ORDINANCE NO. 2004-O-32

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 zoning 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:

ARTICLE 30.100 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. 30.102 Title: This article shall be known, and may be cited, as the zoning ordinance of the Village.

Sec. 30.103 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 it's 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.30.104 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. 30.105 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, in a residential district, a subordinate building detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, toolhouse, bath or greenhouse as a hobby (no business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy by any long-term or paying guests.

Adjacent means abutting and directly connected to or bordering.

Alcoholic Beverages-Off-Premises means the standard use listing for a convenience store or similar facility where the sale of beer for off-premises consumption is an allowed use according to zoning standards.

Alcoholic Beverages-On-Premises means the standard use listing which will solely allow the serving of beer for on-premise consumption.

Alcoholic Beverages-Mixed Drinks means the typical use listing which will allow the serving of alcoholic beverages for on-premise consumption as an incidental use where the gross revenue from the on-premise sales of alcoholic beverages is less than 75% of total gross revenue.

Alley means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

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 perceptible at the bounding property line, including a bowling alley, billiard parlor, and similar activities.

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, including a golf driving range, archery range, miniature golf course and similar activities.

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.

Antique Shop means a business that sells items whose value is greater than the original purchase price because of age or intrinsic value.

Applicant means a person applying for zoning approval under this article.

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

Architectural Harmony means structures or buildings on the same lot that exhibit significantly similar design and style to each other.

Art Studio or Gallery means a building where objects of art are created or displayed for the public enrichment or where said art objects are displayed for sale, including the teaching of painting and/or sculpting.

Assisted-Retirement Living means a use providing 24-hour supervision and assisted living for more than 15 residents not requiring regular medical attention. This classification includes personal care homes for the physically impaired, and persons 60 years of age or older.

Attendant Building means a building used to house the work place of the manager or attendant of a public or private parking lot.

Attendant Documents means materials needed to address the specific requirements of this article, which the applicant feels necessary to explain the submittal.

Auto Repair (Major) means a business specializing in major repair of motor vehicles (including watercraft) entirely within an enclosed building, including any use listing below, as well as any use not listed as minor vehicle servicing.

(a) Auto glass, seat cover and muffler shop;

(b) Auto painting or body rebuilding shop;

(c) Tire retreading and capping;

(d) Body, fender, clutch, transmission, differential, axle, spring and frame repairs;

(e) Major overhauling of engines requiring removal there from of cylinder head or crankcase pan and any associated engine rebuilding;

(f) Repair of radiator requiring removal from the vehicle;

(g) Repair of truck, trailer, farm or industrial equipment, or other machinery/supplies;

(h) Brake work, other than minor maintenance such as disc pad replacement and minor brake adjustment.

Auto Repair (Minor) means a business specializing in minor, routine, periodic, preventive maintenance of a motor vehicle conducted entirely within an enclosed building, including the following:

(a) Servicing of spark plugs, batteries, distributors and distributor parts and including minor engine tune-ups;

(b) Tire servicing and flat repair but not recapping or regrooving;

(c) Radiator cleaning and flushing (on vehicle);

(d) Fuel pump, oil pump and related maintenance;

(e) Minor servicing of carburetors;

(f) Emergency wiring repairs;

(g) Minor motor adjustment not involving removal of head or crankcase;

(h) Quick oil and filter change;

(i) Servicing hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat belts, windshield wipers, mirrors, and installation of vehicle accessories such as radios;

(j) Lubrication, greasing and washing;

(k) Disc pad replacement and minor brake adjustment.

Bar means any business establishment required to have a state license for the sale of alcoholic beverages other than beer, for 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. Or means a historic or otherwise architecturally unique building where lodging for overnight transient guests is provided by prearrangement for definite periods, for compensation, for not more than seven rooms to let and where breakfast is included in the rates charged to guests. Lodging of transient guest is generally for periods of less than thirty (30) days.

Billboard. See the Village sign ordinance.

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*.

Boarding House means a building other than a hotel, occupied as a single

housekeeping unit where lodging or meals are provided for three (3) or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the general public or transients.

Buffer 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.

Building means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building Area means the gross area covered by a structure when placed on the lot.

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 Line 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.

Cafe or Cafeteria means a commercial establishment where snacks or meals are vended for consumption indoors or on the premises.

Caliper means the trunk diameter of a tree at four and one half feet (4 1/2') above natural grade.

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.

Cemetery means land used or intended to be used for the interment of human remains and dedicated for cemetery purposes, including crematories, mausoleums, columbariums and mortuaries when operated in conjunction with and within the boundary of such cemetery. Burial outside of human remains outside of a cemetery shall be prohibited except those authorized with a conditional use permit.

Centerline of a Waterway means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year flood plain.

Child Care Center (Small) means a private residence where the occupant provides custodial care and supervision during daylight hours for a maximum six (6) children at any one time. The maximum of six (6) children includes the family's natural or adopted children under the age of fourteen (14). The residence must contain a minimum 150 square feet of floor area for each child. This use shall exclude a family/group home.

Child Care Center (Intermediate) means a facility (including non-residential structures) which provides custodial care and supervision for less than 24 hours a day for between seven (7) and twelve (12) children, excluding foster and group homes. The facility must contain a minimum 150 square feet of floor area for each child.

Child Care Center (Large) means a facility where over twelve (12) children receive custodial care and supervision for less than 24 hours a day, excluding foster and group homes.

Child Care or Child Development Facilities means any children's home, orphanage, institution, private home, residence or other place, whether public, parochial or private, operated for profit or not, which keeps, cares for, has custody of or is attended by four (4) or more children under sixteen years of age at any one time, who are not members of the immediate family or any natural person operating any such place, during any part or all of the twenty-four hours in a day. Also, any institution, home or other place, whether public, parochial or private, conducted for profit or not, which keeps, cares for, has custody of or is attended by any number of children, under sixteen years of age, who are not members of the immediate family of any natural person operating such a place, who are mentally or physically handicapped, under medical or social supervision, and not within a hospital, twenty-four hours a day.

Church or Rectory 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.

Cleaning or Laundry Self Service Shop means an establishment providing customers

with self-service laundry facilities, and does not a include a commercial laundry or cleaning plant.

Cleaning Shop or Laundry (Small) means a custom cleaning shop not exceeding two thousand five hundred (2,500) square feet of floor area.

Clinic means a public or private station or establishment for the examination and treatment of outpatients by an individual or group of doctors, dentists, opticians, veterinarians, or other similar medical professionals.

Club. See: Social Club.

Cold Storage Plant means a commercial establishment where food or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or to commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

College or University means an academic institution of higher learning, accredited or recognized by the state and offering a program or series of programs of academic study.

Commercial Amusement (Indoors) means an enterprise conducted solely within one or more buildings or permanently enclosed area whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (indoors) include zoos, carnivals, expositions, miniature golf courses, arcades, fairs, exhibitions, athletic contests, rodeos, children's rides, skating rinks, ice rinks, traveling shows, bowling alleys, and pool parlors, and similar enterprises.

Commercial Amusement (Outdoors) means any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (outdoors) include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows and similar enterprises.

Commercial Vehicles means any vehicle having axle or gross weight limit as established by Section 621.101, Texas Transportation Code, that is not a passenger car or light pickup truck.

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 Services means an establishment engaged in providing broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, and photocopy and reproduction mechanisms (excludes broadcast towers).

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.

Compounding or Fabrication (Light) means the making of jewelry, compounding of perfume, small instruments or pharmaceuticals, and similar work or processes.

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 or master plan does not constitute zoning regulations or establish zoning district boundaries.

Conditional Use means an additional 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.

Construction Plans 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.

Contiguous means adjacent property whose property lines are separated by only a street, alley, easement, right-of-way or buffer.

Convalescent Home means any structure used or occupied by three (3) or more persons recovering from illness or being provided geriatric care for compensation.

Convenience Store means a retail establishment of less than 2,500 square feet of total floor area selling a variety of consumables, notions and/or similar items, usually serving as a convenient outlet to a neighborhood. The sale of beer for off-premises consumption is allowed in specific districts, with a conditional use permit.

Corner Lot means a lot located at the intersection of and abutting on two (2) or more streets.

Council means the governing body of the Village.

Country Club means an area of twenty (20) acres or more containing a golf course and a clubhouse and available only to private specific membership, such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts and similar recreational or service facilities.

County means Travis County, Texas.

County Appraisal District means the Travis County Appraisal District.

