more than fourteen (14) days in advance of the event and shall be removed within three (3) days after the termination of the event. A single temporary sign in conjunction with a special event such as "Grand Opening" or "Special Sale" shall not exceed thirty-two (32) square feet in area. It shall not be erected more than fourteen (14) days in advance of the event and shall be removed within one (1) day after the termination of the event. A temporary sign advertising a regular monthly event shall not exceed thirty-two (32) square feet in area and shall not be erected more than three (3) days in advance of the event and shall be removed within one (1) day after the termination of the event.

(14) **Window Signs** attached to the inside of a window and not exceeding four (4) square feet in area which do not exceed twenty-five (25%) percent of the area of the window pane.

DIVISION 3. PROHIBITIONS

Sec. 35.112 Compliance Required

No person shall erect, construct, relocate, expand or structurally alter signs in the Village's incorporated municipal boundaries without complying with this Ordinance.

Sec. 35.113 Permits Required

It is unlawful to erect or maintain a sign in violation of the permit requirements of this Ordinance.

Sec. 35.114 Maintenance Required

It is unlawful to inadequately maintain a sign so as to show evidence of deterioration, including rotting supports, peeling, rust, dirt, fading, discoloration or holes.

Sec. 35.115 Discontinued Content

It is unlawful to publicly display a sign in excess of ninety (90) days advertising a business, proposition or project that has concluded. It is unlawful to publicly display a sign that does not contain any message a period of one (1) year or more. Such a discontinued sign is required to be removed. This prohibition does not apply to political signs.

Sec. 35.116 Obstructions Prohibited

It is unlawful to erect or maintain a sign in a manner that prevents free ingress to or egress from any door, window or fire escape.

Sec. 35.117 Traffic Hazards Prohibited

No sign shall:

(1) Obstruct free and clear vision at any street intersection.
(2) Interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device because of its position, shape or color.
(3) Make use of the words "STOP", "LOOK", "DANGER" or any other word, phrase, symbol or character in a manner that interferes with, misleads or confuses traffic.
(4) Present a traffic hazard by using illumination resembling an emergency signal.

Sec. 35.118 Safety Hazards Prohibited

No sign or other advertising structure shall constitute a hazard to safety or health by reason of inadequate design, construction, repair or maintenance and if so, may be declared a public nuisance and be forwarded to the Village for action.

Sec. 35.119 Right-of Way

No signs may be erected or placed upon the public right-of-way or affixed to any public utility poles. This prohibition does not apply to governmental entities or utilities, their agents or assigns except as permitted in Sec. 35.140.5

Sec. 35.120 Obscenity Prohibited

No sign shall display any matter in which the dominant theme of the material taken as a whole appeals to a prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value.

Sec. 35.121 Prohibited Categories of Signs

The following types of signs are prohibited:

(1) Flashing signs
(2) Vehicular Signs
(3) Vehicular Trailer signs
(4) Bench Signs
(5) Trash Receptacle Signs

(6) Billboard Signs
(7) Roof Signs
(8) Portable Signs
(9) Satellite Dish signs

DIVISION 4. ON-PREMISE SIGNS

Sec. 35.122 Advertising

Signs may advertise and promote the business or use conducted directly on the property where the sign is located.

Sec. 35.123 Illumination

Signs may be illuminated internally or externally. Illumination shall be constant and represent no traffic hazard. No lighted sign shall be erected within 150 feet of a residential area unless the lighting is shielded from the view of the residential area.

Sec. 35.124 Movement

Signs shall not be permitted to move or rotate in any manner by mechanical means that are designed to attract the attention of motorists or pedestrians.

Sec. 35.125 Materials

Signs shall be constructed from materials consistent with the Village's historic and rural environment and meet all building, electrical, and safety codes. Examples include, but are not limited to, wood, stone, copper, bronze, brick and stone.

