



**NOTICE OF A SPECIAL CALLED MEETING  
AND WORK SESSION OF THE  
CITY COUNCIL  
OF THE VILLAGE OF VOLENTE, TEXAS  
TUESDAY, MARCH 31, 2015 at 6:30 P.M.  
16100 Wharf Cove, Volente, Texas 78641**

Notice is hereby given that the City Council of the Village of Volente will hold a Special Called Meeting and Work Session at 6:30 p.m., Tuesday, the 31<sup>st</sup> day of March, 2015 in Council Chambers at 16100 Wharf Cove, Volente, Texas at which time the following items will be discussed, to wit:

1. Open Special Called Meeting.
2. Call Roll.
3. Citizens Comments. *At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. In accordance with the Open Meetings Act, Council is prohibited from acting on or discussing (other than factual responses to specific questions) any items brought before them that are not on the agenda. There is a four (4) minute time limit on any communication.*
4. Discussion and Possible Action on Approving \$75.00 for the Public Relations and Communications Committee to use at the Village Booth during Olive Fest, April 18<sup>th</sup>, 2015.
  - a. Presentation from Chair (Kristi Belote).
5. Discussion and Possible Action on a Survey to be conducted by the Public Relations and Communications Committee as a follow-up of the 2014 Community Survey.
6. Close Special Called Meeting and open Work Session.
7. Discussion and Consensus on the definition of the terminology used to reference different zoning areas within the Village of Volente.
  - a. Districts
  - b. Neighborhoods
  - c. Subdivisions
  - d. Classes
  - e. Categories
8. Review of the current allowed uses within each zoning district.
  - a. Residential

- b. Commercial
9. Review of the proposed residential zoning districts within the Village of Volente.
10. Discussion and Consensus on what zoning districts should be used and/or added.
- a. Residential
  - b. Commercial
11. Discussion and Consensus for each of the districts in regards to
- a. Setbacks
  - b. Impervious Cover (estimation only, Impervious Cover re-visited in Water Quality Ordinance)
  - c. View Corridors
  - d. Restrictions, examples: acreage, parking, size of structure, height
12. Discussion on the next steps and plan of action for review of the Zoning Ordinance.

**IT IS HEREBY CERTIFIED** that the above Agenda was posted on the bulletin board at the Village Offices and the VVFD Bulletin Board on this 23<sup>rd</sup> day of March, 2015.

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**Julia Vicars, City Secretary**

*The Village of Volente is committed to the compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications are provided upon request. The Village Council reserves the right to enter executive session at any time during the course of this meeting to discuss any of the matters above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.086 (Economic Development). A quorum of the Planning and Zoning Commission or Board of Adjustments may be in attendance however, no official action by the Planning and Zoning Commission or Board of Adjustments shall be taken.*



# Test for All Ordinances

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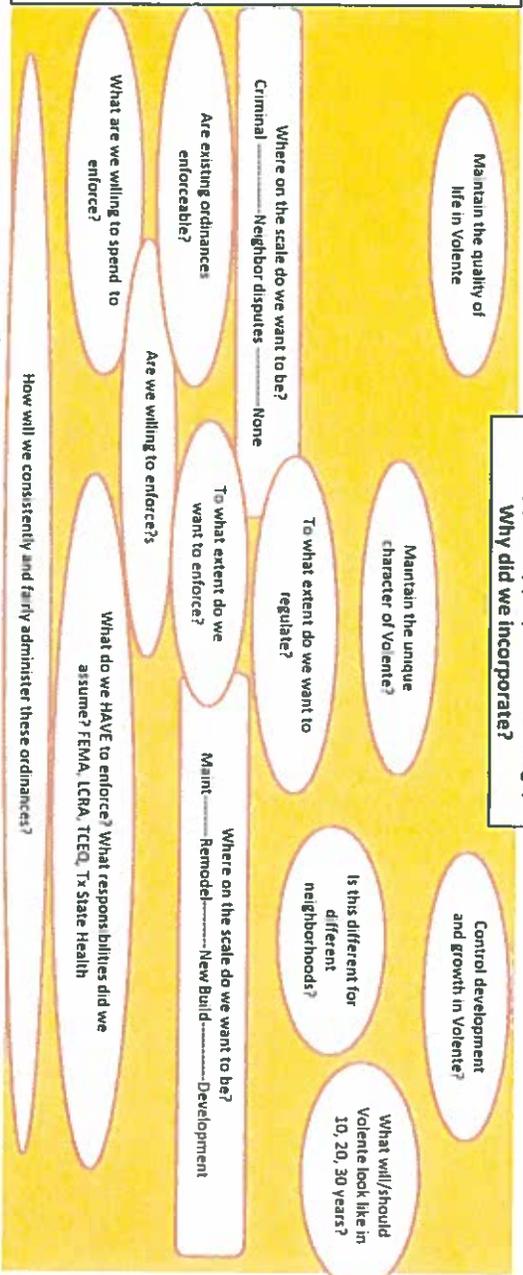
## A: Test

1. Does this **fit the Vision** of the Village of Volente?
2. Is this ordinance **enforceable**?
3. Is this ordinance **affordable**?
4. Is this ordinance **consistent**?
5. Is this ordinance **within legal requirements**?
6. Does this ordinance **contain administrative guidance**?