Court means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other open space.

Critical Root Zone means a circular area around a Significant Tree equal to one (1) foot in radius for each one (1) inch caliper, and the center of the circular area located at the trunk

Cultural services means a library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

Day Camp means a facility arranged and conducted for the organized recreation and instruction of children including outdoor activities on a daytime basis.

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

Developed Area means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

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.

Dormitory means any structure specifically designed to house student tenants associated with a university, college or school.

Double Frontage Lot. See: Reverse Frontage Lot.

Drainageway. See: Waterway.

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

Drive-In Eating Establishment means any structure and premises specifically designed for the preparation and dispensing of food and meals for consumption either indoors or in a vehicle parked on the premises, or to be taken away for consumption at other places.

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

Dwelling (Single Family) means a detached building having accommodations for occupancy by 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 for occupancy by two families.

Dwelling Unit or 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.

Exterior Side Yard means a yard which faces and is parallel to a side street.
Extraterritorial Jurisdiction or 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*.

Family means any number of individuals living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage, adoption, or guardianship, and occupying a dwelling unit.

Farm Accessory Building means a structure, other than a dwelling, on a farm as herein defined, for the housing protection or storage of the usual farm equipment, animals and crops.

Farm, Ranch, Garden or Orchard means an area of three (3) acres or more which is used for the primary purpose of growing of vegetables, fruits, trees, hay, livestock feed and/or grain, and/or for the raising thereon of poultry and farm animals such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

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

Financial services means services provided by an establishment primarily engaged in financial and banking activities. Typical uses may include banks, savings and loan institutions, stock and bond brokers,
loan and lending activities, and similar services.

Flood Plain means that land lying within a stream channel or adjacent to a stream channel within which flooding frequently occurs, the elevation above sea level of which shall be as established by the Village and made of record. It is land which is required to be kept open and non-urbanized in order to maintain upstream flood plain characteristics and insure continued adequate drainage of adjacent land.

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.

Floor Area Ratio (FAR) means the maximum square footage of total floor area permitted for each square foot of land area. The ratio between the total square feet of floor area in all buildings located on a lot and the total square feet of land in the lot or tract on which the buildings are located.

Food and Beverage Sales Store means a retail establishment of greater than 2,500 square feet of total floor area, selling a variety of consumables, notions and/or similar items, usually serving a significant market area. The sale of beer for off-premises

consumption is allowed, if not otherwise prohibited, with a conditional use permit.

Food sales means an establishment primarily engaged in the retail sale of food or household products for home consumption. Typical uses include grocery stores, delicatessens, meat markets, retail bakeries, and candy shops. There shall be a minimum of one parking space per 200 gross floor area.

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

Frontage means that side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

Frontage Block means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Garage - Commercial means any premises and structure used for housing more than five (5) motor vehicles or watercraft or where any vehicles are repaired for operation or kept for remuneration, hire or sale, and where a retail service station may be maintained as a secondary use.

Golf Course means a golf course or driving range public or privately owned and open to the public for a fee.

Governing Body means the Village council.

Grade means the slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

Grading means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

Half Story means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than five (5) feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.

Halfway House means a dwelling unit used as a single housekeeping unit for not more than six (6) persons who have demonstrated a tendency towards alcoholism, drug abuse, anti-social or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, provided a conditional use permit is first obtained.

Height means the vertical distance from the highest point on a structure to the average ground elevation where the foundation meets ground.

Heliport means landing facility for rotary wing aircraft subject to regularly scheduled use and may include fueling or servicing facilities for such craft

Helistop means a landing pad for occasional and infrequent use by rotary wing aircraft not exceeding a gross weight of 6,000 pounds.

Home for Aged means a home where elderly people are provided with lodging and meals without nursing care.

Home Occupation means a commercial use customarily carried on in the home by members of the occupant family without structural alterations in the principal building or any of its rooms, without the installation of machinery or additional equipment other than that customary to normal household operations, without the employment of additional persons, and which does not cause the generation of other than normal noise, pedestrian and vehicular traffic. It is an accessory to a residential use subject to the following limitations: (a) the home occupation shall be conducted entirely within a dwelling unit which is the bona fide residence of the practitioner(s); (b) 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; (c) 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 (d) 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.

Hospital (Chronic Care) means an institution where persons suffering from illness, injury, deformity or deficiency of age are given care and treatment on a prolonged or permanent basis.

Hospital, Sanitarium, Nursing Home, Hospice means a building or portion thereof used or designated for the housing or treatment of the sick, aged, mentally ill, injured, convalescent or infirm persons; provided that this definition shall not include rooms in any residential dwelling or hotel not ordinarily intended to be occupied by said persons.

Hotel means a building in which lodging is provided and offered to individual transient guests, but not excluding permanent guests, and may include a cafe, 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 boarding house, 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, nursing home, or a dormitory as defined in *§ 156.001, Tex. Tax. Code.*

Impervious Cover means roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction and materials as defined by the Village's non-point source pollution control ordinance limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

Improvements means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

Incinerator means a furnace or apparatus for burning waste materials such as trash wood and other flammable items for the purpose of reducing their weight and bulk.

Institution for the Care of Substance Dependent Persons means an institution offering resident or outpatient treatment to alcoholic or narcotic patients.

Interior Lot means a lot other than a corner lot and, bounded by a street on only one (1) side.

Kennel means a place in which five (5) or more dogs or cats at least six (6) months of age are kept, boarded or trained, by the owners of the dogs or cats or by persons providing facilities and care with or without compensation.

Kindergarten or Pre-School means any private school, operated for profit or not, attended by four (4) or more children at any one time during part of a twenty-four hour day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

Laundry services means an establishment engaged in providing laundering services. Typical uses shall include bulk laundry and linen supply services.

Legal Lot means a lot recorded in the Official County Records pursuant to and in

compliance with the subdivision regulations and/or state law in effect at the time of the creation of the lot.

Light manufacturing means an establishment engaged in the manufacture of finished products or parts, including packaging of such products, and incidental storage, sales and distribution of such products, but excluding uses that are not traditionally classified as light industrial or manufacturing. Uses defined as traditional light industrial and manufacturing are set forth in this article.

Livestock Auction means barns, pens and sheds for the temporary holding and sale of livestock.

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.

Local Health District means the Travis County Health District.

Local Utility Line means the facilities provided by a municipality or a franchised utility company for the distribution or collection of gas, water, surface drainage water, sewage, electric power, telephone or cable service, including pad and pole mounted transformers.

Lot means a separate parcel of land, created by the division or subdivision of a block or other parcel, intended as a unit for transfer of ownership, or for development, or for occupancy and/or use, platted in compliance with state law. See also: Legal Lot.

Lot Depth means the average horizontal distance between the front and rear lot lines.

Lot Lines means the lines bounding a lot as defined herein.

Lot Width means the average horizontal distance at the front building setback line of a lot.

Manufactured Home means a complete living unit, manufactured at a location away from the lot on which it will be located, as defined in *Article 5221f of the Texas Revised Civil Statutes.*

Manufactured Housing. See: Manufactured Home.

Master Plan See. Comprehensive Plan.

Mini Storage Warehouse means a building or group of buildings consisting of individualized shelters of various sizes for rent or lease for the purpose of providing protection of commodities stored therein. The size of each individual storage unit of a mini-storage warehouse shall be limited to 2,000 cubic feet.

Mobile Home means a movable or portable structure constructed prior to June 15, 1976

that is eight (8') feet, or more, in width and forty feet (40'), or more, in length constructed to be towed on its own integral chassis, as defined in *Article 5221f of the Texas Revised Civil Statutes.* Any mobile home constituting an existing conforming or non-conforming use is prohibited within the Village limits.

Modular Component means a structure or building module as defined in *Article 5221f-1 of the Texas Revised Civil Statutes* that is inspected and permitted by and under the jurisdiction and control of the Texas Department of Licensing and Regulations, that is transportable in one or more sections and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning and electrical systems contained in the component. The term does not include a mobile home or a 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.

Multifamily Dwelling means a single structure designed to accommodate two (2) or more households.

Multiple Building Complex means more than one principal building on a building plot or lot.

Natural Channel means the topography of a waterway prior to construction or installation of improvements thereof.

Natural Drainage means a stormwater runoff conveyance system not altered by development.