Sec. 35.126 Maintenance

All signs and supports shall be maintained in good condition to prevent deterioration, oxidation, rust, and other unsightly conditions. All discontinued signs and supports shall be removed within ninety (90) days. All damaged signs shall be repaired or removed within ninety (90) days of damage.

Sec. 35.127 Right-of-Way Protected

Street right-of-way encroachment by any sign is prohibited. Signs erected in the right-of-way by a person other than a government entity are hereby declared a public nuisance and may be removed and disposed of by the Village without notice and without compensation to the sign owner.

Sec. 35.128 Utilities Protected

It shall be unlawful to erect a sign that obstructs or interferes with the lawful use of a utilities easement.

Sec. 35.129 Setbacks

A setback clearance zone shall be observed at each street corner intersection, each driveway opening, and each street intersection.

Sec. 35.130 Temporary Subdivision Layout Signs

May be no larger than thirty-two (32) square feet in area and may include only a map, plat, or layout of the subdivision; the selling agent's or entity's name and contact information; and the sign permit number. One Temporary Subdivision Layout Sign is permitted for a newly formed approved subdivision of six or more adjacent lots. Permits for Temporary Subdivision Layout Signs are valid for a period of ninety (90) days, after which a new permit is required.

DIVISION 5. OFF-PREMISE SIGNS

Sec. 35.131 Standards

(1) **Location:** An off-premise sign is permitted solely on property fronting Lime Creek Road or FM 2769.

(2) **Spacing:** No off-premise sign may be erected within 100 feet of another off-premise sign.

(3) **Area:** No off-premises sign may exceed a total surface display area per face of sixteen (16) square feet.

(4) **Faces:** An off-premise sign may be single-faced or double-faced, but may not contain more than one face on each side of the display. Goal post structures will not be allowed.

(5) **Height:** An off-premise sign must be no more than eight (8) feet in height. Sign height is measured from the grade level of the centerline of the main-traveled way closest to the sign, at a point perpendicular to the sign location.

(6) **Setback:** An off-premise sign must be set back at least twenty (20) feet from any road or street right-of-way line, measured from the closest part of the sign.

(7) **Residential zone:** No off-premise sign shall be permitted if property zoned residential is located between the sign location and the roadway toward which the sign would be oriented.

(8) **Identification:** An off-premise sign must be permanently identified with the name of the sign owner or operator with letters of sufficient size to be easily read from the nearest roadway.

(9) **Consent:** No part or foundation or support of any off-premise sign may be placed on, in, or over any private property without the written consent of the property owner.

Sec. 35.132 Encroachment

No part or foundation or support of any off-premise sign may be placed on, in, or over any public property or street rights-of-way, or upon telephone or utility poles, or natural features such as trees and rocks.

Sec. 35.133 Protected vegetation

Notwithstanding any other provision or other applicable law or regulation, no person shall remove, cut, or otherwise alter any vegetative screening on public property or private landscaping required by ordinance as a condition of permit approval in order to improve the visibility of a nearby off-premise sign.

Sec. 35.134 Maintenance

Whenever the City Council finds that any off-premise sign on the list of nonconforming uses is not maintained in good repair and has not deteriorated more than fifty percent (50%) of its replacement value, the City Council will notify and order the owner to repair the sign within thirty (30) calendar days. If the City Council finds that an off-premise sign has deteriorated more than fifty percent (50%) of its replacement value, or is not repaired within thirty (30) calendar days, the City Council shall notify the owner of the off-premise sign and the owner of the real property on which the off-premise sign is located to remove the off-premise sign or poster panel from the property within a specified time. All off-premise signs ordered to be removed shall be stricken from the authorized list of nonconforming uses when the time limit is set and the removal notice ends.