## B: Define Procedures

1. Who handles what? (Admin, Council, P&Z, BoA)
2. Escalation procedures
3. Timelines

January, 2015



March/April, 2015

- I - Administration**
- A - Test for all ordinances
    1. Fits vision
    2. Enforceable
    3. Affordable
    4. Consistent
    5. Within legal requirements
    6. Contain Administrative guidance
  - B - Define procedures
    1. Who handles what? (Admin, Council/P&Z/BoA)
    2. Escalation procedures
    3. Timelines

- II - Non-P&Z ordinances**
- A - Organize and identify all active ord.
    1. Define broad categories
    2. Classify accordingly
    3. Plan & schedule review process

- III - Planning and zoning ordinances**
- A - Review and Modify Master/Comprehensive Plan
    - Rational districts reflect what is here
    - Buffering between zones
    - Density and use
    - Buffering between zones
    - Commercial vs. Residential

August, 2015

C - Walk all ordinances through

B - Review all existing ordinances Compare to Test

- B - Site Development Plan**
- Clarify level at which village becomes involved
  - any and all changes to a property?
  - differentiate between new and remodel
  - landscaping requirements reviewed

October, 2015

C - Codify existing ordinances

C - Codify existing ordinances

**C - Subdivision**

December, 2015

D - Water Quality

D - Water Quality

- Draft targeted surveys
- January meetings
  - Neighborhood meetings
  - Consolidate results
- February meeting
  - Publish results
  - Public hearing
- March meeting
  - Prepare P&Z instructions
  - Redline Comp Plan
- April P&Z - review, comment, revise
- April Council - review, comment, revise
  - Incorporate revisions
  - Publish final draft
- May P&Z Public Hearing, discussion, revisions
  - May Council Update
  - Publish proposed Plan
  - Begin redlines on Site Dev Ord
- June P&Z Final recommendation on Comp Plan
  - June Council Public Hearing, discussion, revisions
  - Redline Site Dev to P&Z, cc Council
  - Publish proposed Comp Plan
- July P&Z - Review, comment, revise Site Dev
  - July Council - Post, Action on Comp Plan
  - Redline revisions to Site Dev
  - Publish draft Site Dev
- August P&Z Public Hearing, discuss, revise
  - August Council review, discuss, revise
  - Redline revisions to Site Dev
  - Publish final draft Site Dev
- Sept P&Z Final recommendations on Site Plan
  - Sept Council Pub Hearing on Site Dev, discuss, revise
  - Redline revisions to Site Dev
  - Publish proposed Site Dev
  - Draft revisions to Subdivision
- Oct P&Z Review, comment, revise Subdivision
  - Oct Council post action on Site Dev
  - Redline revisions to Subdivision
  - Publish draft Subdivision
- Nov P&Z Public Hearing, discuss, revise Subdivision
  - Nov Council review, discuss, revise Subdivision
  - Redline revisions to Subdivision
  - Publish proposed Subdivision
- Dec P&Z Final recommendations on Subdivision
  - Dec Council Pub Hearing on Subdivision, discuss, revise
  - Redline revisions to Subdivision
  - Publish proposed Subdivision
  - Draft revisions to Water Quality

## I. INTRODUCTION TO ZONING

### What is zoning?

Zoning establishes the types of land uses permitted on a parcel of land within the full or limited purpose jurisdiction of the City of Austin. Zoning also sets the development standards for a site, such as building height, setbacks, floor-to-area ratio, neighborhood compatibility, screening, landscaping, and impervious cover limitations.

The purpose of land use regulations such as zoning is to create compatible land uses, ensure proper design and construction standards, and promote the overall public good.

Zoning has three elements:

**Allowed uses:** Section VII of this guide provides a list of allowed uses by category—Residential, Civic, Commercial, Industrial, and Agricultural. Each zoning district allows for multiple uses such as single family residential, food sales, retail, or religious assembly. Most uses are allowed in several zoning districts, and each zoning district allows several uses. Uses can be permitted (allowed by right, without any zoning review by the City) or conditional (which needs Planning Commission or City Council approval).

**Site development standards:** Regulations that guide how buildings may be placed on a site. This includes standards such as height, setbacks, floor-to-area ratio, neighborhood compatibility, screening, landscaping, and impervious cover limitations. Note that not all of the site development standards that may affect a piece of property are controlled by the zoning district (other examples include subdivision regulations and residential compatibility).

**Geography:** Zoning is applied to property within the City of Austin or its limited purpose jurisdiction.

### How to read a zoning district

Zoning districts are generally represented by a code, such as SF-3 or NO-MU-NP. Every property in Austin has a base zoning district. The City has 39 base zoning districts; each base zoning district and its code is listed in Table 1. Other zoning districts, called combining districts, provide additional regulations to base zoning districts (see Table 2). If a property is part of a combining district, its zoning code will list the base district code, followed by a dash, and then the combining district. For example, a mixed use (-MU) combining district applied to a neighborhood office district (NO) is shown as NO-MU. The zoning of a property may include multiple combining districts: NO-MU-H-NP is a neighborhood office (NO) district that allows mixed use (-MU), is a historic property (-H), and follows a neighborhood plan's requirements (-NP).

### **What is the difference between zoning and land use?**

People often confuse zoning with land use. In Austin, land use is a general indication of how land is used—residential, commercial, industrial, open space, etc. Land use defines broad categories; zoning is used to implement the land use plan. It further refines the permitted uses and standards for a site. The City of Austin has established a land use planning process with significant public participation to determine how land should be used both now and in the future through the development of the Future Land Use Map. This map, which is adopted by City Council, provides a framework for future zoning decisions.

### **What is my zoning?**

To determine the zoning of your property, the City of Austin has created a map viewer available on the City's website. This viewer enables you to type in your address and click on a button to retrieve zoning information (as well as other City GIS data).

The Development Web Map viewer can be accessed at:  
*<http://www.austintexas.gov/department/gis-and-maps>.*

Although this tool is intended for public use, it is not an official verification of zoning. Verification of zoning is required prior to issuance of a subdivision, site plan, site plan exemption, building permit or certificate of occupancy. You can request a zoning verification letter from the Development Assistance Center, 505 Barton Springs Road, 1st Floor. The phone number is (512) 978-4000.