Natural State means substantially the same conditions of the land that existed prior to its development, including but not limited to the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

Neighborhood means the area of the Village characterized by residential land uses which is bounded by physical (such as river, major street, lack of access, buffer) and/or political features (such as voting districts, subdivision boundaries).

Neighborhood Automobile Service Station means an establishment primarily engaged in automotive-related service. The following are permitted automotive-related services within such definition: automobile washing, minor automotive repair services, service stations, lubricants (including oil change facilities), parts and accessories, or any incidental minor repair services to motor vehicles and watercraft.

Neighborhood Park means a publicly owned parcel of land, within a subdivision,

dedicated solely for recreational uses and maintained by the Village or under authority granted by the Village.

Night Club means an establishment required to have a state permit for the sale of alcoholic beverages and in which fifty percent (50%) or more of the monthly gross revenues are from the sale of alcoholic beverages; or any business or commercial establishment in which alcoholic beverages are consumed on-premises and live entertainment is provided.

Nonconforming Lot means a lot, the area, dimensions, or location of 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 zoning district.

Nonconforming Structure or Building means a structure or building the size dimensions or location of 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 zoning district.

Nonconforming Use means any building, structure or land lawfully occupied by a use or lawfully existing at the time of passage of this article or amendments thereto, which does not, by reason of design or use, conform after the passage of this article or amendments with the regulations of the article or amendment.

Occupancy means the use or intended use of land or a building by any person.

Occupant Car Ratio (OCR) means the minimum number of parking spaces without parking time limits required for each living unit, establishment or use.

Official County Records means the Official Records of Travis County, Texas.

Off-Site Improvements means any required improvement that lies outside of the property being developed.

Off-Street Parking as Expansion of Retail or Commercial Use means an off-street parking lot located adjacent or contiguous to a retail, commercial or office district.

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 or alley, 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.

One Hundred (100) Year Flood Plain See: Regulatory 100-year flood plain.

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.

Overlay A geographical area that either adds or removes standard restrictions from the district requirements to accomplish appropriate land use. Overlays will be shown on the zoning map.

Open or Outdoor Storage means the keeping, in an unroofed area, of any goods, junk, material or merchandise, in the same place for more than twenty-four (24) hours.

Overland Drainage means stormwater runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

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 a paved parking area to accommodate the vehicles which utilize any multiple family, retail, commercial, office, business or industrial property.

Parking Space means an area that is not a street, alley 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 or alley. Said parking space and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile.

Parking Structure or Garage means a structure devoted to the parking or storage of automobiles for a fee and may include a facility for servicing of automobiles provided such facility is primarily an internal function for use only by automobiles occupying the structure and creates no special problems of ingress or egress.

Pasturage means land used primarily for the grazing of animal stock.

Paved Area means an area surfaced with asphalt, concrete or similar pavement, providing an all-weather surface.

Performance Standard means a set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

Permit Issuing Authority means the Village official, employee or agent designated by council with lawful authority to issue the applicable permit.

Permitted Use means a use specifically allowed in the applicable zoning 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 zoning 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).

Personal Service Shop means an establishment for the purpose of supplying limited personal services such as, but not limited to, barber, shoe, boot or beauty shops.

Pharmacy means a use where medicines are compounded or dispensed under the supervision of a licensed pharmacist.

Planting Area means any area designed for landscape planting having a minimum of ten (10) square feet of actual plantable area and a minimum inside dimension on any side of eighteen (18) inches.

Playfield or Stadium means an athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course football field or stadium which may be lighted for nighttime play.

POA 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.

Portable Storage Building is any accessory structure of 100 square feet or less designed to be transported from one location on a specific site to another location either on the same lot or on a separate lot.

Postal facilities means postal services, including post office, bulk mail processing, or sorting centers operated by the United States Postal Service or a private postal service.

Primary Structure means a structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

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.

Private Garage means an accessory building housing vehicles owned and used by occupants of the main building.

Product development services (general) means development and testing of non-hazardous products related to research services. See: Research Services (general).

Product development services (hazard) means development and testing of products related to research services, which products could pose a health or safety risk outside of the structure in which the services are provided. See: Research Services (hazard).

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.

Property Owners Association, (POA), 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.

Public means, with respect to land and interests in land within the Village limits; the Village; with respect to land and interests in land within the ETJ limits, the general public; and, with respect to the provision of any services or products by a business establishment, the general public.

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

Public Use means places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to schools and government buildings.

Radio, Television, Microwave and Similar Towers means structures supporting antennae for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antennae installation for home use of radio or television.

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.

Recyclable Materials means materials including, but not limited to, scrap steel, aluminum cans, appliances, paper, batteries, glass bottles, motor vehicles, motor vehicle parts and machinery that have no economic value except as composition or salvage material.

Recycling Collection Use means use of property as a location where glass, paper, plastics and/or aluminum cans only are deposited in containers, with no sorting or processing on site, and usually occurring as an accessory use on the property.

Recycling Operation means the collection, buying, storage, or processing of recyclable materials such as glass, paper, plastics, liquids, wood or metals, which are then sorted or processed for use or shipment for the purpose of reuse and manufacture, excluding smelters and refining operations.

Recycling Operations (Indoor) means a recycling operation which is fully enclosed within permanent walls and roof of a building or, if windows and doors are present, which is capable of enclosure to insure compliance with the required performance standards in the LI or HI districts as appropriate. The outside storage of recyclable materials in conjunction with the recycling operation inside a building is prohibited in an LI district. A dust collection system may be located outside the main building.

Recycling Operations (Outdoor) means a recycling operation that occurs in the open, or partially within a building and partially in the open.

Regulatory 100-Year Flood Plain means the one hundred (100) year flood plain as defined by the Federal Emergency Management Act (FEMA).

Religious assembly means a use (located in a permanent or temporary building) providing regular organized religious worship and religious education incidental thereto. See: Church.

Replacement Trees means new landscape trees to be planted by the developer to replace Significant Trees removed during the development of property. A list of approved Replacement Trees can be obtained at the office of the Village.

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.

Research services (general) means establishments engaged in research of an industrial or scientific nature not involving or requiring the use of any biological, chemical or other agent that could cause a hazard to adjacent property. Typical uses include electronics research laboratories, and development and testing of computer software packages.

Research services (hazard) means establishments engaged in research of an industrial or scientific nature involving or requiring the use of biological, chemical or other agents capable of causing a hazard to property or persons outside the structure in which conducted.

Reserve Strip means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not

support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the Village.

Retail Food Store means a retail establishment selling meats, fruits, vegetables, bakery products, dairy products, light hardware and other similar items, which are purchased for use and/or consumption off the premises (may be a drive-in or supermarket).

Retail Sales means the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses may include department stores, furniture stores, or establishments providing the following products or services: home furnishings and appliances, household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics or specialty items; apparel, jewelry, fabrics and like items; cameras or photography services; household electronic equipment, records, sporting equipment, kitchen utensils, small home appliances, art supplies and framing, arts and antiques, paint, interior decorating services or office supplies; bicycles, wallpaper, carpeting and floor-covering, or automotive parts and accessories (excluding service and installation).

Restaurant means an establishment engaged in the preparation and retail sale of food and beverages for on-premises consumption. Typical uses include diners, dinner-houses, but not a drive-in or fast food restaurant.

Reverse Frontage Lot means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

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. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

Ridgeline means an elongated crest or a series of crests of hills or mountains.

Ridgetop means the land area which has less than 25% slope and which is located above elevation 900 feet mean sea level. Ridgetops are generally located on the tops of ridges and along ridgelines and drainage area boundaries.

Roofline means the height of the roof excluding any peaks representing less than ten percent of the profile of the roof.

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

Salvage Processing means the method or action to enhance recyclable materials for reuse, including, but not limited to, separating, baling, flattening, shredding, crushing, cleaning or cutting for the purpose of preparing recyclable materials for reuse, excluding a smelter operation.

Same Ownership means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his or her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

School (Business) means a business organized to operate for a profit and offering instruction and training in a service or art such as secretarial school, barber college, beauty school or commercial art school, but not including a commercial trade school.

School (Commercial Trade) means a business organized to operate for a profit and offering instruction and training in a trade such as welding, brick laying, machinery operation, mechanics and similar trades.

School (Public or Denominational) means a school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or commercial schools.

Servants Quarters means an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

Setback Line or Building Setback Line means a line that marks the setback distance from the property line, and establishes the minimum required front, side or rear yard space of a building plot.

Shopping Center means a composite arrangement of shops and stores which provides a variety of goods and services to the general public, when developed as an integral unit.

