VILLAGE OF VOLENTE

WIRELESS COMMUNICATIONS FACILITY ORDINANCE

ORDINANCE NO. 2007-O-85

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, AMENDING CHAPTER 36 OF ITS CODE OF ORDINANCES TO REGULATE THE SITING AND CONSTRUCTION OF WIRELESS COMMUNICATIONS FACILITIES, INCLUDING BROADCASTING FACILITIES AND SATELLITE EARTH STATIONS, AND PROVIDING FOR THE FOLLOWING: NAME, LEGISLATIVE FINDINGS; PURPOSE; SITING HEIARCHY; DEFINITIONS; APPLICABILITY; DEVELOPMENT STANDARDS; APPLICATION AND REVIEW FEES; REGULATION OF BROADCASTING FACILITIES; INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS; ENFORCEMENT THROUGH CRIMINAL AND CIVIL PENALTIES, INCLUDING A MAXIMUM CRIMINAL FINE OF $500 PER VIOLATION AND CIVIL PENALITIES NOT TO EXCEED $100 PER VIOLATION, AND INJUNCTIVE RELIEF; DECLARATION OF CERTAIN VIOLATIONS AS A PUBLIC NUISANCE; SEVERABILITY; EFFECTIVE DATE; AND PUBLIC NOTICE AND MEETING.

WHEREAS, the City Council of the Village of Volente recognizes the importance of and growing need and demand for Wireless Communication Facilities; and

WHEREAS, the City Council also strives to protect the health, safety and general welfare of the public and to provide for the orderly development of land and use of property within its corporate limits by adopting plans and regulating ordinances; and

WHEREAS, the City Council seeks to maintain the value of the Village's scenic and natural resources, its unique community character and natural beauty; and its residents' peaceful use and enjoyment of their property; and

WHEREAS, the Village intends to abide by the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless service or to prohibit or have the effect of prohibiting personal wireless service in the Village; and

WHEREAS, because of said ideals the City Council deems it desirable to regulate by ordinance the siting and construction of Wireless Communication Facilities within Volente; and

WHEREAS, the City Council has determined that these restrictions should take into account a variety of considerations, such as height restrictions, siting, scale, materials safety concerns, visual impact, and character of the community; and

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

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE OF VOLENTE, TEXAS, THAT CHAPTER 36 OF THE VILLAGE'S CODE OF ORDINANCES SHALL BE AMENDED TO PROVIDE AS FOLLOWS:

Sec. 36.100 Wireless Communication Facilities

(1) Name. This Ordinance shall commonly be referred to as the Wireless Communications Facilities Ordinance.

(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.

(3) Purpose and Intent. The purpose and intent of this section is to:

(a) Promote the health, safety and general welfare of the public by regulating the siting of wireless communication facilities, including satellite earth stations; and

(b) Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility; and

(c) Encourage the location and colocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna-supporting structures; and

(d) Accommodate the growing need and demand for wireless communication services; and

(e) Encourage coordination between suppliers of wireless communication services in the Village of Volente; and

(f) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless service or to prohibit or have the effect of prohibiting personal wireless service in the Village; and

(g) Establish predictable and balanced codes governing the construction and location of wireless communications facilities, within the confines of permissible local codes; and

(h) Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time; and

(i) Consideration of and compatibility with the goals and objectives of the comprehensive plan and

(j) Protection of the unique natural beauty and small town character of the Village while meeting the needs of its citizens to enjoy the benefits of wireless communications services.

36.101 Siting Alternatives Hierarchy.

Siting of a wireless communications facility (as herein defined) shall be in accordance with the following siting alternatives hierarchy:

(a) Stealth wireless communications facility;

(b) Attached wireless communications facility;

(c) Replacement of existing antenna-support structure;

(d) Colocation on existing antenna-supporting structure;

(e) New antenna-support structure (which shall mean non-stealth in all references herein);

(f) The order of ranking, from highest to lowest, shall be (A), (B), (C), (D) and (E). Where a lower ranked alternative is proposed, the applicant must file an affidavit demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, as determined by a qualified radio frequency engineer, higher ranked options are not feasible.

(g) Upon the request of the applicant and recommendation by the Village administrator and approval of the Village council, the siting alternatives hierarchy set forth above may be adjusted and the requirements of subsection (F) above may be adjusted if the Village council determines that such adjustment is in the best interests of the Village of Volente.

36.102 Definitions.

For the purposes of this section, the terms and phrases listed below shall have the following meanings:

(A-1) Ancillary Structures. Means forms of development associated with a wireless communications facility, including but not limited to: foundations, concrete slabs on grade, guy wire anchors, generators, and transmission cable supports; however, specifically excluding equipment enclosures.

(A-2) Anti-Climbing Device. Means a piece or pieces of equipment which are either attached to antenna-supporting structure, or which are free-standing and are designed to prevent people from climbing the structure. These devices may include but are not limited to fine mesh wrap around structure legs, "squirrel-cones," the removal of climbing pegs on monopole structures, or other approved devices, but excluding the use of barbed wire.

(A-3) Antenna. Means any apparatus designed for the transmitting and/or receiving of electromagnetic waves that includes but is not limited to telephonic, radio or television communications. Types of antennas include, but are not limited to: omni-directional (whip) antenna, sectorized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas.

(A-4) Antenna Array. Means a single or group of antennas and their associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support.

(A-5) Antenna-Supporting Structure. Means a vertical projection composed of metal, or other substance with or without a foundation that is for the express purpose of accommodating antennas at a desired height above grade. Antenna-supporting structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than ten (10) feet.

(A-6) Attached Wireless Communication Facility. Means an antenna or antenna array, non-stealth in nature that is attached to an existing building with any accompanying pole or device which attaches it to the building, transmission cables, and an equipment enclosure, which may be located either inside or outside of the existing building. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site.

(B-1) Breakpoint Technology. Means the engineering design of a monopole wherein a specified point on the monopole is designed to have stresses at least 5% greater than any other point along the monopole, including the anchor bolts and baseplate, so that in the event of a weather induced failure of the monopole, the failure will occur at the breakpoint rather than at the baseplate or any other point on the monopole.

(C-1) Code. Means the Village of Volente Code of Ordinances.

