VILLAGE OF VOLENTE

ORDINANCE NO. 2007-O-75

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, AMENDING THE SITE DEVELOPMENT REGULATIONS PROMULGATED AT ARTICLE 33.300 OF THE VOLENTE CODE OF ORDINANCES; PROVIDING THE FOLLOWING: PURPOSE; DEFINITIONS; STANDARDS, REQUIREMENTS AND PROHIBITIONS; EFFECTIVE DATE; SEVERABILITY; PUBLIC NOTICE AND MEETING.

WHEREAS, the Village of Volente adopted the site development regulations in October of 2004; and,

WHEREAS, since the date of adoption of the site development regulations, the Texas Legislature has amended provisions in the Texas Local Government Code; and,

WHEREAS, the Village Council desires to conform its site development regulations with the current provisions of the Texas Local Government Code; and,

WHEREAS, the original site development regulations had to be adopted before the end of a moratorium the Village Council had imposed on development within its corporate boundaries after the Village was incorporated; and,

WHEREAS, the Village Council, upon recommendation of its engineers and attorneys, has concluded that the site development regulations need to be amended to eliminate certain conflicts, inconsistencies and ambiguities;

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE OF VOLENTE, TEXAS, THAT THE SITE DEVELOPMENT REGULATIONS IN ARTICLE 33.300 OF THE VILLAGE OF VOLENTE CODE OF ORDINANCES ARE AMENDED AS FOLLOWS:

Section 1. 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 2. Definitions

Section 33.304 is repealed in its entirety.

Section 33.312 is amended to add the following definition:

Development: The construction or alteration of any man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, grading, paving, excavation, tunneling or drilling operations, and clearing or removing vegetation. The term does not include repairs to a structure, or routine resurfacing by a governmental authority of a public street.

Section 33.312 is amended to delete the following definition:

Submission Date:

Section 3. Regulatory Provisions and Standards

Section 33.316 is amended to provide as follows and to add the following highlighted language:

B. Applicability: Site plan review and approval shall be required for all nonresidential, residential, and **infrastructure or public use site development** except as provided in subsection (c) below. No building permit or site development permit or nonpoint source pollution control permit shall be issued for any site development until a site plan and all other required engineering or construction plans are first approved by the Village. No certificate of occupancy shall be issued until all construction and development conforms to the site plan and engineering or construction plans, as approved by the Village.

C. Exemptions and Exceptions: Site plan application shall not be required for single-family detached residential developments that are not a part of a subdivision **and do not provide for development of utility infrastructure, streets or other public improvements.**

F. 4. Village has ten (10) **business days within which to determine completeness of the application and to provide Applicant notice of any failure to provide required or necessary documents or other information, together with notice that the application will expire 45 days after the application was filed if the necessary or required documents and information are not provided. An application shall expire on the 45th day after it is filed if notice of deficiencies are provided to the applicant as provided in this subsection and the applicant fails to timely provide all necessary and required documents and information.**

5. The Village **shall** initiate technical review of the application and distribute the application to other appropriate entities for technical review **upon timely submission of a necessary and required documents and information.**

6. Village schedules consideration of the application on the regular agenda of the commission **at a public meeting** that will be conducted within **the time period provided in these regulations fifty-five (55) calendar days after submission of a complete application, with all necessary and required documents and information, as may have been included in any notice of a deficiency in an original submission.**

Section 33.318 is amended to provide as follows and add the following highlighted language.

E. Completeness of the Application for Site Development Permit Approval: Site development permit applications which do not include all required information and materials will be considered incomplete, and will not be accepted for official submission by the Village until the proper information is provided the Village. **If the application is incomplete, notice thereof shall be provided to applicant and applicant shall be required to submit additional necessary or required documents and information according to the process provided in §33.316(F) and the application shall expire on the same terms and conditions as provided in such section 33.316(F).** For an application to be considered complete, the following information shall be included in the application.

Section 33.319 is amended to provide as follows and add the following highlighted language:

D 3. Village deems completeness of application. If application is incomplete, applicant timely submits **necessary and required additional documents and information** for Village completeness review **pursuant to § 33.316(F).**

4. Upon **submission of all required and necessary documents and information** the Village conducts a sixty (60) calendar day technical review of the application submittal and distributes the application to other appropriate entities for technical review.