Sec. 35.135 Relocation

When a sign located in the Village of Volente within the proposed right of way of a state highway or County road is to be relocated to accommodate a regulated highway project and the Texas Department of Transportation issues a permit for relocation of the sign, the Village will also issue a permit for a sign that meets all current Village standards, except that the relocated sign:

(1) must have a permit, but will not require payment of a permit fee;

(2) may be erected no less than five (5) feet from any highway right of way line;

(3) may be constructed with the same number of poles and same type of materials as the existing sign; and

(4) may be erected without enlarging the sign face.

DIVISION 6. STANDARDS FOR CERTAIN SIGNS

Set out below are specific standards that apply to certain types of signs. Notwithstanding the foregoing, no business shall have more than two (2) signs per location that can consist of any combination of the foregoing. The total square footage of the two signs shall not exceed sixty four (64) square feet combined (i.e., an average of thirty-two (32) square feet each).

Sec. 35.136 Free-Standing Signs

(1) **Location**:

(a) **Height and Area Limitations**: Free-standing signs shall conform to a maximum of thirty-two (32) square feet in area. Free-standing signs shall not exceed a height greater than eight (8) feet above the level of the street upon which the sign faces, or above the adjoining ground level, if such ground level is above the street level.

(b) **Space Between Signs:** No freestanding sign shall be nearer than ten (10) feet to any other sign, building or structure.

(2) **Number of Freestanding Signs:** One (1) freestanding sign is allowed per lot, or tract, or parent shopping center plot, or separate building. A lot or tract located at a street intersection is allowed one (1) freestanding sign per street frontage.

(3) **Multiple Businesses, Services, Tenants:** Buildings housing multiple businesses are encouraged to group signage. A thirty percent (30%) increase in sign area is allowed for a group sign, advertising a center with multiple businesses. This incentive may be increased to thirty-five percent (35%) over the sign area allowed when a group sign is combined with landscaping.

(4) **Increased Number:** The number of freestanding signs may be increased by *one* of the following options:

(a) **Two or more:** If more than one (1) business, service or tenant occupies a single building on a lot or tract, a maximum two (2) freestanding signs are allowed. The combination of sign area for the two signs shall not exceed the maximum allowed area. For example, two (2) 16 square foot signs (maximum 32 square feet) are allowed if two or more tenants are present in one building. The signs may not exceed eight (8) feet in height, and may be placed on the property line (0' setback); or

(b) **Alternate Signage Plan:** The City Council will review a variance request for an alternate signage plan which meets the unique advertising needs of the site, business, service or tenant and, at the same time, carries out the intent of this Ordinance to balance on site advertising needs with community appearance.

Sec. 35.137 Wall Signs

(1) **Location and Area:**

(a) No wall sign shall have a surface or face exceeding thirty-two (32) square feet. No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached in excess of four (4) feet.

(b) Projection Above Sidewalk and Setback Line. No wall sign shall be permitted to extend more than six (6) inches beyond the building line, and shall not be attached to a wall at a height of less than eight (8) feet above the sidewalk or ground.

(2) **Maximum Number:**
One per business façade will be allowed. Numbers/letters indicating property address will not be counted in the calculation. A wall sign maybe used in conjunction with a free-standing sign. Maximum size of each added together is thirty-two (32) square feet. A secondary pedestrian or delivery sign is allowed, however, sign limitations still apply.

Sec. 35.138 Projecting Signs

(1) A projecting sign over public property is allowed to be permitted in the routine manner only in a Business District. In other locations, a projecting sign over public property requires approval of a right-of-way license by the City Council.

(2) Area & Size Limitations: Projecting signs shall be limited in area as follows:

(a) Horizontal projecting signs shall not exceed thirty-two (32) square feet on each side.
(b) Vertical projecting signs shall not exceed thirty-two (32) square feet on each side.

(3) Thickness Limitation: The distance measured between the principal faces of any projecting sign shall not exceed eighteen (18) inches.

(4) Location; Projection Over Public Property: Every projecting sign shall be placed at least nine (9) feet above the public sidewalk over which it is erected, no more than two (2) feet from the face of the wall to which it is attached, measuring from the point of the sign nearest the wall, and at least one (1) foot from the curb line. Every projecting sign shall be placed at least fifteen (15) feet above the public driveway, alley or thoroughfare over which it is erected.