# SF-1

## Single Family Residence—Large Lot

Single Family Residence Large Lot district is intended for a low density single-family residential use on a lot that is a minimum of 10,000 square feet. An SF-1 district designation may be applied to a use on land with sloping terrain or environmental limitations that preclude standard lot size or to a use in an existing residential development on a lot that is 10,000 square feet or more.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	10,000 sq ft	Maximum Height	35 ft
Minimum Lot Width	60 ft	Minimum Setbacks	
Maximum Units Per Lot	1	Front yard	25 ft
Maximum Building Coverage	35%	Street side yard	15 ft
Maximum Impervious Cover	40%	Interior side yard	5 ft
		Rear yard	10 ft

### Permitted and Conditional Uses

#### Residential

Single-Family Residential *	Bed and Breakfast Residential (Group 1) *
Short-Term Rental	Conservation Single Family Residential

#### Civic

Club or Lodge (c) *	Family Home *
College and University Facilities (c) *	Group Home Class I—General (c) *
Communication Service Facilities *	Group Home Class I—Limited *
Community Events *	Local Utility Services (c)
Community Recreation—Public (c) *	Private Primary Educational Services (c) *
Community Recreation—Private (c) *	Private Secondary Educational Services (c) *
Cultural Services (c)	Public Primary Educational Services *
Day Care Services—Commercial (c)	Public Secondary Educational Services *
Day Care Services—General (c)	Religious Assembly
Day Care Services—Limited	Safety Services (c)

#### Commercial

Special Use—Historic (c) *
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#### Agricultural

Community Garden
Urban Farm *

# SF-2

## Single Family Residence—Standard Lot

Single Family Residence Standard Lot district is intended for a moderate density single-family residential use on a lot that is a minimum of 5,750 square feet. An SF-2 district designation may be applied to a use in an existing single-family neighborhood that has moderate sized lots or to new development of single-family housing on lots that are 5,750 square feet or more.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	5,750 sq ft	Maximum Height	35 ft
Minimum Lot Width	50 ft	Minimum Setbacks	
Maximum Units Per Lot	1	Front yard	25 ft
Maximum Building Coverage	40%	Street side yard	15 ft
Maximum Impervious Cover	45%	Interior side yard	5 ft
		Rear yard	10 ft

### Permitted and Conditional Uses:

#### Residential

Single-Family Residential \*

Bed and Breakfast Residential (Group 1) \*

Short-Term Rental

#### Civic

Club or Lodge (c) \*

College and University Facilities (c) \*

Community Events \*

Communication Service Facilities \*

Community Recreation—Public (c) \*

Community Recreation—Private (c) \*

Cultural Services (c)

Day Care Services—Commercial (c)

Day Care Services—General (c)

Day Care Services—Limited

Family Home \*

Group Home Class I—General (c) \*

Group Home Class I—Limited \*

Local Utility Services (c)

Private Primary Educational Services (c) \*

Private Secondary Educational Services (c) \*

Public Primary Educational Services \*

Public Secondary Educational Services \*

Religious Assembly

Safety Services (c)

Telecommunication Tower (PC) \*

#### Commercial

Special Use—Historic (c) \*

#### Agricultural

Community Garden

Urban Farm \*

# SF-3

## Family Residence

Family Residence district is intended as an area for moderate density single-family residential use, with a minimum lot size of 5,750 square feet. Duplex use is permitted under development standards that maintain single-family neighborhood characteristics. This district is appropriate for existing single-family neighborhoods having typically moderate sized lot patterns, as well as for development of additional family housing areas with minimum land requirements.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	5,750 sq ft	Maximum Height	35 ft
Minimum Lot Width	50 ft	Minimum Setbacks	
Maximum Units Per Lot	1	Front yard	25 ft
Maximum Building Coverage	40%	Street side yard	15 ft
Maximum Impervious Cover	45%	Interior side yard	5 ft
		Rear yard	10 ft

### Permitted and Conditional Uses

† For detail on marked uses in the Family Residence district, see the Austin City Code 25-2-552.

#### Residential

Bed and Breakfast Residential (Group 1) *	Single-Family Attached Residential *
Duplex Residential *	Single-Family Residential *
Retirement Housing (Small Site) † *	Two-Family Residential *
Short-Term Rental	

#### Civic

Club or Lodge (c) *	Family Home *
College and University Facilities (c) *	Group Home Class I—General (c) *
Communication Service Facilities *	Group Home Class I—Limited *
Community Events *	Local Utility Services (c)
Community Recreation—Public (c) *	Private Primary Educational Services (c) *
Community Recreation—Private (c) *	Private Secondary Educational Services (c) *
Cultural Services (c)	Public Primary Educational Services *
Day Care Services—Commercial (c)	Public Secondary Educational Services *
Day Care Services—General (c)	Religious Assembly
Day Care Services—Limited	Safety Services (c)

#### Commercial

Special Use—Historic (c) \*

#### Agricultural

Community Garden  
Urban Farm \*

# SF-4B

## Single-Family Residence Condominium Site

Single-Family Residence Condominium Site district is intended for moderate density single-family residential use on a site surrounded by existing structures, most of which are single-family residences. An SF-4B district use is subject to development standards that maintain single family neighborhood characteristics. An SF-4B district designation may only be applied to a use at a proposed location if the existing use at the location is designated as an urban family (SF-5) or less restrictive district.

### Site Development Standards

Lot		Massing	
Minimum Size of Site	1 acre	Maximum Height	2 stories
Maximum Size of Site	5 acres	Minimum Setbacks	
Minimum Lot Width	40 ft	Front yard	25 ft
Minimum Site Area per Building	2,800 sq ft	Street side yard	15 ft
Minimum Site Area per Unit	3,600 sq ft	Interior side yard	n/a
Maximum Building Coverage	40%	Rear yard	15 ft
Maximum Impervious Cover	60%		

### Permitted and Conditional Uses

#### Residential

Small Lot Single Family Residential

Short-Term Rental

#### Civic

Club or Lodge (c) \*

College and University Facilities (c) \*

Communication Service Facilities \*

Community Events \*

Community Recreation—Public (c) \*

Community Recreation—Private (c) \*

Cultural Services (c)

Day Care Services—Commercial (c)

Day Care Services—General (c)

Day Care Services—Limited

Family Home \*

Group Home Class I—General (c) \*

Group Home Class I—Limited \*

Local Utility Services (c)