(C-2) Colocation. Means a situation in which two or more different wireless communication service providers place wireless communication antenna or antennas on a common antenna-supporting structure, including where possible a stealth wireless communications facility. The term colocation shall not be applied to a situation where two or more wireless communications service providers independently place equipment on an existing building.

(C-3) Combined Antenna or Combining. As used herein shall mean an antenna or an array of antennas designed and utilized to provide services for more than one carrier, for the same type of services.

(D-1) Development Area. Means the area occupied by a wireless communications facility including areas inside or under the following: an antenna-supporting structure's framework, equipment enclosures, ancillary structures, and access ways.

(E-1) Equipment Enclosure. Means any structure above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures. Equipment enclosures are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals and not for the storage of equipment nor as habitable space.

(F-1) FAA. Means the Federal Aviation Administration.

(F-2) FCC. Means the Federal Communications Commission.

(G-1) Guyed. Means a style of antenna-supporting structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

(G-2) Geographic Search Area. Means an area designated by a wireless provider or operator for a new base station facility, determined in accordance with generally accepted principles of wireless engineering.

(L-1) Lattice. Means a tapered style of antenna-supporting structure that consists of vertical and horizontal supports with multiple legs and cross-bracing, and metal crossed strips or bars to support antennas.

(M-1) Monopole. Means a style of free-standing antenna-supporting structure that is composed of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices. These structures are mounted to a foundation that rests on or in the ground or on a building's roof.

(P-1) Personal Wireless Service. Means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

(P-3) Public Antenna-Supporting Structure. Means an antenna-supporting structure, appurtenances, equipment enclosures, and all associated ancillary structures used by a public body or public utility for the purposes of transmission and/or reception of wireless communication signals associated with but not limited to: public education, parks and recreation, fire and police protection, public works, and general government.

(P-4) Public Safety Communications Equipment. Means all communications equipment utilized by the Village of Volente for the purpose of operation in the interest of the safety of the citizens of Volente and operating within the frequency range of 806 MHz and 1,000 MHz, and shall be protected from interference from all frequencies, to include but not limited to adjacent channel receiver overload, and intermodulation distortion originating from any frequencies or derivative of any frequencies from any transmissions emanating from proponents system computed to the third order and fifth order levels.

(R-1) Radio Frequency Emissions. Means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna-supporting structure, building, or other vertical projection.

(R-2) Replacement. Means the construction of a new antenna-supporting structure built to replace an existing antenna-supporting structure.

(S-1) Satellite Earth Station. Means a single or group of satellite parabolic (or dish) antennas. These dishes are mounted to a supporting device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment enclosures necessary for the transmission or reception of wireless communications signals with satellites.

(S-2) State of the Art. As used herein shall mean existing technology where the level of facilities, technical performance, capacity, equipment, components and service are equal to that developed and demonstrated to be more technologically advanced than generally available for comparable service in the State of Texas. (type accepted by the FCC)

(S-3) Stealth Wireless Communications Facility. Means an unidentifiable attached or self-supporting-wireless communications facility, ancillary structure, or equipment enclosure that is not readily visible, and is designed to be aesthetically compatible with existing and proposed uses on a site. A stealth facility shall have a secondary function, including, but not limited to the

following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, or tree.

(T-1) Temporary Wireless Communications Facility. Means a wireless communications facility that is portable, self-contained, and designed for use on a non-permanent basis.

(W-1) Wireless Communications. Means personal wireless service, which includes but is not limited to, cellar, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing Part 15 devices (i.e. wireless internet services) and paging.

(W-2) Wireless Communication Facility (WCF). Means any staffed or unstaffed facility for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment enclosures, and may include an antenna-supporting structure. The following developments shall be considered as a Wireless Communication Facility: developments containing new or existing antenna-supporting structure, public antenna-supporting structures, replacement antenna-supporting structures, colocations on existing antenna-supporting structures, attached wireless communications facilities, stealth wireless communication facilities, temporary wireless communications facilities and satellite earth stations.

36.103 Applicability.

(a) Except as provided for in subsection (B) below, this section shall apply to development activities including installation, construction, or modification to the following wireless communications facilities:

(1) Existing antenna-supporting structures; and

(2) Proposed antenna-supporting structures; and

(3) Public antenna-supporting structures; and

(4) Replacement of existing antenna-supporting structures; and

(5) Colocation on existing antenna-supporting structures; and

(6) Attached wireless communications facilities; and

(7) Stealth wireless communications facilities; and

(8) Temporary wireless communications facilities.

(b) The following items are exempt from the provisions of this section, notwithstanding any other provisions contained in zoning codes of the Village of Volente:

(1) Non-commercial, amateur, ham radio or citizen's band radio antenna-supporting structures; antenna or antenna arrays which are less than forty (40) feet in height in residential zones Any person constructing and/or operating an antenna-support structure, antenna or antenna arrays less than the heights enumerated above shall, upon request from the Village building official, provide evidence of a valid FCC amateur license for operation of an amateur facility.

Failure to demonstrate a valid license upon request shall be cause for issuance of a code violation citation in accordance with the provisions of Article 30 " Zoning Regulations" and the person shall either furnish evidence of a valid FCC license or remove the antenna-support structure, antenna or antenna arrays within 15 days of the issuance of the aforementioned citation. Non-commercial, amateur, ham radio or citizen's band antenna-supporting structures, antennas or antenna arrays with heights greater than as provided above shall be regulated in accordance with subsection (11); and

(2) Satellite earth stations that are one (1) meter (39.37 inches) or less in diameter in residential zoning districts and two (2) meters or less in all other zoning districts and which are not greater than twenty (20) feet above grade in residential zoning districts and thirty-five (35) feet above grade in all other zoning districts; and

(3) Regular maintenance of any existing wireless communications facility that does not include the addition of, or the placement of, any new wireless communications facility; and

(4) Any existing or proposed commercial antenna-supporting structure, antenna or antenna arrays with an overall height of thirty-five (35) feet or less above ground level in all non-residential zoning districts

(5) A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the director of public safety; except that such facility must comply with all federal and state requirements. No wireless communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.

(6) Antenna-supporting structures, antennas and/or antenna arrays for AM/FM/TV/DTV Broadcasting transmission facilities that are licensed by the Federal Communications Commission shall be regulated in accordance with subsection (114).