Shrub means any self-supporting woody evergreen and/or deciduous species.

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 Sign Ordinance.)

Significant Tree means a living tree that the Village desires to preserve to the greatest extent possible as defined in the Village's site development ordinance.

Single family attached means the use of a series of sites for two or more dwelling units, constructed with common or abutting walls and each located on a separate lot within the total development site.

Single family detached means the use of a lot for only one dwelling unit.

Single Family Dwelling means a building designed for or occupied exclusively by one (1) household. See: Single family detached.

Site Plan means a plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking facilities, temporary and permanent erosion/sedimentation controls, and other structures to be constructed as defined in the Village's site development ordinance.

Slope means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

Social Club means a building or portion thereof or premises used or operated for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Square Foot or 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.

Stable means an accessory building for quartering horses for private use of the resident when the stable building is set back 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.

Stable, Riding means an accessory building for quartering horses for commercial or private riding lessons, boarding, training or renting of horses when the stable building is set back from all adjacent property lines at least one-hundred fifty (150') feet, contains a minimum of three acres of land and holds a Conditional Use Permit.

State Health Department means the Texas Department of Health or the Texas Commission on Environmental Quality (TCEQ), as applicable.

Storage and Distribution means an establishment offering wholesaling, storage and warehousing services of non-hazardous materials in enclosed structures.

Storage Garage means any premises and structure used exclusively for the storage of more than five (5) automobiles.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

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.

Street Side Yard means an area between any required building setback line and the side property line abutting a public right-of-way, and measured perpendicular to the building to the closest point of the side property line abutting the right of way.

Structural Alterations 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.

Structural Integrity means the ability of a structure to maintain stability against normal forces experienced by said structure.

Structure means any building or anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

Structure, Principal means the principal structure which fulfills the purpose for which the building plot is intended.

Subdivision means the division or redivision of land into two (2) or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the Village, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, occupant, person or entity.

Swimming Pool (Commercial) means a swimming pool with accessory facilities that is not a part of the municipal or public recreational system or a private swim club and that is available to the general public for a fee.

Swimming Pool (Private) means a swimming pool constructed for the exclusive use of the residents of a single family or multi-family dwelling, or other residential dwelling, located and fenced in accordance with Village regulations and not operated as a business or maintained in a manner to be hazardous or obnoxious to adjacent property owners.

Tavern means an establishment required to have a state permit for the sale and on-premises consumption of beer, that is not licensed or permitted to sell any other alcoholic beverage.

Telephone Exchange means switching relay and transmitting equipment, but not including public business facilities, storage or repair facilities.

Temporary Field or Construction Office means a structure or shelter used in connection with a development or building project, for housing on site the temporary administrative and supervisory functions, and for sheltering employees and equipment, related to the development.

Tourist Home means a building other than a hotel where lodging is provided and offered to the public for compensation for not more than twenty (20) individuals and open to transient guests.

Traffic Impact Analysis (TIA) means a study of the impacts of a development on the Village's transportation system.

Trailer Camp or Park means an area designed, arranged or used for the parking or storing of one or more auto trailers which are occupied or intended for occupancy as temporary living quarters by individuals or families.

Transportation services means a facility for loading, unloading, and interchange of passengers and baggage, between modes of transportation, including bus terminals, railroad stations and public transit facilities utilizing park and ride stations.

Tree means any self-supporting woody plant species that normally grows to an overall minimum height of fifteen (15) feet.

Tree Survey means a scaled drawing accurately showing the location, Caliper and Critical Root Zone of Significant Trees in relation to the property boundaries.

Two (2) Family Dwelling means a building designed for or occupied exclusively by two (2) families.

Upholstery Shop means a business establishment engaged in the installation of soft covering material such as fabric and underlayment for furniture and other objects. Except however, with respect to motor vehicles and watercraft, it shall only include interior upholstering. In no event shall an upholstery shop include the manufacture or building of furniture or other objects.

Urbanization means the process of constructing public improvements required to support suburban or urban land use.

Utilities Other than Listed means any utility requiring a franchise, such as closed circuit

television, distribution of steam, hot or chilled water or similar service requiring the use of public streets or easements.

Variance means an adjustment in the application of the specific regulations of this article to a particular parcel of property that, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

Variety Store means a retail commercial establishment which supplies a variety of household goods, toys, limited light hardware items, candy, some clothing and other general merchandise.

Veterinary hospital means an establishment offering veterinary services and clinics for pets, small and/or large animals. Typical uses include pet clinics, care, treatment and temporary housing of livestock and large animals, with temporary housing of large animals permitted in an attached or adjacent roofed building, with three (3) or more sides having walls or a solid fence extending from the foundation to at least 3/4 of the distance to the roof line.

Veterinary services means an establishment offering veterinary services and clinics for pets and small domestic animals, with all activities and work in-doors.

Video rental store means an establishment engaged in the sale or rental of motion pictures or games.

Vines means any woody or herbaceous plants, which may cling by twining, by means of aerial rootlets or by means of tendrils or which, may simply sprawl over the ground or other plants.

Village means the Village of Volente, Texas.

Village 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 or Village Officer 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.

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

Village Staff means the employees and agents of the Village assigned and designated from time to time by the council to conduct Village administrative functions and duties.

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

Watershed means area from which stormwater drains into a given basin, river or creek.

Waterway means any natural or man-made channel conducting storm water from a two-(2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

Wood Yard means a tract of property used for the storage of wood either for use as firewood or as a building material, containing a fence for safety and security.

Working Days means Monday through Friday exclusive of Village recognized holidays.

Wrecking Yard means any lot, tract, building or structure upon which used automobiles or parts of used automobiles or other motor vehicles are stored for the primary purpose of obtaining parts for resale as an automotive or motor vehicle part.

Yard means an open space at 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.

Yard Depth means the shortest distance between a lot line and a yard line.

Yard, Front. A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street easement line and the main building or any projections thereof other than the projections of the usual steps, balconies or bays, or unairconditioned porch. On corner lots the front yard shall be considered as parallel to the street upon which the yard has its least dimension.

Yard Line means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

Yard, Rear means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of steps, balconies or bays, or un-airconditioned porches, accessory dwellings or detached garages.

Yard, Side means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of any building on the lot, or any projections thereof.

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*

of this zoning ordinance.

Zoning (Spot) means the zoning or rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.
Zoning Map means the official certified map showing the division of the Village into districts, which is a part
Zoning (Strip) means, typically, commercial and/or retail zoning proposed to accommodate commercial or retail development, fronting a portion of a major street, usually one lot deep.

Zoo (Private) means a facility housing and displaying live animals, reptiles or birds, privately owned and operated for a fee or for the promotion of some other enterprise.

Zoo (Public) means a publicly owned zoo or similar facility owned and operated by a governmental entity or nonprofit zoological society where live animals, birds and reptiles are domiciled and displayed.

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. 30.106 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. 30.107 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. 30.108 Enforcement of Regulations:

(a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the Village for or with respect to any lot, tract or parcel of land within the Village limits that is developed, or proposed to be developed, after the effective date of this article, until all applicable requirements of this article have been satisfied and accepted by the Village.

(b) This article may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this ordinance, with respect to any land or development within the Village, by fine and penalties as provided herein.

DIVISION 2. ZONING DISTRICTS AND REGULATIONS

Sec. 30.109 General Requirements and Limitations:

(a) Conformity to Zoning District Required: 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 zoning 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, building site area, building location and land use regulations hereinafter designated for the zoning district in which such building or open space is located.

(2) Not exceed the height limit herein established for the zoning district in which such building is located, except as specifically authorized as follows:

(A) The height limits prescribed herein shall not apply to television and radio towers, church spires, tanks, water and fire towers, cooling towers, chimneys, smokestacks, necessary public or private utilities, conveyors, and necessary mechanical appurtenances. The height limits and other applicable regulations for television, radio and communications towers and antennas may be established by separate ordinance.

(B) 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 forty (40) feet when each of the required yards is increased by one (1) foot for each two (2) feet of additional building height above the height limits for the zoning district in which the building is located.

(d) Accessory Structures and Uses: Accessory structures designed, constructed and located for a use permitted in the zoning district, in compliance with this article and all other applicable Village ordinances, are permitted in each zoning district.