Private Primary Educational Services (c) \*

Private Secondary Educational Services (c) \*

Public Primary Educational Services \*

Public Secondary Educational Services \*

Religious Assembly

Safety Services (c)

Telecommunication Tower (PC) \*

#### Commercial

Special Use—Historic (c) \*

#### Agricultural

Community Garden

Urban Farm \*

# SF-6

## Townhouse & Condominium Residence

Townhouse and Condominium Residence district is intended as an area for moderate density single family, duplex, two family, townhouse, and condominium use. SF-6 is appropriate in selected areas where a transition from single-family to multifamily use is appropriate.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	5,750 sq ft	Maximum Height	35 ft
Minimum Lot Width	50 ft	Minimum Setbacks	
Maximum Building Coverage	40%	Front yard	25 ft
Maximum Impervious Coverage	55%	Street side yard	15 ft
		Interior side yard	5 ft
		Rear yard	10 ft

### Permitted and Conditional Uses

† For detail on marked uses in the Townhouse & Condominium Residence district, see the Austin City Code 25-2-559.

#### Residential

Bed and Breakfast Residential (Group 1) *	Retirement Housing—Large Site (c) *
Bed and Breakfast Residential (Group 2) *	Short-Term Rental
Condominium Residential *	Single-Family Residential *
Duplex Residential *	Single-Family Attached Residential *
Retirement Housing—Small Site † *	Townhouse Residential *
Small Lot Single-Family *	Two-Family Residential *
Short-Term Rental	

#### Civic

Club or Lodge (c) *	Group Home Class I—General (c) *
College and University Facilities (c) *	Group Home Class I—Limited *
Communication Service Facilities *	Local Utility Services (c)
Community Events *	Private Primary Educational Services (c) *
Community Recreation—Private (c) *	Private Secondary Educational Services (c) *
Community Recreation—Public (c) *	Public Primary Educational Services *
Cultural Services (c)	Public Secondary Educational Services *
Day Care Services—Commercial (c)	Religious Assembly
Day Care Services—General (c)	Safety Services (c)
Day Care Services—Limited	Telecommunication Tower (PC) *
Family Home *	

# MF-1

## Multi-Family Residence—Limited Density

Multifamily Residence Limited Density district is intended for multifamily use with a maximum density of up to 17 units per acre, depending on unit size. An MF-1 district designation may be applied to a use in a residential neighborhood that contains a mixture of single family and multifamily uses or in an area for which limited density multifamily use is desired. An MF-1 district may be used as a transition between a single family and higher intensity uses.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	8,000 sq ft	Maximum Height	40 ft
Minimum Lot Width	50 ft	Minimum Setbacks	
Maximum Building Coverage	45%	Front yard	25 ft
Maximum Impervious Cover	55%	Street side yard	15 ft
Maximum Floor Area Ratio	n/a	Interior side yard	5 ft
Maximum Units Per Acre	17	Rear yard	10 ft

### Permitted and Conditional Uses

† For detail on marked uses in the Multi-Family Residence—Limited Density district, see the Austin City Code 25-2-560.

#### Residential

Bed and Breakfast Residential (Group 1) *	Retirement Housing (Large Site) (c) *
Bed and Breakfast Residential (Group 2) *	Short-Term Rental
Condominium Residential *	Single-Family Residential *
Duplex Residential *	Single-Family Attached Residential *
Multifamily Residential †	Townhouse Residential *
Retirement Housing (Small Site) *	Two-Family Residential *

#### Civic

Club or Lodge (c) *	Family Home *
College and University Facilities (c) *	Group Home Class I—General *
Communication Service Facilities *	Group Home Class I—Limited *
Community Events *	Local Utility Services (c)
Community Recreation—Private (c) *	Private Primary Educational Services (c) *
Community Recreation—Public (c) *	Private Secondary Educational Services (c) *
Congregate Living (c)	Public Primary Educational Services *
Cultural Services (c)	Public Secondary Educational Services *
Day Care Services—Commercial (c)	Religious Assembly
Day Care Services—General (c)	Residential Treatment (c)
Day Care Services—Limited	Safety Services (c)

**Office Districts**

**NO**  
**Neighborhood Office**

Neighborhood Office district is the designation for a small office use that serves neighborhood or community needs, is located in or adjacent to a residential neighborhood and on a collector street that has a width of 40 feet or more, and does not unreasonably affect traffic. An office in an NO district may contain not more than one use. Site development regulations applicable to an NO district use are designed to preserve compatibility with existing neighborhoods through renovation and modernization of existing structures.

**Site Development Standards**

<b>Lot</b>		<b>Massing</b>	
Minimum Lot Size	5,750 sq ft	Maximum Height	35 ft
Minimum Lot Width	50 ft		or 2 stories
Maximum Building Coverage	35%	Minimum Setbacks	
Maximum Impervious Cover	60%	Front yard	25 ft
Maximum Floor Area Ratio	.35:1	Street side yard	15 ft
		Interior side yard	5 ft
		Rear yard	5 ft

**Permitted and Conditional Uses**

**Residential**

Bed and Breakfast Residential (Group I) *	Bed and Breakfast Residential (Group II) *
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**Civic**

College and University Facilities (c) *	Group Home Class I—Limited *
Communication Service Facilities *	Group Home Class II (c) *
Community Events *	Local Utility Services
Community Recreation—Private (c) *	Private Primary Educational Services *
Community Recreation—Public *	Private Secondary Educational Services (c) *
Congregate Living (c)	Public Primary Educational Services *
Counseling Services	Public Secondary Educational Services *
Day Care Services—Commercial	Religious Assembly
Day Care Services—General	Residential Treatment (c)
Day Care Services—Limited	Safety Services
Family Home *	Telecommunication Tower (PC) *
Group Home Class I—General *	