(7) Temporary wireless communication facilities if authorized as a part of a special event in accordance with Article 30.133 "Conditional Use Permit".

(8) Facilities exempt under subsections (1) and (2) above shall be limited to only one (1) amateur antenna and support structure per residential lot, and a maximum of two (2) satellite dishes per residential lot, provided neither unit is larger than one (1) meter (39.37 inches) in diameter. Satellite dishes in any residential district that exceed one (1) meter in diameter shall be regulated pursuant to subsection .111.

36.104 Development Standards for new antenna-supporting structures.

(a) Approval criteria for new antenna-supporting structures:

(1) Setbacks. Any new antenna-supporting structures, equipment enclosures and ancillary structures shall meet the minimum setback requirements for the land use district where they are located, except that where the minimum setback distance for an antenna-supporting structure from any property line or public right-of-way is less than the height of the proposed antenna-supporting structure, the minimum setback distance shall be increased to equal the height of the proposed antenna-supporting structure, unless the antenna-supporting structure has been constructed using "breakpoint" design technology, in which case the minimum setback distance

shall be equal to 110% of the distance from the top of the antenna-supporting structure to the "breakpoint" level of the antenna-supporting structure, or the distance from the base of the antenna-supporting structure to the "breakpoint" level of the antenna- supporting structure, whichever is greater; plus the minimum setback for that land use district. However, in all instances, the minimum setback distance from the setback line of any residentially zoned property, with an inhabited residence or proposed residences, shall be at least 200% of the height of the entire proposed antenna-supporting structure. Certification by a licensed Texas professional engineer of the "breakpoint" design and the design's fall radius must be provided together with the other information required herein from an applicant.

(2) Height. The overall height of any antenna-supporting structure, antenna and/or antenna array shall not be greater than one hundred and twenty (120) feet. Height for all purposes in this section shall mean the linear distance from the ground to the highest physical point on the wireless communications facility.

(3) Construction. New antenna-supporting structures shall have a monopole type construction only, and shall not be guyed or have a lattice type construction.

(4) Structural Integrity.

A. The entire antenna-supporting structure and all appurtenances shall be designed pursuant to the wind speed design requirements of ASCE 7-95, including any subsequent modification to those specifications; and

B. The new antenna-supporting structure shall be designed to accommodate the maximum amount of wireless communications equipment, including that of other wireless communication service providers. The exact amount of potential additional equipment to be accommodated shall be agreed upon during a pre-application conference and recorded in the Letter of Understanding resulting from the conference. In all cases, the minimum number of colocated facilities on a new antenna-supporting structure between 80 and 120 feet in height shall be three (3), and the minimum number of collocated facilities on a new antenna-supporting structure between 40 and 80 feet in height shall be two (2).

(5) Lighting. Any facility shall be illuminated in accordance with FAA requirements to provide aircraft obstruction lighting, where required. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e. the longest duration between flashes) allowable by the FAA. No strobes or other lighting shall be permitted unless required by the FAA.

(6) Colocation Feasibility.

A. No antenna-supporting structure shall be permitted unless the applicant demonstrates that no existing wireless communications facility can accommodate the applicant's proposed facility; or that use of such existing facilities would prohibit personal wireless services or unreasonably discriminate between providers of functionally equivalent personal wireless service providers in the area of the Village to be served by the proposed antenna-supporting structure.

B. Evidence submitted to demonstrate that no existing wireless communications facility could accommodate the applicant's proposed facility may consist of any of the following:

i No existing wireless communications facilities located within the geographic area meet the applicant's engineering requirements.

ii. Existing wireless communications facilities are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height not to exceed 120 feet.

iii. Existing wireless communications facilities do not have sufficient structural strength to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be structurally improved.

iv. The applicant demonstrates that there are other limiting factors that render existing wireless communications facilities unsuitable.

(7) Color. New antenna-supporting structures shall maintain a galvanized gray finish or other accepted contextual or compatible color, except as required by federal rules or regulations.

(8) Radio Frequency Emissions/Noise. The radio frequency emissions shall comply with FCC standards for such emissions on an individual and cumulative basis with any adjacent facilities. The applicant shall certify that any and all new services shall cause no harmful interference to the existing Emergency Services Communications equipment. Any equipment which produces noise shall be sited and/or insulated in such a fashion as to minimize the audio impact on adjacent property, and shall not exceed sixty (60) decibels (60 db) when measured from the nearest property line to such equipment.

9. Security. Applicants shall provide for a fence or wall around the proposed facility that meets the requirements of Article 33.337 of the Village Site Development Ordinance. Alternative equivalent screening may be approved through the site plan approval process in Article 33.312 The Village Site Development Ordinance.

Any security lighting for on-ground facilities and equipment shall be in compliance with Article 33.345 The Village Site Development Ordinance and shall minimize the potential attraction to migratory birds.

10. Landscaping. Landscaping and buffering shall be required around the perimeter of development areas, as required by Article 33.336 of The Village Ordinances. Landscaping shall be installed on the outside of the perimeter fence or wall. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting the landscaping requirements, subject to approval by the Village council. Where not inconsistent with Article 33.336, landscaping shall be placed in a manner so as to maximize the screening between residential areas and the wireless telecommunications facility and minimize the view of the facility from any residential areas and public roads and rights-of-way.

11. Signage. Unless otherwise required by state or federal law, the only signage that is permitted upon an antenna-supporting structure, equipment enclosures, or fence (if applicable) shall be informational, and for the purpose of identifying the antenna-supporting structure, (such as ASR registration number) as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable). If more than two hundred twenty (220) voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every

twenty (20) feet and attached to the fence or wall shall display in large, bold, high contrast letters (minimum height of each letter: four (4) inches) the following: "HIGH VOLTAGE - DANGER."

12. Adverse Effects on Adjacent Properties.

1. New antenna-supporting structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on adjacent properties. The applicant shall demonstrate that alternative locations, configurations, and facility types have been examined and shall address in narrative and graphic form the feasibility of any alternatives that may have fewer adverse effects on adjacent properties than the facility, configuration, and location proposed.

