VILLAGE OF VOLENTE

ORDINANCE NO. 2007-O-71

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, REGULATING THE LOCATION OF MAILBOXES WITHIN THE VILLAGE'S RIGHT-OF-WAY, PROVIDING THE FOLLOWING: NAME; PURPOSE; DEFINITIONS; PROHIBITIONS; PROVIDING FOR FINES AND CRIMINAL PENALTIES; ENFORCEMENT; EFFECTIVE DATE; SEVERABILITY; PUBLIC NOTICE AND MEETING.

WHEREAS, there are an increasing number of residents within the corporate limits of the Village of Volente, Texas, who are constructing mailboxes within the rights-of-way of roadways and streets which have been accepted by the Village as municipal roadways and streets;

WHEREAS, there are certain materials used in constructing some of these mailboxes that constitute a danger to persons traveling on the public streets in the Village of Volente;

WHEREAS, the Village of Volente has a duty to provide for the safety of its residents;

WHEREAS, residents of the Village of Volente should be free to enjoy the public streets without fear of dangerous conditions due to the materials used in constructing mailboxes located in the right-of-way of public streets; and

WHEREAS, because of said conditions and for the health, safety, and protection of the residents of the Village of Volente, Texas, the Village Council deems it desirable to ban certain materials from being used in the construction of mailboxes within the rights-of-way of the public streets within the Village of Volente.

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

DIVISION 1. ENACTMENT PROVISIONS

Section 1. Name

This Ordinance shall commonly be referred to as the Volente "Mailbox Restrictions on Mailboxes Located within the Rights-of-way of Public Streets in the Village of Volente"

Section 2. Legislative Findings

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

Section 3. Purpose

This Ordinance declares it unlawful for mailboxes located in the rights-of-way in the Village of Volente to be made of brick, masonry, concrete or similar materials. Mailboxes located in the rights-of-way in the Village of Volente may have either a wood (4 by 4 inches, round or square) or metal (2 inch diameter) support that is not embedded more than 24 inches into the ground. The general objective of this ordinance is to promote the health, safety, welfare, convenience and enjoyment of the citizens of Volente, with the goal of protecting those persons traveling on public streets within the Village of Volente.

Section 4. Scope

This Ordinance provides construction standards for mailboxes located in the rights-of-way of the public streets in the Village of Volente.

Section 5. 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) Mailbox means a receptacle designed to receive mail delivered by the United States Postal System at a business or residence.

DIVISION 2. MAILBOX CONSTRUCTION STANDARDS

Section 1. Mailboxes made out of Brick, Masonry, Concrete or similar materials Declared Unlawful

From and after the effective date of this Ordinance, it shall be unlawful for any person to construct a mailbox that is partially or entirely made out of brick, masonry, concrete or similar materials within the rights-of-way of the public streets within the Village of Volente.

Section 2. Mailboxes may have either a wood or metal support that is not embedded more than 24 inches into the ground.

From and after the effective date of this Ordinance, mailboxes within the Village of Volente's public streets may have either a wood (maximum 4 by 4 inches, round or square) or metal (maximum 2 inch diameter) support that is not embedded more than 24 inches into the ground.

DIVISION 3. ENFORCEMENT

Section 1. 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 violation.

Section 2. Criminal Prosecution

A person who fails to comply with the provisions of this Ordinance shall be guilty of a violation of this Ordinance and is subject to a fine of Five Hundred Dollars ($500) plus restitution of costs for each such occurrence. For the purposes of this Ordinance, each day that the violation of this ordinance occurs shall be deemed a separate occurrence.

Section 3. 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:

A. Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and

B. A civil penalty up to one hundred dollars ($100) for each separate occurrence 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

C. Other available relief.

Section 4. Public Nuisance

Any violation of this Ordinance is herby declared to be a nuisance. A mailbox that is located within the right-of-way of the public streets of the Village of Volente in violation of this Ordinance is hereby declared to be a public nuisance.

DIVISION 4. GENERAL PROVISIONS

Section 1. Severability.

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

Section 2. Effective Date

This Ordinance shall take effect after any required posting and publication of this Ordinance.

Section 3. 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 20th day of March 2007, by a vote of 3 ayes, 0_ nays, and 0 abstentions of the Volente Village Council.

VILLAGE OF VOLENTE

Jan Yenawine, Mayor

ATTEST:

Jennifer Zufelt, Village Secretary