Sec. 35.139 Awnings and Canopies

(1) Location:

(a) Awning Height Above Sidewalk: No portion of an awning shall be less than nine (9) feet above the level of the sidewalk or public thoroughfare over which it is erected.
(b) Canopy Height Above Sidewalk: No portion of a canopy shall be less than nine (9) feet above the level of the sidewalk or public thoroughfare over which it is erected.
(c) Setback from Property Line: No awning or canopy shall be permitted to extend beyond the property line.
(d) Width: No limitation on width of awnings. No canopy shall be permitted to exceed eight (8) feet in width.

(2) Advertising: The name of the owner and the business, industry or pursuit conducted within the premises may be painted or otherwise permanently placed in a space on the front and side of the awning or canopy.

Sec. 35.140 Illuminated Signs

(1) **Hours of Operation:** Illuminated signs that are internally illuminated, other than residential development signs and single family address signs, may only be illuminated during the related establishment's hours of operation and for a period of no more than one hour afterward. Such internally illuminated signs may be illuminated on days that the establishment is not open for business for no longer than they are illuminated during a normal business day.

(2) **Maximum Area:** The area of an illuminated sign which is internally illuminated may not exceed thirty-two (32) square feet. This restriction includes portable signs.

(3) **Brightness Limitations:**

(a) The illumination from an illuminated sign which is internally illuminated may not exceed four (4) foot candles at a distance of eight (8) feet.
(b) No illuminated sign shall be illuminated to such intensity or in such a manner as to cause glare or brightness to a degree that it constitutes a hazard or nuisance.
(c) The maximum illumination of any illuminated sign shall not exceed forty (40) foot candles in non-residential zones or twenty (20) foot candles in residential zones.
(d) The average illumination of an illuminated sign shall not exceed 20 foot candles in a non-residential zone or 10 foot candles in a residential zone.
(e) Trespass illumination from all light sources on a property on which an illuminated sign is situated shall not exceed 0.1 foot candle. The measurement of trespass illumination shall be made at a point three (3) feet above finished grade and four (4) feet inside the boundary of the property on which the trespass illumination occurs. The measurements of the illumination of an illuminated sign shall be made at the surface of the sign.
(f) Illuminated signs not conforming to the illumination standards set forth above shall constitute a hazard and a nuisance.

(4) **Mercury Prohibitions:** Illuminated signs, which are illuminated by mercury arc or mercury vapor light sources are prohibited.

Sec. 35.140.5 Temporary Real Estate Signs

Temporary Real Estate Signs shall be located no closer then ten (10) feet from the edge of the pavement of the fronting street, when located in the public right of way or on private property. For each Temporary Real Estate Sign permit, one open house or directional sign no larger than four (4) square feet may be placed in the right of way at a nearby street intersection between Friday from 4:00 P.M. until Monday at 9:A.M. A permit is not required for the open house or directional sign.

DIVISION 7. NONCONFORMING SIGNS

Sec. 35.141 Status

Unless more specifically provided for elsewhere in this Ordinance, a sign that lawfully existed prior to November 19, 2004 but is not in conformance with these regulations, shall be considered a legal non-conforming sign. A sign existing on the date on which this Ordinance is adopted and that is not in conformance with these regulations shall be brought within compliance with these regulations on or before January 31, 2008.

Sec. 35.142 Inventory

The owner or operator of one or more billboard signs within the Village of Volente must inventory the signs on forms provided by the Village and file the completed forms with the Village office within six (6) months from the date of adoption of this Ordinance. No permit for alteration or relocation may be issued for a billboard that was not timely inventoried and reported to the Village.

Sec. 35.143 Exemption

Legal non-conforming signs shall be exempted from the provisions of this Ordinance, except as provided by Sections 35.144 through 35.147 below.