2. The following attributes shall be considered from vantage points at adjacent properties, roadways and occupied structures:

A. Height and location; and

B. Mass and scale; and

C. Materials and color; and

D. Illumination; and

E. Existing and proposed vegetation and intervening structures.

F. Overall aesthetics of the proposed structure.

An applicant shall demonstrate through a photo-simulation requirements under subsection (b)(c) herein below that the project design employs each of these attributes in a manner that minimizes adverse effects to the greatest extent feasible.

(b) Submittal requirements for new antenna-supporting structure applications shall include:

(1) A completed application form and any appropriate fees; and

(2) Ten (10) sets (24" x 36") of signed and sealed site plans, including tower elevations, and landscape plans if required, preliminary grading plans may be included on site plans or separately submitted in equal quantities; and

(3) A property card for the subject property from Travis County Tax Assessor's Office or a tax bill showing the ownership of the subject parcel; and

(4) A form indicating that a property and/or antenna-supporting structure's owner's agent has authorization to act upon their behalf (if applicable); and

(5) A signed statement from the antenna-supporting structure's owner or owner's agent and the applicant stating that the radio frequency emissions comply with FCC standards for such emissions certifying that both individually and cumulatively with any other facilities located on or immediately adjacent to the proposed facility; and

(6) Proof of FCC authority to transmit and/or receive radio signals in the Village of Volente; and

(7) Prior to issuance of a building permit, a stamped or sealed structural analysis of the proposed antenna-supporting structure prepared by a licensed Texas engineer indicating the proposed and future loading capacity of the antenna-supporting structure; and

(8) One (1) original and two (2) copies of a survey of the property completed by a licensed Texas engineer or surveyor which shows all existing uses, structures, and improvements; and

(9) A landscape plan in accordance with the provisions of Article 33.336 the Site Development Ordinance; and

(10) Photo-simulated post construction renderings of the proposed antenna-supporting structure, equipment enclosures, and ancillary structures as they would look after construction from locations to be determined during the pre-application conference (but shall, at a minimum include renderings from the vantage point of any adjacent roadways and occupied or proposed non-residential or residential structures), as well as photo-simulations of the antenna-supporting structure after it has been fully developed with antenna array (applicant may assume for the purpose of the simulation that other antenna array on the facility will resemble their proposed array in size and design), proposed exterior paint and stain samples for any items to be painted or stained, exterior building material and roof samples (all mounted on color board no larger than 11" by 17" indicating light reflectance values (LRV); and

(11) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace; and

(12) A signed statement from the antenna-supporting structure owner agreeing to allow the colocation of other wireless equipment on the proposed antenna-supporting structure; and

(13) If required by the United States Fish and Wildlife Service, a letter indicating that the proposed antenna-supporting structure and appurtenances are in compliance with all applicable federal rules and regulations; and

(14) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this chapter, including where applicable:

A. existing wireless communications facilities to which the proposed facility will be a handoff candidate, including latitude, longitude, and power levels of each;

B. a radio frequency plot indicating the coverage of existing wireless communications sites, and that of the proposed site sufficient to demonstrate radio frequency search area, coverage prediction, and design radius, together with a certification from the applicant's radio frequency engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a stealth facility, attached facility, replacement facility, colocation, or new antenna-supporting structure;

C.. a statement that the proposed facility conforms with state of the art, as defined herein, or alternatively, that state of the art technology is unsuitable for the proposed facility. Costs of state of the art technology that exceed facility development costs shall not be presumed to render the technology unsuitable;

D. prior to issuance of a building permit, a statement by a licensed professional engineer specifying the design structural failure modes of the proposed facility; and

E. antenna heights and power levels of the proposed facility and all other facilities on the subject property;

F.. a statement from the applicant that demonstrates that alternative locations, configurations, and facility types have been examined; and addresses in narrative form the feasibility of any alternatives that may have fewer adverse effects on adjacent properties than the facility, configuration, and location proposed including but not limited to:

i. Height; and

ii. Mass and scale; and

iii. Materials and color; and

iv. Illumination;

v. Multiple stealth or attached facilities which provide similar proposed coverage to the proposed facility;

vi. Overall aesthetics; and

vii. Information addressing the following items:

(a) The extent of any existing or proposed commercial development within the geographic search area of the proposed facility;

(b) The proximity of the structure to any existing or proposed residential dwellings;

(c) The proximity of the structure to any existing or proposed public buildings or facilities;

(d) The existence or proposal of tall and like structures within the geographic search area of the proposed structure;

(15) Title report or A.L.T.A. Survey showing all easements on the subject property, together with a full legal description of the property.

(16) A vicinity map delineating the location and classification of all major public or private streets and rights-of-way, driveways, public parking areas, pedestrian ways, trails and bikeways within 600 feet of property boundary, including zoning district boundaries, on a 24"x 36" sheet, together with a list of property owners within 1,000 feet of the subject property and keyed to the map. The list must be from the most current ownership information supplied by the Travis County Tax Assessor's Office, together with two (2) sets of mailing labels for such property owners. Applicant will also provide a notarized certification letter stating the ownership list referenced herein is as accurate as possible.

(17) Any other information required by the Village administrator in its general submittal requirements for wireless communications facilities, together with an application fee in the amounts set forth in Article 27, Fee Ordinance.

(18) No application will be considered "filed" until it is deemed administratively complete by the Village.

(19) The applicant shall provide a certificate of public liability insurance of an amount equal to or greater than $1 million, from a, insurance carrier licensed in the State of Texas to provide such. The insurance carrier will be responsible to provide notice to the Village of Volente should the insurance lapse or be cancelled.

(h.) A pre-application conference is required for any new antenna-supporting structure.

At the time a pre-application conference is held, the applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the Village of Volente as indicated on the list of wireless service providers provided by the Village administrator:

"Pursuant to the requirements of the Village of Volente Code of Ordinances, (name of provider) is hereby providing you with notice of our intent to meet with the Village of Volente Staff in a pre-application conference to discuss the location of a free-standing wireless communications facility that would be located at (location) . In general, we plan to construct a monopole support structure of feet in height for the purpose of providing (type of wireless service) . The Village of Volente wishes to encourage co-location of free-standing wireless communications facilities, and so requires all applicants to determine whether there are opportunities for co-locating with current or future wireless service providers. If your company has plans to locate wireless facilities or equipment within two (2) miles of our proposed facility, please consider the option of co-locating your facilities with our proposed facility. Please inform the Village Administrator and us if you have any desire for placing additional wireless facilities or equipment within two (2) miles of our proposed facility, and contact us so that the feasibility of co-location can be discussed. Please provide us with this information within twenty (20) business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

Included with the notice shall be the latitude and longitude (NAD 83) of the proposed structure, and the actual proposed physical address. Within twenty (20) days of receiving a timely response from an interested potential co-applicant, the applicant shall inform the respondent and the Village in writing as to whether or not the potential colocation or combining is acceptable and under what conditions. If the colocation or combining is not acceptable, then the applicant must provide the respondent and the Village written justification as to why the colocations or combining not feasible.

