VILLAGE OF VOLENTE

ORDINANCE NO. 2005-O-57

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, REGULATING THE TRAVEL OF TRUCKS WITH FOUR AXLES OR MORE THROUGH THE VILLAGE OF VOLENTE ON LIME CREEK ROAD, PROVIDING THE FOLLOWING: NAME; PURPOSE; DEFINITIONS; PROHIBITIONS; PROVIDING FOR FINES AND CRIMINAL PENALTIES; ENFORCEMENT; EFFECTIVE DATE; SEVERABILITY; PUBLIC NOTICE AND MEETING.

WHEREAS, there are an increasing number of residents within the corporate limits of the Village of Volente, Texas;

WHEREAS, within the past several months, large commercial trucks transporting sand, gravel and roadway base materials have begun using Lime Creek Road as an alternative to U.S. Highway 183 to access quarries where such materials are being surface mined;

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

WHEREAS, residents of the Village of Volente should be free to enjoy the public streets without fear of dangerous driving conditions and street crossing situations caused by large trucks with four axles or more; and

WHEREAS, Lime Creek Road is a two lane road with no shoulder areas, many dangerous curves and inadequate visibility for driveways and intersecting streets accessing Lime Creek Road;

WHEREAS, it is difficult, if not impossible for large trucks with four axles or more to stay within their lane of travel while negotiating certain curves on Lime Creek Road;

WHEREAS, because of said conditions and for the health, safety, and protection of the residents of the Village of Volente, Texas, the Village Council deems it desirable to ban trucks with four or more axles from driving through the Village of Volente on Lime Creek Road.

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

DIVISION 1. ENACTMENT PROVISIONS

Section 1. Name

This Ordinance shall commonly be referred to as the Volente "Travel Restrictions on Lime Creek Road."

Section 2. Legislative Findings

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

Section 3. Purpose

This Ordinance declares it unlawful for trucks with four axles or more to travel through Volente on Lime Creek Road. This Ordinance does not ban the delivery of materials transported by trucks with four axles or more to properties located within the Village of Volente. The general objective of this regulation is to promote the health, safety, welfare, convenience and enjoyment of the citizens of Volente, with the goal of protecting those persons traveling on Lime Creek Road, crossing Lime Creek Road, or who own property in close proximity to Lime Creek Road.

Section 4. Scope

This Ordinance provides regulatory standards for travel on Lime Creek Road within the Village's incorporated municipal boundaries.

Section 5. Definitions

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

(1) Large Commercial Trucks includes semi-trailer trucks, 18-wheeler trucks, semis, tractor trailers or big-rigs.

(2) Axle: A supporting shaft or member on or with which a wheel or a set of wheels revolves.

DIVISION 2. TRUCKS WITH FOUR OR MORE AXLES

Section 1. Trucks With Four or More Axles Declared Unlawful

From and after the effective date of this Ordinance, it shall be unlawful for any person to drive a vehicle with four axles or more through the Village of Volente on Lime Creek Road.

DIVISION 3. ENFORCEMENT

Section 1. Civil and Criminal Penalties

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

Section 2. Criminal Prosecution

Whoever shall fail to comply with the conditions of this Ordinance shall be guilty of violation and subject to a fine of Five Hundred Dollars ($500) plus restitution of costs for each such occurrence. For the purposes of this Ordinance, each vehicle trip over Lime Creek Road shall be deemed a separate occurrence.

Section 3. Civil Remedies

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

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

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

C. other available relief.

Section 4. Public Nuisance

Any violation of this Ordinance is herby declared to be a nuisance. A vehicle that travels through this Village on Lime Creek Road in violation of this Ordinance is hereby declared to be a public nuisance.

DIVISION 4. GENERAL PROVISIONS

Section 1. Severability.

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

Section 2. Effective Date

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

Section 3. Public Notice and Meeting

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

PASSED AND APPROVED on this the 18 day of October 2005, by a vote of 5 ayes, 0 nays, and _____ abstentions of the Volente Village Council.

VILLAGE OF VOLENTE

Jan Yenawine, Mayor

ATTEST:

Jennifer Zufelt, Village Secretary