(e) Conformity to Construction Plan Requirements: No structure or building shall be erected, converted, enlarged, reconstructed or structurally altered unless construction plans meeting the requirements of the applicable Village ordinances 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 shall conform to the off-street parking and loading requirements of this article and the 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 shall be erected or maintained within the required building setbacks set forth herein, or which exceeds the height limits specified in the following Chart 1.

Motion to Amend Village Zoning Ordinance Division 2. Zoning Districts and Regulations, Sec. 30.109 General Requirements and Limitations, (i) Height and Placement Requirements to read:

Except as otherwise specifically provided in this article, no building shall be erected or maintained within the required building setbacks set forth herein, or which exceeds the height limits specified in the following Chart 1. ***However where there is an existing platted lot that conforms to the restrictions of R-1 zoning, does not conform to IR Infill Redevelopment Overlay, but has less than a 125' lot width measured from the front building line, the Minimum Side Yard Setback for other than a corner lot shall be not less than seven and one half feet (7.5') or fifteen percent (15%) of the lot width measured at the front building line or the actual building line, whichever is greater, but need not exceed twenty-five feet (25').***

For Example:

Zoning	Width	15%	Current	New Side Setback Per This Amendment
R1R	200	30	25	**No change**
R1	125	18.75	25	**No change**
R1 (Existing)	**100**	**15.0**	**25**	**15.0**
R1 (Existing)	**90**	**13.5**	**25**	**13.5**
R1 (Existing)	**80**	**12.0**	**25**	**12.0**
R1C	90	13.5	15	**No change**
R2	90	13.5	15	**No change**
IR	60	9	7.5	**No change**

The purpose of this amendment is to address the number of existing lots that do not qualify for IR zoning because they are larger than one acre, but do not conform with the definition of R1, because they are narrower than 125' or irregularly shaped. Application of the R1 side set back to an existing narrow lot adversely restricts development options. For example; an eighty foot wide lot with the current 25' side set back requirement would only allow for a 28' wide house (a bit wider than a standard 24' wide two car garage) - with one foot roof over hangs. The language also addresses pie shaped lots where the house is built in a place wider than the minimum building set back line. Adoption of this amendment should also alleviate the most common Board of Adjustment appeal and provide the BOA guidance for future variance requests.

***Amended to zoning ordinance October 18, 2005.**

Chart 1.

Zoning District	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width(1)	Max. Height Limit

Zoning District	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width[1]	Max. Height Limit
R-1	50 ft,	25 ft.	50 ft.	25 ft	43,560 sf	200 ft	125 ft.	35 ft.
R-1R	50 ft.	50 ft.	50 ft.	25 ft.	43,560 sf	125 ft.	200 ft.	35 ft
R-1 C (not applicable to ridgeline/ridgetop)	30 feet	15	15	15	Minimum of 21,780 sf and With max. density of one (1) home per acre in subdivision	120	90	35 ft.
R-2	25. ft for two unit 30 ft. For three and four unit	15 ft	15 ft.	10 ft. [15 ft. When abutting R-1]	10,000 sf per unit with max density of four (4) units per acre	120	90 ft.	35 ft.
OS	25 ft.	10 ft.	15 ft.	25ft.	10,000	90	60 ft.	35 ft.
Gov	25 ft.	15 ft.	15 ft.	15 ft.	10,000	90	60 ft.	35 ft.

(1) Minimum lot width measured at front building setback line.

Overlay District	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width[1]	Max. Height Limit
IR	20 ft.	7-1/2 ft.	20 ft.	15 ft.	NA	NA	NA	35 ft.

(1) Minimum lot width measured at front building setback line.

Zoning District	Front Yard Setbac k	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width[1]	Max. Heigh t Limit
C-1	40 ft.	15 ft.	15 ft. 30 ft from Residential	15 ft. 30 ft from Residential	10,000	90	50 ft.	35 ft.
C-2	60 ft.	25 ft.	25 ft. 30 ft from Residential	15 ft. 30 ft from Residential	20,000	150	60 ft.	35 ft.
C-3	100 ft.	25 ft. for single tenant 50 ft. for multi-tenant	50 ft.	15 ft. 30 ft from Residential	25,000 for single tenant 40,000 for multi-tenant	250	60 ft. for single tenant 100 ft. for multi-tenant	35 ft.
I-1	100 ft.	50 ft.	50 ft.	50 ft.	40,000	250	125 ft.	35 ft.
I-2	100 ft.	50 ft. 100 ft. from Residential	50 ft. 100 ft. from Residential	50 ft. 100 ft. from Residential	60,000	250	125 ft.	35 ft.
[1] Minimum lot width measured at front building setback line.								

(j) Impervious Coverage: The maximum percentage of impervious cover shall not exceed that set forth in the non-point source pollution control ordinance.

(k) Floor Area Ratio: Except as hereinafter provided, no building or structure may be erected, added to or altered to exceed the maximum floor area ratio standards in the various zoning districts as set forth in the following Chart 2. In the following zoning districts, the maximum floor area ratio (FAR) for any building or structure shall be as follows:

Chart 2
Maximum Floor Area Ratio (FAR)

District	Building Area		Land Area
C-1, C-2, C-3	0.20	to	1
I-1, I-2	0.20	to	1

Structures used for off-street parking of vehicles shall not be included in calculating

building area to determine floor area ratio (FAR) standards.

(I) 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 3 set forth hereinafter.

(2) Handicap Parking: Non-residential handicap parking requirements are a minimum of one (1) space for under fifty (50) parking spaces, then one (1) additional space for over fifty (50) parking spaces up to one hundred (100) spaces, and then one (1) space per one hundred (100) spaces up to five hundred(500) . Over five hundred(500) , it is one percent (1%) of total parking spaces. The location and design of handicapped parking spaces shall be as required by ordinance and state and federal law.

(3) Maximum Parking: The maximum number of parking spaces for a commercial or industrial use area shall not exceed 150% of the parking required pursuant to Chart 3.

(4) 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:

(A) 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 placing such spaces closer to the building than other employee parking;

(B) Providing showers and lockers for employees who commute by bicycle;

(C) Providing covered, secured bicycle parking racks or facilities;

(D) Providing 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.

(5) Development and Maintenance Standards for Parking Areas: Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

(A) Off-street parking areas 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.

(B) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

(C) Access aisles shall be of sufficient width for vehicular turning and maneuvering.

(6) Council Determination: Off-street 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 exception and with a view towards providing adequate parking and carrying out the general scheme of the parking requirements herein set out.

(7) Special Exception: The council may grant a special exception to allow two or more uses to share parking spaces upon a showing that the particular uses in question will require parking at different times. Any spaces the council allows to be shared count toward the number of spaces each use must provide.

Chart 3*

Use	Number of Parking Spaces
Residential dwellings, single to multi-family, and manufactured homes	Two spaces minimum for each living unit, and one-half (1/2) space for each additional bedroom above two.
Warehouses and other similar commercial establishments not catering to the general public	One space per 1,000 square feet of gross floor area
Hotels, Motels and similar transient accommodations	One space per bedroom and one space for each two employees
Rest homes, Nursing Homes, Convalescent Homes, sanitariums, and similar uses	One space for each two employees, and One space for each four patient beds
Bars, Cafes, Restaurants, Taverns, Nightclubs and similar uses	One space for every four seats provided for customer services
Food Sales, Food and Beverage Sales, Convenience Stores and similar uses	One space for each 200 square feet of gross floor area
Banks, Offices, financial lending institutions, personal service shops, retail establishments, shopping centers and similar uses catering to the general public	One space for each 250 square feet of gross floor area

* Any use providing a drive-thru to customers, must additionally provide a ninety-foot (90') concrete or asphalt driveway.

(m) Uses Noncumulative: Uses within each zoning district are restricted solely to those uses expressly permitted in each zoning district, and are not cumulative unless so stated.

(n) Mandated Exceptions: To the extent required by state or federal law, a Personal Care Facility is an additional permitted use in any zoning district; provided that:

(1) Homes and residential units not designated and constructed in compliance with the ordinance and code requirements applicable to multiple occupancy residential buildings and nursing homes, shall meet the following requirements:

(A) The structure shall comply with provisions of the Village's construction codes that are applicable to nursing homes;

(B) There shall be two (2) parking spaces, plus one (1) additional space for each three (3) residents;

(C) There shall be not less than fifty square feet (50 sf) of living space within a sleeping room for each occupant assigned to such room;

(D) There shall be not less than 175 square feet (175 sf) of living area in the structure for each occupant/resident of the structure, and attendant on duty; and

(E) 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 24 hours per day, and one supervisor for each six (6) residents during waking hours;

(4) A Personal Care Facility may not have more than fifteen (15) residents.