(i) For all structures requiring a conditional use permit, all property owners within one thousand (1000) feet of the property boundary where the proposed structure will be constructed shall receive written notice of the application via certified mail from the applicant.

36.105 Development Standards for Replacement of Existing Antenna-Supporting Structures.

(a) Approval criteria for replacement antenna-supporting structures:

(1) For a proposed replacement antenna-supporting structure to be approved, it shall meet the approval criteria (4), (5), (7), (8), (9) and (11) as indicated in subsection 104 (a), as well as the following:

(2) Setbacks.

A.. Any new equipment enclosures shall meet the minimum setback requirements for the land use district where they are located; and

B. Replacement antenna-supporting structure foundations constructed on a property or properties which is/are contiguous to residential zones shall not be any closer to these zones than the foundation of the original antenna-supporting structure being replaced.

(3) Height. Replacement antenna-supporting structures, antennas and/or antenna arrays shall not exceed the height requirements set forth in subsection 104.(a).2 or 110% of the height of the antenna-supporting structure it is replacing, whichever is lesser.

(4) Replacement antenna-supporting structures, antennas and/or antenna arrays which are replacing existing structures that have an overall height of one hundred twenty (120) feet or less shall have a monopole type construction.

(5) Landscaping. Landscaping requirements for a replacement antenna-supporting structure shall be the same as that set for in subsection 104.d.

(6) Removal of old structure shall be completed within 90 days of completion of replacement structure and otherwise subject to the abandonment provision herein below.

(7) Submittal requirements for replacement antenna-supporting structure applications:

A. For a proposed replacement antenna-supporting structure application to be considered complete, it shall contain the same submittal materials required as indicated in subsection 104.g.

B. For proposed alternative replacement structures as provided in subsection 105.a.4. above, a complete application shall contain all of the requirements specified in subsections 104.g, as applicable.

C. No application will be considered "filed" until it is deemed administratively complete by the Village.

36.106 Colocations on an Existing Antenna-Supporting Structure.

(a.) Approval criteria for colocations on existing antenna-supporting structures (other than stealth):

(i) For a colocation on an existing antenna-supporting structure to be approved, it shall meet with approval criteria in subsection 104.a.b, as well as the following:

(ii) Height. A colocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array beyond that allowed under subsection 104.a.2.

(iii) Structural Integrity. Any colocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).

(b) Submittal requirements for colocation on an existing antenna-supporting structure application:

1. For a colocation on an existing antenna-supporting structure application to be considered complete, it shall contain submittal materials listed in subsection 104.b.

A. A stamped or sealed structural analysis of the existing antenna-supporting structure prepared by a licensed Texas engineer indicating that the existing antenna-supporting structure as well as all existing and proposed appurtenances meets current building code requirements (including windloading) for the antenna-supporting structure.

B. A copy of the lease, license or sublease between the owner of the antenna-supporting structure and the applicant seeking to place additional wireless equipment on the structure.

C. A certification from the applicant that the radio frequency emissions from the proposed facility, individually and in conjunction with the existing facilities to which colocation is proposed, meet all applicable federal guidelines.

2. No application will be considered "filed" until it is deemed administratively complete by the Village.

36.107 Attached Wireless Communications Facilities.

(a) Approval criteria for attached wireless communications facilities (other than stealth):

1. For a proposed attached wireless communications facility to be approved, it shall meet with the approval criteria (5), (8), and (11), as indicated in subsection 104 a, as well as the following:

2. Height

A. The antenna, antenna array, attachment device, equipment enclosure and/or any ancillary equipment shall not extend above the highest point of the building by more than ten (10) feet; and

B. Existing or proposed attached wireless communications facilities which project more than ten (10) feet above the highest point of the building upon which it is mounted shall be considered as a non-stealth antenna-supporting structure and subject to the provisions for these types of uses pursuant to subsection104.a.

3. Construction. Attached facilities may have a guyed, lattice, or monopole type construction, but in no case shall a lattice type construction exceed a height of ten (10) feet from the base of the attached facility; and

4. Color. All attached antenna or antenna arrays, equipment enclosures and ancillary equipment visible from outside the building where they are located shall be painted so as to blend in with the building where they are placed; and

5. Screening and Placement.

A. Attached wireless communications facilities shall be screened by a parapet or other device so as to minimize its visual impact as measured from the boundary line of the subject

property. .Attached facilities shall be placed in the center of the building where reasonably possible so as to further minimize visual impact; and

B. An attached wireless communications facility shall only be attached to a non-residential building.

(b) Submittal requirements for attached wireless communications facility applications:

1. For a proposed attached wireless communication facility application to be considered complete, it shall contain submittal materials as indicated in subsection 104.b as well as photo-simulated post construction renderings of the proposed attached facility, equipment enclosures, and ancillary structures as they would look after construction from the public domain.

2. Certification from the licensed Texas engineer that the structure or rooftop to which the facility will be attached has the structural capability to accommodate such attachment.

3. No application will be considered "filed" until it is deemed administratively complete by the Village.

36.108 Stealth Wireless Communications Facilities.

(a) Approval criteria for stealth wireless communications facilities:

1. For a proposed stealth wireless communications facility to be approved, it shall meet with the approval criteria as indicated in subsection 104.a. as well as the following:

2. Setbacks. Stealth facilities shall meet the minimum setback requirements for the zoning district where they are located for the type of structure used.

3. Height. Stealth wireless communications facilities shall not exceed one hundred (100) feet in overall height, and shall be compatible with existing adjacent structures, relative to height and design.