## Commercial Districts

# CR

## Commercial Recreation

Commercial Recreation district is intended for commercial or recreation use that serves visitors to major recreational areas, including Lake Travis and Lake Austin. Site development regulations applicable to a CR district use are designed to minimize visual and environmental disruptions of scenic views.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	20,000 sq ft	Maximum Height	40 ft
Minimum Lot Width	100 ft	Minimum Setbacks	
Maximum Building Coverage	25%	Front yard	50 ft
Maximum Impervious Cover	60%	Street side yard	50 ft
Maximum Floor Area Ratio	.25:1	Interior side yard	20 ft
		Rear yard	20 ft

### Permitted and Conditional Uses

#### Residential

Bed and Breakfast Residential (Group 1) *	Bed and Breakfast Residential (Group 2) *
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#### Civic

College and University Facilities (c) *	Hospital Services—Limited (c)
Community Events *	Local Utility Services
Communication Service Facilities (c) *	Private Primary Educational Services (c) *
Community Recreation—Private *	Private Secondary Educational Services (c) *
Community Recreation—Public *	Public Primary Educational Services (c) *
Counseling Services	Public Secondary Educational Services (c) *
Cultural Services	Religious Assembly (c)
Day Care Services—Commercial (c)	Telecommunication Tower (PC) *

#### Commercial

Art Gallery	
Art Workshop *	Indoor Entertainment (c)
Campground (c)	Indoor Sports and Recreation (c)
Consumer Convenience Services (c)	Marina
Hotel-Motel (c)	Outdoor Entertainment (c)
	Outdoor Sports and Recreation

# LR

## Neighborhood Commercial

Neighborhood Commercial district is intended for neighborhood shopping facilities that provide limited business services and office facilities predominately for the convenience of residents of the neighborhood.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	5,750 sq ft	Maximum Height	40 ft or 3 stories
Minimum Lot Width	50 ft		
Maximum Building Coverage	50%	Minimum Setbacks	
Maximum Impervious Cover	80%	Front yard	25 ft
Maximum Floor Area Ratio	.5:1	Street side yard	15 ft
		Interior side yard	n/a
		Rear yard	n/a

### Permitted and Conditional Uses

† For detail on marked uses in the Neighborhood Commercial district, see the Austin City Code 25-2-586.

### Residential

Bed and Breakfast Residential (Group 1) \*

Bed and Breakfast Residential (Group 2) \*

### Civic

Club or Lodge (c)

College and University Facilities \*

Communication Service Facilities \*

Community Events \*

Community Recreation—Private (c) \*

Community Recreation—Public (c) \*

Congregate Living (c)

Counseling Services

Cultural Services

Day Care Services—Commercial

Day Care Services—General

Day Care Services—Limited

Family Home \*

Group Home Class I—General \*

Group Home Class I—Limited \*

Group Home Class II (c) \*

Guidance Services

Hospital Services—Limited (c)

Local Utility Services

Private Primary Educational Services \*

Private Secondary Educational Services \*

Public Primary Educational Services \*

Public Secondary Educational Services \*

Religious Assembly

Residential Treatment (c) Safety

Services Telecommunication Tower

(PC) \*

**LR (continued)****Commercial**

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**Administrative Business Office****Alternative Financial Services (c)****Art Gallery****Art Workshop \*****Consumer Convenience Services****Consumer Repair Services****Financial Services****Food Sales****General Retail Sales—Convenience****General Retail Sales – General – not exceeding  
5,000 sq. ft of gross floor space †****Medical Offices—not exceeding  
5,000 sq/ft of gross floor space****Medical Offices—exceeding  
5,000 sq/ft of gross floor space (c)****Off-Site Accessory Parking****Pedicab Storage and Dispatch****Personal Improvement Services – not  
exceeding 5,000 sq/ft of gross floor space****Personal Services****Pet Services****Plant Nursery (c) \*****Printing and Publishing****Professional Office****Restaurant—Limited \*****Restaurant – General – not exceeding  
4,000 sq/ft of gross floor space † \*****Service Station \*****Software Development****Special Use Historic (c) \*****Industrial**

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**Custom Manufacturing (c)****Agricultural**

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**Community Garden****Urban Farm \***

# L

## Lake Commercial

Lake Commercial district is intended for use located near Town Lake. An L district designation may be applied to a development that includes any combination of office retail, commercial, and residential uses. Use and site development regulations applicable to an L district use are designed to ensure that the use is compatible and complementary with the Town Lake environment.

### Site Development Standards

Lot		Massing	
Minimum Lot Size	5,750 sq ft	Maximum Height	200 ft
Minimum Lot Width	50 ft	Minimum Setbacks	
Maximum Building Coverage	50%	Front yard	10 ft
Maximum Impervious Cover	50%	Street side yard	10 ft
Maximum Floor Area Ratio	8:1	Interior side yard	n/a
		Rear yard	n/a

### Permitted and Conditional Uses

#### Residential

Bed and Breakfast Residential (Group 1) *	Bed and Breakfast Residential (Group 2) *
Condominium Residential (c)	Group Residential (c)
Townhouse Residential (c) *	Multifamily Residential (c)

#### Civic

Club or Lodge (c)	Group Home Class I—Limited (c) *
College and University Facilities (c) *	Group Home Class II (c) *
Communication Service Facilities (c) *	Guidance Services (c)
Community Events *	Hospital Services—General (c)
Community Recreation—Private *	Hospital Services—Limited (c)
Community Recreation—Public *	Local Utility Services (c)
Congregate Living (c)	Private Primary Educational Services (c) *
Counseling Services	Private Secondary Educational Services (c) *
Cultural Services	Public Primary Educational Services (c) *
Day Care Services—Commercial (c)	Public Secondary Educational Services (c) *
Day Care Services—General (c)	Religious Assembly (c)
Day Care Services—Limited (c)	Residential Treatment (c)
Family Home (c) *	Safety Services (c)
Group Home Class I—General (c) *	Telecommunication Tower (PC) *