F. 3. b. (ii) Geologic Element: Description of all Critical Environmental Features, as defined in the Village's non-point source pollution control ordinance, with a reference to their topographic map which identifies their locations, and discussion of proposed means for protection of such areas; general description of topography, soils and geology of the

site; discussion explaining how the proposed drainage patterns will protect the quality and quantity of recharge features; **location and depth of wells within one mile of the project and discussion of proposed means for protection of such wells and their water supply.** Geologic plans shall be prepared by or under the direct supervision of a professional geoscientist licensed in the State of Texas, as required by state law governing such professions and in accordance with this article. All geologic plans submitted for Village review shall be dated and shall bear the responsible geoscientist's registration number, his or her designation of "professional geoscientist" or "P.G.", and the seal.

Section 33.320 is amended to provide as follows and to add the following highlighted language:

C. 5. constructing new buildings or structures or making additions, alterations or repairs to existing buildings or structures that are owned by the **State of Texas or United States governments**;

H. 3. Village deems completeness of application. If application is incomplete, **notice thereof shall be provided to applicant and applicant shall be required to submit additional necessary or required documents and information according to the process provided in § 33.316(F) and the application shall expire on the same terms and conditions as provided in such section 33.316 (F).**

4. The Village conducts a sixty (60) calendar day technical review of the application submittal **following submission of all necessary and required documents and information** and distributes the application to other appropriate entities for technical review.

Section 33.321 is amended to provide as follows and to add the following highlighted language:

G. 3. Village deems completeness of application. If application is incomplete, **notice thereof shall be provided to applicant and applicant shall be required to submit additional necessary or required documents and information according to the process provided in § 33.316(F) and the application shall expire on the same terms and conditions as provided in such section 33.316(F).**

4. The Village conducts a thirty (30) calendar day technical review of the application submittal **after submission of all necessary and required documents and information** and distributes the application to other appropriate entities for technical review.

Section 33.322 is amended to provide as follows and to add the following highlighted

language:

F. 3. Village deems completeness of application. If application is incomplete, **notice thereof shall be provided to applicant and applicant shall be required to submit additional necessary or required documents and information according to the process provided in § 33.315(f) and the application shall expire on the same terms and conditions as provided in such section 33.315(f).**

4. The Village conducts a thirty (30) calendar day technical review of the application submittal **following submission of all necessary and required documents and information** and distributes the application to other appropriate entities for technical review.

Section 33.323 is amended to provide as follows and to add the following highlighted language:

F. 3. Village deems completeness of application. **If application is incomplete, notice thereof shall be provided to applicant and applicant shall be required to submit additional necessary or required documents and information according to the process provided in § 33.316(F) and the application shall expire on the same terms and conditions as provided in such section 33.316(F).**

4. The Village conducts a thirty (30) calendar day technical review of the application submittal **following submission of all necessary and required documents and information** and distributes the application to other appropriate entities for technical review.

Section 33.332 is amended to provide as follows and to add the following highlighted language:

A. Minimum width for the public utility easements shall be fifteen feet (15'). The minimum width for Village drainage easements shall be as required by the Village engineer. The width of easements for other utility provisions, such as for gas, electric, telephone or cable TV, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies. Wherever possible, easements shall be along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots. **No utility easement shall be located across the interior of a lot unless the applicant can demonstrate that it would be impracticable to locate the easement on a front or side lot line, and the location of the easement will not unreasonably interfere with the use and enjoyment of the lot for an existing use or a use permitted by the applicable zoning category.**

Section 33.338 is amended to provide as follows and to add the following highlighted language:

F. 2. All protected trees next to an excavation site or to a construction site for any building, structure, **public improvement** or street work, shall be guarded with a good substantial fence, frame, or box not less than four feet (4') high and surrounding the entire protected zone of the tree(s). The barriers shall be approved by the Village and shall be in place before any site clearance or other site-distributing act commences. Any barrier with lesser dimensions than those specified above shall be subject to approval by the Village. All building material, dirt, excavation or fill materials, chemicals, construction vehicles or equipment, debris, and other materials shall be kept outside the barrier. Barriers shall remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the certificate of occupancy.

Section 33.345 is amended to provide as follows and to add the following highlighted language:

E. <u>Utility Lines</u>: Construction of utility lines shall not be subject to subsection (a) of this section.

1. To the extent the utility right of way lacks impervious cover, all sites shall be restored to the natural grade unless an alternative restoration plan is approved by the Village Council accompanied by findings that:

a. The alternative restoration will not cause drainage patterns that adversely affect any creek, lake, critical environmental feature, or private property; and

(i) The alternative restoration will enhance the natural beauty of the area; or

(ii) The alternative restoration is necessary to solve a pre-existing drainage problem; or

(iii) The project cannot be completed without permanently altering the pre-existing grade.

b. The alternative restoration will not adversely affect adjoining properties.

c. The restoration complies with the standards set forth in the City of Austin Environmental Criteria Manual in effect on the date this section is adopted by the Village Council.