4. Construction. No stealth wireless communications facility shall be guyed or have lattice type construction.

5. Accessory Use. (intentionally omitted)

6. Structural Integrity. The stealth facility shall be designed to meet all current building code requirements (including windloading).

7. Aesthetics. No stealth facility, whether fully enclosed within a building or otherwise, shall have antennas, antenna arrays, transmission lines, equipment enclosures or other ancillary equipment that is readily identifiable from the public domain as wireless communications equipment. Examples of stealth facilities include, but are not limited to, flagpoles, light stanchions, clock towers, steeples, cupolas and trees. Any equipment associated with the stealth facility that produces noise shall be sited and/or insulated in such a fashion as to minimize the audio impact on adjacent property.

8. Colocation. A proposed stealth facility over sixty (60) feet in height shall be capable of accommodating at least two (2) wireless communications facilities. Any applicant proposing to collocate on an existing stealth facility shall follow the submittal requirements and be subject to the approval criteria of this subsection rather than the colocation subsection, where applicable.

(b) Submittal requirements for stealth wireless communications facilities:

1. For a proposed stealth wireless communications facility application to be considered complete, it shall contain submittal materials, indicated in subsection 104.b as well as a photo-simulated post construction rendering of the proposed stealth facility, equipment enclosures, and ancillary structures as they would look after construction from the public domain.

2. No application will be considered "filed" until it is deemed administratively complete by the Village.

(c) Pre-Application Conference. A pre-application conference is required for any new stealth wireless communications facility over 60 feet in height.

At the time a pre-application conference is held, the applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the Village of Volente as indicated on the list of wireless service providers provided by the Village administrator:

"Pursuant to the requirements of the Village of Volente Code of Ordinances, (name of provider) is hereby providing you with notice of our intent to meet with the Village of Volente staff in a pre-application conference to discuss the location of a free-standing wireless communications facility that would be to (location) . In general, we plan to construct a stealth facility feet in height for the purpose of providing (type of wireless service). . The Village of Volente wishes to encourage co-location of free-standing wireless communications facilities, and so requires all applicants to determine whether there are opportunities for co-locating with current or future wireless service providers. If your company has plans to locate wireless facilities or equipment within two (2) miles of our proposed facility, please consider the option of co-locating your facilities with our proposed facility.. Please inform the Village Administrator and us if you have any desire for placing additional wireless facilities or equipment within two (2) miles of our proposed facility and contact us so that the feasibility of co-location can be discussed.. Please provide us with this information within twenty (20) business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

36.109 Expert Review.

(a) Due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the Village council will require a technical review by a third party expert, the costs of which shall be borne by the applicant, which sum shall be in addition to site plan and conditional use permit fees. Applicant shall submit a deposit as described in Village of Volente Fee Ordinance towards the cost of such technical review, and

shall remit any outstanding balance to the Village for such review prior to issuance of a building permit.

(b) The expert review may address any or all of the following:

1. The accuracy and completeness of submissions;

2. The applicability of analysis techniques and methodologies;

3. The validity of conclusions reached;

4. Whether the proposed wireless communications facility complies with the applicable approval criteria set forth in this code; and

5. Other matters deemed by the Village council to be relevant to determining whether a proposed wireless communications facility complies with the provisions of this code.

(c) Based on the results of the expert review, the Village council may require changes to the applicant's application or submittals.

(d) The applicant shall reimburse the Village within fifteen (15) working days of the date of receipt of an invoice for costs associated with the third party expert's review of the application for fees exceeding the deposit. Failure by the applicant to make reimbursement pursuant to this section shall abate the pending application until paid in full.

36.110 Abandonment.

(a) Towers and antenna shall be removed, at the owner's expense, within one hundred eighty (180) days of cessation of use, unless the abandonment is associated with a replacement antenna structure as provided hereinabove, in which case the removal shall occur within ninety (90) days of cessation of use.

(b) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Village administrator may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good cause. If the tower or antenna is not removed in a timely fashion, the Village of Volente may give notice that it will contract for removal within thirty (30) days following written notice to the owner. Thereafter, the Village of Volente may cause removal at the expense of the owner.
(c) Upon removal of the wireless telecommunication facility, the site shall be returned to its natural state and topography and vegetated consistent with the natural surroundings.

36.111Application and Review Fees

. Application fees are due and payable by the applicant at the time of submission of application materials as provided in Article 27 " Fee Ordinance"

36.112 Satellite Earth Stations.

(a) Satellite earth stations that are greater than one (1) meter (39.37 inches) in diameter in residential districts and greater than two (2) meters in diameter in all other zoning districts and

which are greater than twenty (20) feet above grade in residential and neighborhood service districts and thirty-five (35) feet above grade in all other zoning districts shall be subject to receipt of a conditional use permit; submittal requirements shall include those items enumerated in subsection 104.g, together with the application fees in subsection 108 and 109 above. In addition, if the satellite earth station is to be attached to a roof or building, a letter certifying the roofs and building's structural stability shall be written and sealed by a licensed engineer, and shall be submitted to the Village administrator, prior to any approval of a roof-mounted satellite earth station. Roof-mounted satellite earth stations that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.

(b) Satellite earth stations that are greater than one (1) meter (39.37 inches) in diameter in residential districts and greater than two (2) meters in diameter in all other zoning districts and which are less than twenty (20) feet above grade in residential and neighborhood service districts and thirty-five (35) feet above grade in all other zoning districts shall be permitted so long as they employ a stealth design, i.e. patio umbrella or faux boulder or are otherwise surrounded by landscaping designed in accordance with Section 33.336 that prevents the earth station from being seen on all four sides. No stealth designed satellite earth station, whether fully enclosed within a building or otherwise, shall have antennas, antenna arrays, transmission lines, equipment enclosures or other ancillary equipment that is readily identifiable from the public domain as a satellite earth station. Alternatively, a satellite earth station may be attached to a roof or building, provided that a letter certifying the roof's and building's structural stability shall be written and sealed by a licensed engineer, and shall be submitted to the Village administrator, prior to any approval of a roof-mounted satellite earth station. Roof-mounted satellite earth stations that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.

36.113Amateur Wireless Facility.

An applicant proposing an amateur wireless facility in excess of forty (40) feet in residential zoning districts or in excess of sixty-five (65) feet in all other zoning districts shall be required to obtain a special permit.