## L (continued)

### Commercial

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Art Gallery	Indoor Entertainment (c)
Art Workshop (c)	Indoor Sports and Recreation (c)
Administrative and Business Offices (c)	Laundry Services (c)
Automotive Rentals (c)	Medical Offices—not exceeding 5,000 sq/ft of gross floor space (c)
Automotive Repair Services (c)	Medical Offices—exceeding 5,000 sq/ft of gross floor space (c)
Automotive Sales (c)	Off-Site Accessory Parking (c)
Automotive Washing of any type (c)	Outdoor Entertainment (c)
Business or Trade School (c)	Outdoor Sports and Recreation (c)
Business Support Services (c)	Personal Improvement Services (c)
Cocktail Lounge (c) *	Personal Services (c)
Commercial Off-Street Parking (c)	Pet Services (c)
Communications Services (c)	Printing and Publishing
Consumer Convenience Services (c)	Professional Office (c)
Consumer Repair Services (c)	Research Services (c)
Financial Services (c)	Restaurant—General (c) *
Food Preparation	Restaurant—Limited (c)
Food Sales (c)	Service Station (c) *
General Retail Sales—Convenience (c)	Theater (c)
General Retail Sales—General (c)	
Hotel-Motel (c)	

### Agricultural

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Community Garden  
Urban Farm

Zoning Category	Definition	Permitted Uses	Conditional Use
R-1	Single Family Residential 1000 sq. ft. one acre lot	Single Family Homes	Pumping Plants
		Parks playgrounds, community buildings and other public recreational facilities, owned and or operated by the municipality or other public agency.	
		Public Building, including libraries, museums, police and fire stations	
		Real Estate Offices during the development of a residential subdivision but not to exceed two years. Display dwellings with sales offices provided that if said display dwellings are not moved or converted to a permitted use within a period of one year, specific permission must be obtained from the council for said display houses to remain	
		Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.	
		Water supply reservoirs, and towers.	
		Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure	
R-1R	Single Family Residential 1 Ridge-top as designated by Ridge top Zoning 1000 sq. ft. on one acre of land	Single Family Homes	Pumping Plants
		Parks playgrounds, community buildings and other public recreational facilities, owned and or operated by the municipality or other public agency.	
		Public Building, including libraries, museums, police and fire stations	
		Real Estate Offices during the development of a residential subdivision but not to exceed two years. Display dwellings with sales offices provided that if said display dwellings are not moved or converted to a permitted use within a period of one year, specific permission must be obtained from the council for said display houses to remain	
		Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.	
		Water supply reservoirs, and towers.	
		Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure	
R-2	Detached duplexes, three and four unit residences with a minimum of 1,000 sq. ft. of living area per unit and permitted accessory structures on a minimum lot size of 10,000 sq. feet per unit	Duplexes, three and four unit residences	Pumping Plants
		Parks playgrounds, community buildings and other public recreational facilities, owned and or operated by the municipality or other public agency.	
		Public Building, including libraries, museums, police and fire stations	
		Real Estate Offices during the development of a residential subdivision but not to exceed two years. Display dwellings with sales offices provided that if said display dwellings are not moved or converted to a permitted use within a period of one year, specific permission must be obtained from the council for said display houses to remain	
		Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.	
		Water supply reservoirs, and towers.	
		Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure	

OS	<p>Open Space is a tract of land provided as a general benefit for the Village. Common open space must be usable for recreational purposes or must provide visual, aesthetic and environmental amenities. The uses authorized for the common space should be appropriate to the scale and character of the surrounding development considering its size, density, expected population, topography, and the number and type of dwellings to be provided. As a minimum, the total open space shall not be less than required for parks in the subdivision ordinance. Common open space should be improved for its intended use, but open space must be appropriate to the uses which are intended therefore, and must conserve and enhance the amenities of the common open space having regards to its topography and the intended function of the common open space</p>	<p>General Use, Parks, Cemeteries, Conservation areas, golf courses, Outdoor recreational and athletic facilities, outdoor swimming pools, POA neighborhood parks, common open space, common open area, playgrounds and play fields, wildlife sanctuaries</p>	<p>Club Houses and Community Centers, Retail oriented uses which are clearly secondary and customarily or necessarily incidental to the permitted use including but not necessarily limited to the following: retail sales and services operated as part of a golf course, recreational or athletic facility, retail sales and services sponsored by service clubs, non profit societies or organizations and concessions contracted with the Village, food and beverage sales, including alcoholic beverages to members only, restaurants including alcoholic beverage sales which are operated as part of or in conjunction with a Club House facility for members only; caretaker residence, maintenance buildings required to house equipment and material to maintain the site.</p>
GOV	<p>Appropriate areas for uses that provide important community services often requiring large amounts of land. Land abutting a major street that can be used for access. Adequate space for required off street parking and buffering</p>	<p>Facilities owned and operated by the federal government, the state or political subdivision thereof including public grounds; Fire stations and safety services; schools, public, denominational, kindergarten and pre school, college, university, dormitory and group student housing; Uses required by public utilities and public transportation services; public athletic fields, stadium, sports facilities, playgrounds, Neighborhood park, greenbelt, recreational centers, community centers and swimming pools, churches, rectory and places of worship, accessory uses customarily incidental to any of the foregoing permitted uses</p>	<p>Cemeteries, cultural services, Halfway house and institution for the care of substance dependent persons, non profit institutions or non profit social clubs providing a charitable or philanthropic beneficial community service are permitted with a condition use permit first being obtained; not including any jail, penal or mental institution, public zoo</p>
C-1	<p>Mix of Commercial uses including, light retail, office, light commercial and similar uses. Retail sale of goods and products to which value has been added on site including sales of goods and services outside of the primary structure as customary with the uses specifically listed in the facilities Floor space less than 2,000 sq. ft. no more than 3 employees Maximum of 10 parking spaces; No use or storage of hazardous materials</p>	<p>Light Retail, Small Professional Offices, Personal Services, Uses determined by the Planning Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere. Five additional set of restrictions.</p>	
C-2	<p>Mix of Commercial uses including, light retail, office, light commercial and similar uses. Retail sale of goods and products to which value has been added on site including sales of goods and services outside of the primary structure as customary with the uses specifically listed in the facilities Floor space maximum than 2,000 sq. ft. no more than 3 employees Maximum of 10 parking spaces; No use or storage of hazardous materials</p>	<p>Retail, professional offices, restaurant, café or cafeteria, personal services, bar nightclub, private club, dance hall, social club, bakeries with goods primarily prepared for in store retail sales on site, assisted retirement living, bed and breakfast, home for the aged and group day care, child care center and child development facilities, cultural services and community cent (public and private), uses determined by the Planning and Zoning Commission which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted,</p>	<p>Marinas, Parking Lots, Pumping Plants</p>
C-3	<p>Heavy Commercial allows for Intense Commercial uses and Transportation Services, compatible with adjacent and neighboring residential areas and not create unreasonable traffic or land use conflicts. Floor space less than 10K sq. ft. No more than 20 employees some use and or storage of hazardous materials.</p>	<p>Amusement (indoor) Amusement (outdoor) swimming pools (commercial) Bar, nightclub, private club, dance hall and social club, Carpentry, painting or plumbing shop (retail sales of building supplies), convenience stores, retail food store, grocery stores, marinas, restaurant, cafe or cafeteria, retail facilities under 10K sq. ft., parking lots, veterinary services and hospital, uses determined by the Planning and Zoning Commission which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, pumping plants.</p>	