(o) Manufactured Housing: In addition to conforming to all other regulations herein, manufactured housing must be connected to permanent utilities and skirted.

(p) Livestock and Domestic Animals: The regulation of livestock and domestic animals will be enacted through an Animal Control Ordinance.

Sec. 30.110 Establishment of Zoning Districts.

(a) The Village is hereby divided into ten (10) zoning districts, the use, height and area regulations as set out herein shall be uniform in each district. The ten (10) districts established shall be known as:

Abbreviated Designation	Zoning District Name
C-1	Light Commercial
C-2	Medium Commercial
C-3	Heavy Commercial
GOV	Government/Public Institutional
I-1	Light Industrial
I-2	Heavy Industrial
OS	Open Space
R-1	Single Family Residential
R-1R	Single Family Residential Ridgetop
R-1 C	Single Family Cluster
R-2	Multi Family
IR	Infill Redevelopment Overlay

(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 Village 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 Zoning Map.

(4) In subdivided property, the district boundary lines on the Zoning Map shall be determined by use of the scale appearing on the map.

(5) If a district boundary line divides a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown.

(6) Whenever any street, alley or other public way is vacated by the council, the zoning 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 the streets on the ground differ from the streets shown on the Zoning Map, those on the ground shall control.

Sec. 30.111 Zoning of Annexed Areas:

(a) Interim Zoning District. All territory hereafter annexed to the Village shall be automatically classified on a temporary basis as Residential District "R-1", 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 Residential District "R-1", 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. 30.112 Single Family Residential 1 - District "R-1":

(a) Purpose and Permitted Uses. Permits detached single-family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of 43,560 square feet.

(b) Additional Permitted Uses.

(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

but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are 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 towers.

(6) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure.

(c) Conditions and Limitations:

(1) See Chart 1.

(2) See Chart 3.

(3) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated "For Sale" or "For Rent" sign not more than eight square feet (8sf) in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight square feet (8sf) in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(4) 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.

(5) Home based occupation: Any homeowner wishing to engage in commercial endeavors within a residential structure may do so provided that:

(A) The business has no employees other than immediate family;
(B) No noxious chemicals, pollutants or other hazardous materials are stored on site;
(C) No excessive traffic flow results from the operation of the business;

(D) No manufacturing requiring heavy equipment is performed; and

(E) Lighting, sound and nuisances are within the acceptable standards for R-1 zoning.

Sec. 30.113 Single Family Residential 1 Ridgetop - District "R-1R":

(a) Applicability. District R-1R 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 detached single-family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of 43,560 square feet.

(c) Additional Permitted Uses.

(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 but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are 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 towers.

(6) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure.

(d) Conditions and Limitations:

(1) See Chart 1.

(2) See Chart 3.

(3) A billboard, signboard, or advertising sign shall not be permitted as an

accessory use; provided that the placing of an unilluminated "For Sale" or "For Rent" sign not more than eight square feet (8sf) in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight square feet (8sf) in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(4) 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.

(5) Home based occupation: Any homeowner wishing to engage in commercial endeavors within a residential structure may do so provided that:

(A) The business has no employees other than immediate family;
(B) No noxious chemicals, pollutants or other hazardous materials are stored on site;
(C) No excessive traffic flow results from the operation of the business;
(D) No manufacturing requiring heavy equipment is performed; and
(E) Lighting, sound and nuisances are within the acceptable standards for R-1 zoning.

Sec. 30.114 Single Family Residential Cluster - District "R-1 C":

(a) Purpose and Permitted Uses: Permits detached single family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a lot size that does not cause the development to exceed one (1) home per 43,560 square feet.

(b) Additional Permitted Uses:

(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 but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are 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 towers.

(6) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure.

(c) Conditions and Limitations:

(1) See Chart 1.

(2) See Chart 3.

(3) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated "For Sale" or "For Rent" sign not more than eight square feet (8sf) in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight square feet (8sf)in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(4) 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.

(5) Common walkways will be required in place of sidewalks.

Sec. 30.115 Single Family Residential 2 - District "R-2":

(a) Purpose and Permitted Uses. Allows detached duplexes, three and four unit residences with a minimum of 1,000 square feet of living area per unit and permitted accessory structures on a minimum lot size of 10,000 square feet per unit.

(b) Additional Permitted Uses.

(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 but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are 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 towers.

(6) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure.

(c) Conditions and Limitations.

(1) See Chart 1.

(2) See Chart 3.

(3) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated "For Sale" or "For Rent" sign not more than eight square feet (8sf) in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight square feet (8sf) in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(4) 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.

(5) Home based occupation: Any homeowner wishing to engage in commercial endeavors within a residential structure may do so provided that:

(A) The business has no employees other than immediate family;

(B) No noxious chemicals, pollutants or other hazardous materials are stored on site;

(C) No excessive traffic flow results from the operation of the business;

(D) No manufacturing requiring heavy equipment is performed; and

(E) Lighting, sound and nuisances are within the acceptable standards for R-1 zoning.

Sec. 30.116 Open Space – District "OS":

(a) An open space district is a tract of land provided as a general benefit for the Village. 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 parks in the subdivision ordinance. 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 amenities of the common open space having regard to its topography and the intended function of the common open space.

(b) The uses permitted for this District are:

(1) Cemeteries.

(2) Conservation areas.

(3) Golf courses.

(4) Outdoor recreational and athletic facilities.

(5) Outdoor swimming pools.

(6) POA neighborhood parks, common open space, common open area, playgrounds and play fields.

(7) Wildlife sanctuaries.

(c) Secondary uses that require a conditional use permit are as follows:

(1) Club Houses and Community Centers.

(2) Retail-oriented uses which are clearly secondary and customarily or necessarily incidental to the permitted use including but not necessarily limited to the following:

(A) Retail sales and services operated as part of a golf course, recreational or athletic facility.

(B) Retail sales and services sponsored by service clubs, non-profit societies or organizations and concessions contracted with the Village.

(C) Food and beverage sales, including alcoholic beverages (with a conditional use permit) to members only.

(D) Restaurants including alcoholic beverage sales which are operated as part of or in conjunction with a Club House facility for members only.

(i) Caretaker residence.

(ii) Maintenance buildings required to house equipment and material to maintain the site.

(iii) See Chart 1.

(iv) See Chart 3.

Sec. 30.117 "Gov" Government or Institutional District:

(a) Purpose: This district is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. Uses permitted in the "Gov" District generate a large amount of traffic. Only land abutting a major street that can be used for access shall be considered appropriate for "Gov" classification. An appropriate site should also contain adequate space for required off-street parking and buffering.

(b) Permitted Uses:

(1) Facilities owned and operated by the federal government, the state or political subdivisions thereof, including public grounds;

(2) Fire station and safety services;

(3) Schools, public, denominational, kindergarten and pre-school, college,

university, dormitory and group student housing;

(4) Uses required by public utilities and public transportation services;

(5) Public athletic fields, stadium, sports facilities, playgrounds, neighborhood park, greenbelt, recreational centers, community centers and swimming pools;

(6) Churches, rectory and places of worship; and

(7) Accessory uses customarily incidental to any of the foregoing permitted uses.

(c) Conditional Uses Permitted Upon Authorization of Council.

(1) Cemeteries.

(2) Cultural services.

(3) Halfway house and institution for the care of substance dependent persons.

(4) Non-profit institutions or non-profit social clubs providing a charitable or philanthropic beneficial community service are permitted with a conditional use permit first being obtained; not including any jail, penal or mental institution.

(5) Public Zoo.

(d) Conditions and Limitations.

(1) See Chart 1.

(2) See Chart 3.

Sec. 30.118 Commercial and Industrial Uses:

(a) Purpose. The zoning map will reflect the following Commercial or Industrial zones generally. Should a use fall under the permitted or conditional uses the property must be in accordance with the Conditions and Limitations and Chart 1. 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: 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 and 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, and site development ordinances and construction codes.

Sec. 30.119 Light Commercial - District "C-1".

(a) Purpose and Permitted Uses: This district allows a mix of commercial uses including, light retail, office, light commercial, and similar uses. This district allows the retail sale of goods and products (in the following listed use areas) to which value has been added on-site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed in facilities with: Floor space less than 2,000 SF; No more than 3 employees; Maximum of 10 parking spaces; No use/storage of hazardous materials; and the following:

(1) Light Retail.