(a) Application Requirements.

1. Site plan application in accordance with the site plan requirements, Article 33.315 of the Site Development Ordinance of the Village of Volente.

2. Applicant's copy of current, valid FCC license for amateur radio operation.

3. Site plan sketch showing all proposed structures (e.g. support structures, anchorage) and setbacks from such structures to property boundaries.

(b) Approval criteria for amateur wireless facility in excess of forty (40) feet in residential zoning districts or in excess of sixty-five (65) feet in all other zoning districts:

1. Said facility shall be accessory to a legal, principal use on site (e.g. residence).

2. Structures, including towers, shall meet the setback requirements for accessory uses for the zoning district in which the proposed facility shall be located, but in all events shall be at least 110% of the tower height.

3. Applicant shall commit in writing that the facility will be erected in accordance with manufacturer's recommendations.

4. If more than two hundred twenty (220) voltage is present in the ground grid or in the tower, a sign shall be attached to the tower and shall display in large bold letters the following: "HIGH VOLTAGE--DANGER."

5. Applicant shall furnish evidence that the proposed facilities meets or exceeds FCC Guidelines for radio frequency radiation exposure.

36.114Dormant Projects.

Permits issued pursuant to this section expire one year from the date of issuance if construction of the facility is not completed by that time. Applicants can seek a one year extension of permits by submitting a written request to the Village administrator prior to the expiration date.

36.115 AM/FM/TV/DTV Broadcasting Facilities.

(a) Approval Criteria.

1. An antenna, antenna array and/or antenna-supporting structure for AM/FM/TV/DTV facilities licensed by the Federal Communications Commission shall only be permitted in zoning district "C" in the Village of Volente and shall require in all instances a conditional use permit.

2. Any applicant for the construction or installation of any antenna, antenna array and/or antenna-supporting structure for use as an AM, FM, TV, or DTV Broadcasting facility must demonstrate, prior to submitting an application, a valid FCC Construction Permit for the proposed location (showing NAD 27 coordinates and appropriate conversion to NAD 83 coordinates) together with an FAA Determination of No Hazard to Air Navigation (Form 7460) for the same coordinates.

3. An antenna, antenna array and/or antenna-supporting structure for use as an AM, FM, TV or DTV Broadcasting facility shall, in no event, exceed 299' feet in height.

4. Any antenna-supporting structure, equipment enclosures and ancillary structures shall meet the minimum setback requirements for the land use district where they are located, except that where the minimum setback distance for an antenna-supporting structure from any property line or public right-of-way is less than the height of the proposed antenna-supporting structure, the minimum setback distance shall be increased to equal the height of the proposed antenna-supporting structure. However, in all instances, the minimum setback distance from the setback line of any residentially zoned property, with an inhabited residence or proposed residences, shall be at least 200% of the height of the entire proposed structure.

5. The entire antenna-supporting structure and all appurtenances shall be designed pursuant to the wind speed design requirements of ASCE 7-95, including any subsequent modification to those specifications; and

6. Any facility shall be illuminated in accordance with FAA requirements to provide aircraft obstruction lighting, where required. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e. the longest duration between flashes) allowable by the FAA. No strobes or other lighting shall be permitted unless required by the FAA.

7. New antenna-supporting structures shall maintain a galvanized gray finish or other accepted contextual or compatible color, except as required by federal rules or regulations.

8. The radio frequency emissions shall comply with FCC standards for such emissions on an individual and cumulative basis with any adjacent facilities. The applicant shall certify that any and all new services shall cause no harmful interference to the existing Village of Volente Public Safety Communications equipment. Any equipment which produces noise shall be sited and/or insulated in such a fashion as to minimize the audio impact on adjacent property, and shall not exceed sixty (60) decibels (60 db) when measured from the nearest property line to such equipment.

9. Applicants shall provide for a fence or wall around the proposed facility that meets the requirements of Article 33.337 of the Site Development Ordinance. Alternative equivalent screening may be approved through the site plan approval process in Article 33.315 of the Site Development Ordinance. Any security lighting for on-ground facilities and equipment shall be in compliance with Article 33.345 of the Site Development Ordinance and shall minimize the potential attraction to migratory birds.

10. Landscaping and buffering shall be required around the perimeter of development areas, as required by Article 33.336 of the Site Development Ordinance except that the Village Council may waive the required landscaping otherwise required under Article 33.336 of the Site Development Code on one or more sides of the development areas or allow the placement of required landscaping elsewhere on the development area when the required landscape area is located adjacent to undevelopable lands or lands not in public view.. Landscaping shall be installed on the outside of the perimeter fence or wall. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting the landscaping requirements, subject to approval by the Village council. Where not inconsistent with Article 33.336, landscaping shall be placed in a manner so as to maximize the screening between residential areas and the wireless telecommunications facility and minimize the view of the facility from any residential areas and public roads and rights-of-way.

11. The only signage that is permitted upon an antenna-supporting structure, equipment enclosures, or fence (if applicable) shall be informational, and for the purpose of identifying the antenna-supporting structure, (such as ASR registration number) as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable). If more than two hundred twenty (220) voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence or wall shall display in large, bold, high contrast letters (minimum height of each letter: four (4) inches) the following: "HIGH VOLTAGE - DANGER."

12. Adverse Effects on Adjacent Properties.

a. New antenna-supporting structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on adjacent properties. The applicant shall demonstrate that alternative locations, configurations, and facility types have been examined and shall address in narrative and graphic form the feasibility of any alternatives that may have fewer adverse effects on adjacent properties than the facility, configuration, and location proposed.

b. The following attributes shall be considered from vantage points at adjacent properties, roadways and occupied structures:

1. Height and location; and

2. Mass and scale; and

3. Materials and color; and

4. Illumination; and

5. Existing and proposed vegetation and intervening structures.

6. Overall aesthetics of the proposed structure.

An applicant shall demonstrate through the photo-simulation requirements under subsection 36.114.c.10 herein below that the project design employs each of these attributes in a manner that minimizes adverse effects to the greatest extent feasible.