L-1	Light Industrial provides for outlets offering goods and services to a targeted segment of the general public as well as industrial users. Allows for the assembly, packaging and manufacture of non-hazardous, non-volatile products	Carpentry, painting, plumbing or tinmiths shop, furniture manufacturers upholsterers, light manufacturing, warehouse and storage including watercardt storage, recycling operation and collection (indoors), wood yard, uses determined by the Plannind and Zoning Commission which are closely related and similar to those listed and that are not likely to create any more offensive noie, vibration, dust, heat, smoke, ordor, glare, or other orjectionalbe influences than the minimum amount normally resulting from listed uses permitted, pumping plants	
L-2	Heavy Industrail allows assembly, packaging, treatment, processing and manufacture of products that do not pose any materially potential hazard to persons and property outside the boundaries of the property	Acetylene gas storage, blacksmith shops, automobile shops and garages including watercraft and welding shops, candle manufacture, crating express storage, gas and petroleum storage, glass products from previsously manufactured glass for wholesale distribution, greenhouses and wholesale growers, hatchery, manufacture, assembly and testing of communication equipment, medical instruments and apparatus, optics, photographic equipment and supples, timing equipment, musical insturments and related equipment, computer components, computers, electronics and predision insturments, manufacturing, assembly and packageing of products from previously prepared material sucha as cloth, plastic, paper, leather, and precious or semi-precious metal or stone, motion picture or video production facilities and sound stages, printing, publishing and book binding, product assembly services (non-hazardous), product development services (general), engineering and develpment facilities or laboratories, sign shops, testing and research labs, tool and die shops, uses determined by the Plannind and Zoning Commission which are closely related and similar to those listed and that are not likely to create any more offensive noie, vibration, dust, heat, smoke, ordor, glare, or other orjectionalbe influences than the minimum amount normally resulting from listed uses permitted, pumping plants	
IR	Infill Redevelopment to platted lot that was less than one acre when VOV was incorporated	Same as R-1 different set backs See Chart 3 and Chart 1	

# ZONING USE SUMMARY TABLE

P = Permitted Use    C = Conditional Use Permit    -- = Not Permitted

RESIDENTIAL USES	R-1R	R-1	R-1C	IR	R-2	C-1	C-2	C-3	GOV	I-1	I-2	OS	PDD
Bed & Breakfast							P						
Condominium Residential													
Duplex Residential					P								
Group Residential					P								
Mobile Home Residential													
Multifamily Residential					P								
Retirement Housing (Small Site)							P						
Retirement Housing (Large Site)							P						
Single-Family Attached Residential			P										
Single-Family Residential	P	P	P	P	P								
Small Lot Single-Family Residential	P	P	P	P	P								
Townhouse Residential													
Two-Family Residential				P									
Short -Term Rental													
COMMERCIAL USES	R-1R	R-1	R-1C	IR	R-2	C-1	C-2	C-3	GOV	I-1	I-2	OS	PDD
Administrative and Business Offices						P	P	P					
Agricultural Sales and Services							P						
Alternative Financial Services							P						
Art Gallery													
Art Workshop						P	P	P					
Automotive Rentals							P	P					
Automotive Repair Services						P	P	P					
Automotive Sales							P	P					
Automotive Washing (of any type)						P	P	P					
Bail Bond Services						P	P		P				
Building Maintenance Services						P	P	P					
Business or Trade School									P				
Business Support Services						P	P						
Campground									P			P	
Carriage Stable							P						
Cocktail Lounge							P	P					
Commercial Blood Plasma Center								P					

# ZONING USE SUMMARY TABLE

P = Permitted Use    C = Conditional Use Permit    -- = Not Permitted

COMMERCIAL USES (continued)	R-1R	R-1	R-1C	IR	R-2	C-1	C-2	C-3	GOV	I-1	I-2	OS	PDD
Commercial Off-Street Parking						P	C	P	P				
Communications Services						P	P						
Construction Sales and Services								P			P		
Consumer Convenience Services						P	P	P					
Consumer Repair Services						P		P					
Convenience Storage								P			P		
Drop-Off Recycling Collection Facility								P	P				
Electronic Prototype Assembly							P				P		
Electronic Testing							P				P		
Equipment Repair Services							P				P		
Equipment Sales							P						
Exterminating Services							P						
Financial Services							P						
Food Preparation							P	P					
Food Sales								P				C	
Funeral Services						P	P						
General Retail Sales (Convenience)								P					
General Retail Sales (General)								P					
Hotel-Motel								P					
Indoor Entertainment							P	P					
Indoor Sports and Recreation								P	P				
Kennels							P	P					
Laundry Services	P	P	P		P	P	P	P					
Liquor Sales						P	P	P					
Marina						P	C	P					
Medical Offices -- exceeding 5000 sq. ft gross floor area								P					
Medical Offices -- not exceeding 5000 sq. ft. gross floor area							P						
Monument Retail Sales							P	P					
Museums	P	P	P		P								
Off-Site Accessory Parking							C	P	P				
Outdoor Entertainment								P	P			P	