(2) Small Professional Offices.

(3) Personal Services, including barber shops, beauty parlors, photographic or artist studios, and other personal service uses of similar character.

(4) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(b) Conditions and Limitations:

(1) That C-1 activities be conducted wholly within an enclosed building, except for delivery or sales, conducted within an outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.

(2) That required yards and outdoor areas not be used for display, sale vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.

(3) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused by customer and employee vehicles, such odors, smoke, dust, noise or

vibration be generally contained within the property.

(4) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within any required yard nor within twenty-five feet (25') of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and the Village's sign ordinance.

(5) Establishments located on property that is within three hundred feet (300')of any property zoned for a residential use when the commercial use is first established may not to be open to the general public before 6:00 a.m. and must be closed to the general public by 12:00 a.m. (midnight)

(6) See Chart 1.

(7) See Chart 2.

(8) See Chart 3.

(c) Site Development Regulations:

(1) Development of any use permitted in the "C-1" District shall conform to the site development regulations established for that District.

(2) Paved sidewalks, driveways and parking areas are required.

(3) Screening of loading and storage facilities is required.

Sec. 30.120 Medium Commercial - District "C-2":

(a) Purpose and Permitted Uses. This district allows the following commercial land uses in facilities with: Floor space less than 5,000SF; No more than 10 employees; Maximum of 25 parking spaces; Mild use/storage of some hazardous materials (e.g., oxygen, carbon dioxide, nitrogen); and the following:

(1) Retail.

(2) Professional Offices.

(3) Restaurant, cafe or cafeteria.

(4) Personal Services.

(5) Bar, nightclub, private club, dance hall and social club.

(6) Bakeries with goods primarily prepared for in-store retail sales on site.

(7) Assisted retirement living, bed & breakfast, home for the aged and group day care.

(8) Child care center and child development facilities.

(9) Cultural services and community center (public and private).

(10) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(b) Conditional Uses Permitted Upon Authorization of Council.

(1) Marinas.

(2) Parking lots.

(c) Conditions and Limitations:

(1) That it be conducted primarily within an enclosed building or screened area, except for the customary outdoor activities for the specific uses listed.

(2) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that such odors, smoke, dust, noise or vibration at the property line does not exceed the permitted levels established by the Village's site development ordinance.

(3) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one hundred feet (100') of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and the Village's sign ordinance.

(4) See Chart 1.

(5) See Chart 2.

(6) See Chart 3.

(c) Site Development Regulations:

(1) Development of any use permitted in the "C-2" District shall conform to the site development regulations established for that District.

(2) Paved sidewalks, driveways and parking areas are required.

(3) Screening of loading and storage facilities is required.

Sec. 30.121 Heavy Commercial - District "C-3":

(a) Purpose and Permitted Uses: This district allows intense commercial uses and transportation services, provided that such use shall when established be compatible with adjacent and neighboring residential areas and not create unreasonable traffic or land use conflicts. This district allows the following commercial land uses in facilities with: Floor space less than 10,000 SF; No more than 20 employees; and some use/storage of hazardous materials. The permitted uses include the following specific uses:

(1) Amusement (indoor); Amusement (outdoor) and swimming pool (commercial).

(2) Bar, nightclub, private club, dance hall and social club.

(3) Carpentry, painting or plumbing shop (retail sales of building supplies).

(4) Convenience stores, retail food store, grocery stores.

(5) Marinas.

(6) Restaurant, cafe or cafeteria.

(7) Retail facilities under 10,000 square feet.

(8) Parking lots.

(9) Veterinary services and hospital.

(10) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles,

equipment and materials, and are in general dependent on products and materials produced elsewhere.

(b) Conditions and Limitations:

(1) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.

(2) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.

(3) Adequate enclosures, space, shelters and proper drainage and waste disposal to eliminate odor.

(4) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within twenty-five feet (25') of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and the Village's sign ordinance.

(5) See Chart 1.

(6) See Chart 2.

(7) See Chart 3.

(c) Site Development Regulations:

(1) Development of any use permitted in the "C-3" District shall conform to the site development regulations established for that District.

(2) Paved sidewalks, driveways and parking areas are required.

(3) Screening of loading and storage facilities is required.

Sec. 30.122 Light Industrial - District "I-1":

(a) Purpose and Permitted Uses. This district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for one (1) or more of the uses hereinafter enumerated. Allows assembly, packaging and manufacture of non-hazardous, non-volatile products and the following listed uses:

(1) Carpentry, painting, plumbing or tinsmiths shop.

(2) Furniture manufacturers and upholsterers.

(3) Light manufacturing.

(4) Warehouse and storage including watercraft storage.

(5) Recycling operation and collection (Indoors).

(6) Wood Yard.

(7) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(b) Conditions and Limitations:

(1) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.

(2) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.

(3) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one hundred feet (100') of any Residential District. All signs shall comply with all applicable provisions of this article and with the Village's sign ordinance. Alcoholic beverage sales are not permitted without a conditional use permit first being obtained.

(4) See Chart 1.

(5) See Chart 2.

(6) See Chart 3.

(c) Site Development Regulations: Paved sidewalks, driveways and parking areas are required.

(d) Performance Standards - Light Industrial Districts: All uses in the District "I-1",shall conform in operation, location and construction to the minimum performance standards specified in the site development ordinance for noise, odorous matter, toxic and noxious matter, glare, smoke, particulate matter and other air contaminants, fire, explosive and hazardous matter, and vibration.

Sec. 30.123 Heavy Industrial - District "I-2":

(a) Permitted Uses: Allows assembly, packaging, treatment, processing and manufacture of products that do not pose any materially potential hazard to persons and property outside the boundaries of the property, and the following specifically listed uses to the extent such uses are contained or included within property as to not pose a potential hazard outside of the property on which such use is conducted:

(1) Acetylene gas storage.

(2) Blacksmith shops.

(3) Automobile shops and garages including watercraft and welding shops.

(4) Candle manufacture.

(5) Crating express storage.

(6) Gas and petroleum storage.

(7) Glass products from previously manufactured glass for wholesale distribution.

(8) Greenhouses and wholesale growers.

(9) Hatchery.

(10) Manufacture, assembly and testing of communication equipment, medical instruments and apparatus, optics, photographic equipment and supplies, timing equipment, musical instruments and related equipment, computer components, computers, electronics and precision instruments.

(11) Manufacturing, assembly and packaging of products from previously prepared material such as cloth, plastic, paper, leather, and precious or semi-precious metal or stone.

(12) Motion picture or video production facilities and sound stages.

(13) Printing, publishing and book binding.

(14) Product assembly services (non-hazardous).

(15) Product development services (general).

(16) Public utility substations and distributing centers, regulation centers and underground stations.

(17) Research services (general), engineering and development facilities or laboratories.

(18) Sign shops.

(19) Testing and research laboratories.

(20) Tool and die shops.

(21) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(b) Conditions and Limitations:

(1) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.

(2) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.

(3) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one hundred feet (100') of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and the Village's sign ordinance.

(4) See Chart 1.

(5) See Chart 2.

(6) See Chart 3.

(7) Development of any use permitted in the "I-2" District shall conform with the conditions and limitations established for that District.

(c) Site Development Regulations: Development of any use permitted in the "I-2" District shall conform to the site development regulations established for that District.

(d) Performance Standards - Industrial Districts: See: Site development ordinance of the Village.

Sec.30.124 Overlays: The Village hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this article. Within these overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional zoning districts. The Overlay Districts established by this article, including the symbol for each type of district is as follows:

(a) IR Infill Redevelopment Overlay. Where there is an existing platted lot in the geographic area of the IR Overlay that conforms to the restrictions of R-1 zoning but is less than 43,560 sf, the IR restrictions in Chart 1 apply. The Village will grant the building permit only for those lots that are not adjacent to any collector or arterial streets.

DIVISION 3: BOARD OF ADJUSTMENT ESTABLISHMENT

Sec.30.125 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 qualified voters who reside in the Village; and

(2) Have demonstrated their civic interest, general knowledge of the Village, independent judgment, 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 year, 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 years. 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 30.126 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.30.126 Rules of Procedures:

(a) Organization and Officers:

(1) Officers:

(A) The Village Council shall choose the Chair and Vice Chair.

(B) In the absence of both the Chairperson and Vice-Chairperson, the board shall elect an Acting Chair.