2. To the extent the utility right of way is below public streets, sidewalks or surface right-of-way, all activities relating to cuts and repairs shall meet the requirements set forth in Section 33.380 et seq. of the Site Development Regulations

3. No utility line construction shall be permitted in a location where the domestic potable water supply of any resident of Volente is threatened by the construction or operation of the utility line.

4. No permit shall be issued for the construction of a trench deeper than ten feet for any utility line unless a hydrological report is submitted that identifies all public and private wells within 1 mile and certifies that the construction and operation of the utility line will not adversely impact those wells.

5. If the hydrologist conditions his or her certification on the utility's adherence to specific best management practices, then the utility shall be required to adhere to those identified best management practices.

6. No more than 500 linear feet of trench may be opened at one time.

7. Excavated material shall be placed on the uphill side of trenches.

8. Best management practices shall be implemented so as to ensure that no excavated materials are discharged onto adjacent property or in any creek or critical environmental feature.

9. Disturbed soil shall be stabilized as quickly as practicable.

10. Material used for backfilling trenches shall be properly compacted in order to minimize erosion and promote stabilization.

11. Where construction vehicle access routes intersect paved or public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking on to the paved surface. Where sediment is transported onto a paved or public road surface, the road surface shall be cleaned thoroughly at the end of each day by the utility.

12. For slopes or trenches more than five feet in depth, a note must be added to General Construction Notes stating that: "All construction operations shall be accomplished in accordance with the City of Austin Standard Specifications Item No. 509 and applicable

regulations of the U.S. Occupational Safety and Health Administration (OSHA)."

13. **All utility line construction shall comply with the City of Austin Environmental Criteria Manual as well as the City of Austin Utility Criteria Manual in effect at the time this Ordinance is adopted, unless the Village has adopted more restrictive criteria.**

14. **These requirements are cumulative of any other regulatory requirements affecting construction or operation of utility lines. To the extent there are conflicts between various regulations the more restrictive regulation prevails.**

33.349 is amended to provide as follows and to add the following highlighted language:

C. 3. c. Water Storage Tanks and Pump Stations: All water storage facilities, which serve the public shall be designed and painted to complement the natural surroundings. All water storage facilities shall be placed, to the extent possible, so as to have minimal negative impact on surrounding areas and shall be painted earth tone, natural colors. The council may authorize alternative color selections as a variance if such color(s) are more acceptable with surrounding areas.

(i) **Any pump house or other water utility structure located in a residential neighborhood or within 500 feet of a residential dwelling shall comply with the standards set forth in section 33.349(D)(5).**

(ii) **Compliance with the 33.349(D)(5) standards shall be demonstrated in a site plan. Compliance with the 33.349(D)(5) standards shall be reviewed by the commission and shall be approved or disapproved by the council.**

Section 33.382 is amended to provide as follows and to add the following highlighted language:

A. Assist in the management of facilities placed in, on, **under**, or over the public rights-of-ways in order to minimize the congestion, inconvenience, visual impact and other adverse effects, and the costs to the citizens resulting from the placement of facilities within the public rights-of-way.

Section 33.385 is amended to provide as follows and to add the following highlighted language:

A. Any person seeking to place facilities on, in, **under** or over the public rights-of-way, shall first file an application for a site development permit with the Village and shall abide by the terms and provisions of this article pertaining to use of the public rights-of-way.

Sec. 33.391 is amended to provide as follows and to add the following highlighted language:

A. The minimum width for utility easements shall be fifteen feet (15') and the minimum width for drainage easements shall be twenty-five feet (25'). The width of easements for other utility providers, such as for gas, electric, telephone or cable TV, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies. Wherever possible, easements shall be along front or side lot lines rather that across the interior or rear of lots, particularly where no alleys will be provided behind the lots. **No utility easement shall be located across the interior of a lot unless the applicant can demonstrate that it would be impracticable to locate the easement on a front or side lot line, and the location of the easement will not unreasonably interfere with the use and enjoyment of the lot for an existing use or a use permitted by the applicable zoning category.**

All Sections beginning with Section 3.343 in the Site Development Regulations shall be renumbered to 33.343 et seq. to be consistent with the remainder of the chapter of the Code covering the Site Development Regulations.

Section 4. 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 5. Effective Date

This Ordinance shall take effect upon adoption or if required by state law, after any required posting and publication of this Ordinance.

Section 6. 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 1st day of April 2007, by a vote of five ayes, no nays, and no abstentions of the Volente Village Council.

VILLAGE OF VOLENTE

Jan Yenawine, Mayor

ATTEST:

Jennifer Zufelt, Village Secretary