(b) Submittal requirements for AM/FM/TV/DTV antenna-supporting structure applications shall include:

1. A completed application form and any appropriate fees; and

2. Ten (10) sets (24" x 36") of signed and sealed site plans, including tower elevations, and landscape plans if required, preliminary grading plans may be included on site plans or separately submitted in equal quantities; and

3. A property card for the subject property from Travis County Tax Assessor's Office or a tax bill showing the ownership of the subject parcel; and

4. A form indicating that a property and/or antenna-supporting structure's owner's agent has authorization to act upon their behalf (if applicable); and

5. A signed statement from the antenna-supporting structure's owner or owner's agent and the applicant stating that the radio frequency emissions comply with FCC standards for such emissions certifying that both individually and cumulatively with any other facilities located on or immediately adjacent to the proposed facility; and

6. Proof of FCC authority to transmit and/or receive radio signals in the Village of Volente, and Proof of FAA authority to construct facility at specified height; and

7. Prior to issuance of a building permit, a stamped or sealed structural analysis of the proposed antenna-supporting structure prepared by a licensed Texas engineer indicating the proposed and future loading capacity of the antenna-supporting structure; and

8. One (1) original and two (2) copies of a survey of the property completed by a licensed Texas engineer or surveyor which shows all existing uses, structures, and improvements; and

9. A landscape plan in accordance with the provisions ofArticle33.336 of the Site Development Ordinance; and

10.Photo-simulated post construction renderings of the proposed antenna-supporting structure, equipment enclosures, and ancillary structures as they would look after construction from locations to be determined during the pre-application conference (but shall, at a minimum include renderings from the vantage point of any adjacent roadways and occupied or proposed non- residential or residential structures), as well as photo-simulations of the antenna-supporting structure after it has been fully developed with antenna structures (applicant may assume for the purpose of the simulation that other antenna structures on the facility will resemble their proposed structure in size and design), proposed exterior paint and stain samples for any items to be painted or stained, exterior building material and roof samples (all mounted on color board no larger than 11" by 17" indicating light reflectance values (LRV); and

11. A signed statement from the antenna-supporting structure owner agreeing to allow the colocation of other wireless telecommunications and/or broadcasting equipment on the proposed antenna-supporting structure; and

12. If required by the United States Fish and Wildlife Service, a letter indicating that the proposed antenna-supporting structure and appurtenances are in compliance with all applicable federal rules and regulations; and

13. All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this chapter, including where applicable:

A. prior to issuance of a building permit, a statement by a licensed professional engineer specifying the design structural failure modes of the proposed facility; and

B. antenna heights and power levels of the proposed facility and all other facilities on the subject property.

C. a statement from the applicant that demonstrates that alternative locations, configurations, and facility types have been examined; and addresses in narrative form the feasibility of any alternatives that may have fewer adverse effects on adjacent properties than the facility, configuration, and location proposed including but not limited to:

i. Height; and

ii. Mass and scale; and

iii. Materials and color; and

iv. Illumination;

v. Overall aesthetics; and

vi. Information addressing the following items:

a. the extent of any existing or proposed commercial development within the geographic search area of the proposed facility;

b. the proximity of the structure to any existing or proposed residential dwellings;

c. the proximity of the structure to any existing or proposed public buildings or facilities;

d. the existence or proposal of tall and like structures within the geographic search area of the proposed structure;

14. Title Report or A.L.T.A. Survey showing all easements on the subject property, together with a full legal description of the property.

15. A vicinity map delineating the location and classification of all major public or private streets and rights-of-way, driveways, public parking areas, pedestrian ways, trails and bikeways within 600 feet of property boundary, including zoning district boundaries, on a 11" x 17" sheet, together with a list of property owners within 1,000 feet of the subject property and keyed to the map. The list must be from the most current ownership information supplied by the Travis County Tax Assessor's Office, together with two (2) sets of mailing labels for such property owners. Applicant will also provide a notarized certification letter stating the ownership list referenced herein is as accurate as possible.

16. Any other information required by the Village administrator, together with an application fee in the amounts set forth in Article 27 "Fee Ordinance".

17. No application will be considered "filed" until it is deemed administratively complete by the Village.

36.116Interference With Public Safety Communications.

In order to ensure that the Village's public safety communications equipment will be free from objectionable technical interference, all applicants requesting a permit for a wireless communications facility or an AM/FM/TV/DTV facility under this section shall agree, in addition to any other requirements herein:

(a) To demonstrate compliance with good engineering practices;

(b) To provide the Village a copy of all intermodulation studies submitted to the FCC;

(c) Not to induce objectionable technical interference to the Village's public safety communication equipment;

(d) To comply with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI);

(e) In the case of collocation of telecommunications facilities either in the same location or on the same tower as the Village's, to not cause or permit to be caused by its transmissions or other activities on the premises, objectionable technical interference of any kind whatsoever to the broadcasting transmissions, reception, or electromagnetic communications of the Village; and

(f) To pay for any studies requested by the Village administrator to determine if the applicant's telecommunications facilities are causing objectionable technical interference; and

(g) Upon notification by the Village administrator, if the operations of the applicant are causing objectionable technical interference, to immediately undertake all steps necessary to determine the cause of and eliminate such interference at the cost of the applicant. If said interference continues for a period in excess of 48 hours after notice from the Village administrator, the Village shall have the right to cause the applicant to cease operating the equipment that is causing the objectionable technical interference or to reduce the power sufficiently to ameliorate the objectionable technical interference until the condition causing said interference has abated.

Sec. 35.117 Civil and Criminal Penalties

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

Sec. 35.118 Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars ($500). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

Sec. 36.119 Civil Remedies

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

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

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

(3) other available relief.

Sec. 36.120 Public Nuisance

Any violation of this Ordinance is hereby declared to be a nuisance. A Wireless Communication

Facility that is erected, constructed, relocated, expanded or structurally altered in violation of this Ordinance, and which is not in conformance with this ordinance, is hereby declared to be a public nuisance.

Sec. 36.121 Removal

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

Sec. 36.122 Severability.

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

Sec. 36.163. Effective Date

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

Sec. 36.164 Public Notice and Meeting

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

PASSED AND APPROVED on this the 18th day of December, 2007 by a vote of 5 ayes, 0 nays, and 0 abstentions of the Volente City Council.

VILLAGE OF VOLENTE

Jan Yenawine, Mayor

ATTEST:

Jennifer Zufelt, City Secretary