(C) The Village Secretary shall be custodian of the minutes and other official records, 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 procedures 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 30.127 of this article shall require at least four (4) board members present and voting.

(2) Agenda: The Village 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 Village Secretary shall post a copy of the agenda in the Village 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 Meeting: 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 council 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 request and proposals shall be retained as a part of the permanent record.

(4) Public Record: 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 working hours.

Sec.30.127 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 administrative 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 administrative 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 administrative 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.30.128 Limitations on Authority of Board:

(a) The board may not grant a variance authorizing a use other than those permitted in the zoning 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 hear 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.30.129 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 zoning 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 zoning 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 and Structures: Upon written

request of the property owner the board may grant special exceptions to the provisions of Section 30.135 of this article, limited to the following, and in accordance with the following standards:

(1) Expansion of a nonconforming use within an existing structure a maximum of ten percent (10%); 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; or

(2) Expansion of the gross floor area of a nonconforming structure a maximum of ten percent (10%), provided that such expansion does not decrease any existing setback.

(3) 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.

(4) In granting special exceptions under this Sec.30.129 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.30.130 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.30.128 has been established. 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.30.131 Appeals to the Board:

(a) The appellant must file with the board and the Village administrative 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 administrative official from whom the appeal is taken certifies in writing to the board facts supporting the 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 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 administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.

Sec.30.132 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: SPECIAL PROVISIONS

Sec.30.133 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 zoning 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 zoning 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 concept plan prepared in the manner described in the Village's site development ordinance. The concept 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 zoning 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.

(c) Authorized Conditional Uses. The following listed conditional uses and those indicated in a specific zoning district as a permitted use with a conditional use permit, and none other, may be authorized subject to the terms of this subsection and compliance with all conditional terms, regulations and requirements established by the council.

(1) Airport, landing field, landing strip or heliport for aircraft; municipal service facilities and buildings.

(2) Amusement park, but not within three hundred feet (300') of any Residential District.

(3) Circus, carnival or zoo grounds, but not within three hundred feet (300') of any Residential District.

(4) Commercial, recreational or amusement development for temporary or seasonal periods.

(5) Clinic or institution, provided that any institution permitted in any Residential District shall be located on a site of not less than five (5) acres, shall not occupy more than ten percent (10%) of the total lot area and shall be set back from all property lines at least two feet (2') for each foot one (1) of building height.

(6) Horse race track and riding stables.

(7) Private operated community building or recreation field.

(8) Radio or television broadcasting towers or station.

(9) Cemeteries (except cemeteries are permitted use in zoning district "OS").

(10) Schools - Public and Denominational.

(11) Alcoholic beverages-on premises and alcoholic beverages-mixed drink for those specific uses and in the specific zoning districts as provided by this article, including a bar, nightclub, tavern and private club.

(12) Including other uses as identified in the specific district or definition of the use.

(13) Bed and Breakfasts in residential zones.

(14) Commercial in OS zone.

(15) Marinas.

(16) Parking Lots.

(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 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:

(A) 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 concept 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.

(B) 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:

(A) Commission Recommendations: Upon receipt of the recommendation from the Village, the commission shall conduct a public hearing in order to formulate its recommendations to the council on the conditional use permit application. Following the public hearing, the commission shall recommend approval, approval subject to modification, or denial of the proposal to the council. If the appropriateness of the use cannot be assured at the location, the commission shall recommended denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.

(B) Council Action: The 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 zoning district.

(4) Standards:

(A) Factors for Consideration: When considering applications for a conditional use permit, the commission in making its recommendation and the council in rendering its decision on the application shall, on the basis of the concept 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 commission and the 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 zoning 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 set-backs 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

(v) 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.

(vi) The proposed use does not adversely impact natural resources, water quality or wildlife habitat.

(B) Conditions: In approving the conditional use permit application, the commission may recommend and the 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 site plan for final approval. The Village shall verify that the 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 site plans and conditions attached thereto.

(C) 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)(A) above.

(5) 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.

(6) 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.

(7) 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. 30.134 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 zoning districts except:

(A) To correct any error in the regulations or map;

(B) To recognize changed or changing conditions or circumstances in a particular locality;

(C) To recognize changes in technology, the style of living, or manner of conducting business;

(D) To change the property to uses in accordance with the approved comprehensive plan; or

(E) 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:

(A) 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;

(B) 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;

(C) 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;

(D) 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;

(E) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved; and

(F) 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 zoning districts specified on the zoning district map. Any article amendment or zoning district boundary amendment may be requested by the council, the commission, or, in writing by the owner of real property, or the authorized representative of an 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 zoning 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 Section 30.135 of the zoning regulations and any other applicable provisions in the Village's Code of Ordinances.

Sec. 30.135 Nonconforming Uses and Structures:

(a) Intent of Provisions:

(1) Within the districts established by this article or amendments thereto, there may exist lots, tracts, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this article was enacted, amended or otherwise made applicable to such lots, tracts, structures or uses, 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 structures or uses prohibited elsewhere in the same zoning district.

(3) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the zoning districts involved.

(4) A nonconforming use shall terminate upon any sale or conveyance of the property.

(b) Nonconforming Status:

(1) Any use, platted lot, tract, or structure which does not conform with the regulations of this article on the effective date hereof or any amendment hereto, except as expressly provided in subsection (3) below, shall be deemed a lawful, non-conforming use, lot, tract or structure provided that:

(A) Such use, platted lot, tract, or structure 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

(B) Such use, platted lot, tract, or structure 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;

(C) Such use, platted lot, tract or structure 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, platted lot, tract or structure which does not conform with the regulations of the zoning district in which it is located on the effective date of this article or any amendment thereto, and except as provided in subsection (3) below, 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, platted lot, tract, or structure.

(3) The following types of platted lots or tracts shall be deemed in conformance with the provisions of this article, notwithstanding the fact that such lot or tract does not meet the standards of this article in the zoning district in which it is located:

(A) Any vacant lot or tract that conformed to the City of Austin, Texas, Travis County, Texas or Lower Colorado River Authority applicable ordinances at the time that it was platted; or

(B) Any lot occupied by a single-family dwelling use, on the effective date of this article, authorized under this article's zoning district regulations in which the lot is located.

(4) A lot of record that is nonconforming may be occupied by a single-family dwelling.

(c) <u>Continuing Lawful Non-conforming Use of Land and Structures</u>:

(1) A nonconforming use or 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 occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.

(d) Abandonment of Nonconforming Uses:

(1) If a nonconforming use 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 use was abandoned.

(2) A nonconforming use shall be deemed abandoned in the following circumstances:

(A) The use ceases to operate for a continuous period of ninety (90) days; or

(B) Where the use occupies a structure, the structure remains vacant for a continuous period of ninety (90) days; or

(C) In the case of a temporary use, the use is moved from the premises.

(e) 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 non-conforming structure may be changed to another conforming use.

(f) Expansion of Nonconforming Uses and Structures:

(1) A nonconforming use may be extended within the footprint of an existing structure provided that:

(A) The building was approved for expansion of such non-conforming use prior to the adoption or amendment of this article; and

(B) 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

(C) 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 non-conforming 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.

(g) 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 Central Appraisal District, has been destroyed, it may be rebuilt only in conformity with the standards of this article.

(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) If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use, the nonconforming use may be re-established subject to the limitations on expansion set forth in subsection (f) above.

(4) All restoration of non-conforming structures shall comply with the Village's construction codes.

(h) 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

Sec.30.136 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 concept 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:

(A) 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.

(B) 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 zoning 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) day before the date of the hearing date of 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 zoning 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 concept 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 the 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) above.

(2) Council Action on Zoning, Rezoning, Conditional Use Permit 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.

(A) 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.

(B) Council approval of a zoning application forwarded with a commission recommendation of denial shall be by affirmative vote of at least seventy-five percent (75%) of the entire council membership.

(C) If the council approves the request, then subsection (e)(4) below will apply.

(D) 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.

(E) 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.30.137 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 more 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 zoning 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 Village 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.

Sec.30.138 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 current administrative fee ordinance approved by the council.

Sec.30.139 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.30.140 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.30.300 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) 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.30.301 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.30.302 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.30.303 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.30.304 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.30.305 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.30.306 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 19th day of October 2004.

JAN YENAWINE,
MAYOR OF THE VILLAGE OF VOLENTE

ATTEST:

JENNIFER ZUFELT,
CITY SECRETARY