Sec. 35.144 Removal

Any legal non-conforming sign that is damaged or is deteriorated to a point where its restoration cost exceeds fifty percent (50%) of its replacement value shall be removed, unless otherwise authorized to remain.

Sec. 35.145 Compliance Required

Legal nonconforming signs may not be re-erected, reconstructed, rebuilt, or expanded except in full compliance and conformance with this Ordinance.

Sec. 35.146 Expiration

The legal nonconforming status of a sign shall be deemed to have automatically expired and to have been forfeited by the sign's owner if the sign is enlarged or expanded in violation of this Ordinance.

Sec. 35.147 Transferability

The legal nonconforming status of a sign is not portable and may not be transferred to another location. The legal nonconforming status of a sign shall be deemed to have automatically expired and to have been forfeited by the sign's owner if the sign is relocated to another area within the Village in violation of this Ordinance. The City Council shall have discretion to transfer nonconforming status in instances where sign relocation is required for right-of-way acquisition or improvement in accordance with Village, county, state or federal law.

DIVISION 8. VARIANCES

Sec. 35.148 Requests

Within thirty (30) days after denial of a sign permit by the Village, a written request for a variance from the City Council may be filed with the Village.

Sec. 35.149 Council Action

Unless an extension or postponement is sought by the requestor, the Council must consider and take action on a request for a variance within forty-five (45) days of receipt of the request.

Sec. 35.150 Findings

The City Council may grant a variance upon affirmative written findings as to the following elements:

(1) The unusual shape or topography of the property in question or some other significant factor prevents signage allowable under the provisions of this Ordinance from adequately identifying the business or other activity located on the subject property.

(2) The variance is not contrary to the public interest.

(3) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement; and

(4) the spirit and purpose of the Ordinance will be observed and the design guidelines set forth in this Ordinance are substantially met and substantial justice will be done.

Sec. 35.151 Conditions

The Village may impose such conditions or requirements upon a variance as are necessary in the Village's judgment to protect the overall character of the community and to achieve the fundamental purposes of this Ordinance. It is acknowledged that due to the hilly terrain and wooded landscaping of the Village, special height limitations may need to be considered due to business locations or setbacks.

DIVISION 9. ENFORCEMENT

Sec. 35.152 Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be authorized by Texas statutory law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

Sec. 35.153 Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum

not exceeding five hundred dollars ($500). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

Sec. 35.154 Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

(1) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance, including removal of signs that violate this Ordinance at the expense of the sign owner; and

(2) a civil penalty up to one hundred dollars ($100) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and

(3) other available relief.

Sec. 35.155 Public Nuisance

Any violation of this Ordinance is hereby declared to be a nuisance. A sign that is erected, constructed, relocated, expanded or structurally altered in violation of this Ordinance, and is not a non-conforming sign, is hereby declared to be a public nuisance.

Sec. 35.156 Removal

Any sign violating this Ordinance must be removed or brought into compliance within thirty (30) days of receipt of written notice from the Village. If the person responsible for the sign fails to remove or alter the structure so as to comply with the standards set forth in this Ordinance within thirty (30) days after such notice, the Village may undertake such removal or alteration as is necessary to bring the structure into compliance and assess the costs to the person responsible for the sign. The Village may cause any sign or other advertising structure which presents an immediate peril to persons or property to be removed or altered immediately and without notice, and without compensation to the sign owner.

DIVISION 10. GENERAL PROVISIONS

Sec. 35.157 Severability.

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

Sec. 35.158 Effective Date.

This Ordinance shall take effect immediately from and after its passage.

Sec. 35.159 Public Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on this the 18th day of December, 2007 by a vote of

___ ayes, ____ nays, and ___abstentions of the Volente City Council.

VILLAGE OF VOLENTE

Jan Yenawine, Mayor

ATTEST:

Jennifer Zufelt, City Secretary