# ZONING USE SUMMARY TABLE

P = Permitted Use    C = Conditional Use Permit    -- = Not Permitted

COMMERCIAL USES (continued)	R-1R	R-1	R-1C	IR	R-2	C-1	C-2	C-3	GOV	I-1	I-2	OS	PDD
Outdoor Sports and Recreation								P	P			P	
Pawn Shop Services						P	P	P					
Personal Improvement Services						P	P	P	P				
Personal Services						P	P	P					
Pet Services							P	P					
Plant Nursery							P	P					
Printing and Publishing							P	P			P		
Professional Office							P	P					
Recreational Equipment Maint. & Stor.							P	P	P			P	
Recreational Equipment Sales							P	P				P	
Research Assembly Services							P	P			P		
Research Services							P	P			P		
Research Testing Services								P			P		
Research Warehousing Services								P			P		
Restaurant (General)							P	P				P	
Restaurant (Limited)							P	P				P	
Scrap and Salvage													
Service Station						P	P	P	P				
Software Development							P	P					
Special Use Historic													
Stables													
Theater								P			P		
Vehicle Storage								P					
Veterinary Services							P	P					
INDUSTRIAL USES	R-1R	R-1	R-1C	IR	R-2	C-1	C-2	C-3	GOV	I-1	I-2	OS	PDD
Basic Industry								P		P	P		
Custom Manufacturing								P		P	P		
General Warehousing and Distribution								P		P	P		
Light Manufacturing								P		P	P		
Limited Warehousing and Distribution								P		P	P		
Recycling Center									P	P			

# ZONING USE SUMMARY TABLE

P = Permitted Use

C = Conditional Use Permit

-- = Not Permitted

AGRICULTURAL USES	R-1R	R-1	R-1C	IR	R-2	C-1	C-2	C-3	GOV	I-1	I-2	OS	PDD
Resource Extraction									P	P	P		
Animal Production								P				P	
Community Garden	P	P	P	P				P	P			P	
Crop Production							P	P	P			P	
Horticulture								P	P				
Indoor Crop Production							P	P					
Support Housing							P		P				
Urban Farm	P	P	P	P	P			P					
CIVIC USES	R-1R	R-1	R-1C	IR	R-2	C-1	C-2	C-3	GOV	I-1	I-2	OS	PDD
Administrative Services							P						
Aviation Facilities									C				
Camp								P	P			P	
Cemetery									C			P	
Club or Lodge							P	P					
College and University Facilities									P				
Communication Service Facilities	P	P	P	P	P	P	P		P				
Community Events	P	P	P	P	P			P	P			P	
Community Recreation (Private)	P	P	P	P	P			P	P			P	
Community Recreation (Public)	P	P	P	P	P			P	P			P	
Congregate Living							P						
Convalescent Services							P	P					
Convention Center									P				
Counseling Services						P	P	P					
Cultural Services							P	P	C				
Day Care Services (Commercial)							P						
Day Care Services (General)							P						
Day Care Services (Limited)							P						
Detention Facilities	P	P	P	P	P				P				
Employee Recreation							P	P	P				
Family Home							P						
Group Home, Class I (General)							P		C				
Group Home, Class I (Limited)							P		C				



Category	Description	Subdivisions	Streets	Lot Sizes	Avg. Lot Size with Bldg.	Avg. Bldg Sq FT	Built	Vacant	Ages	Pre 1970	70s & 80s	1990 plus
Later Historical Small	Original subdivisions, smaller lot sizes, smaller houses, tend to be close to commercial uses	Lake Travis 01, 02, 04, & Johnson Travis View	Debbie/Davy, Booth, Lakeview, Jackson, Joy/Sharon	Mostly .25 to .75 acres	0.99	2100	100	36	Older, mixed dates	42	14	42
Original Historical	Original subdivisions, adjoin H1 and other transitional uses	Lake Travis 01, 02, 03, 04, & Nicholson's Lake Travis 01	Reed, Booth, Randolph, Lakeview, Dodd, Buddy	Ranges from .5 to larger lots	1.58		12	17	Older, mixed dates	6	0	6
Original Historical Small	Original subdivisions, smaller houses, adjoin H3 and other transitional uses	Lake Travis 03, 04	Reed, Booth	Ranges from .25 to 4 acres	1.29	2061	19	11	Older, mixed dates, mostly built since 1970	6	8	5
Original Historical Large	Original subdivisions, larger estate size lots, larger houses	Lake Travis 03, 04	Reed, Booth	Mostly .75 to 2.5 acres	1.49	3291	50	4	Older, mixed dates	18	13	19
Modern	Mixed subdivisions, Transition from M1 or PDD to other uses, larger lots, larger houses	Lake Travis 1, 2, 5, 6, 7, Lime Creek Estates, Calawan, Schofman, Isle, McDermott, Penland, Arrowhead, Toungate,	Various	Wide range	3.34	3248	45	52	Mostly built since 1990, some older	16	7	32
Modern Transitional	More recent subdivisions, estate sized lots, largest houses, deed restricted, active HOA	Village At Volente 1, 2, 3, Volente Peak Ph1, Place, Gate Hollow, Rusk	Lime Creek, Jackson, Beauregard, Sherman, West, Arren	Mostly 1 to 2 acres	1.64	3926	38	33	All built since 1990	0	0	28
Ridgeline	Large estate lots and homes, properties fit VoV definition of ridgeline	Ridge View, Volente Peak 1	Lime Creek	Big	8.61	3794	2	1	Recent builds	0	0	2
Commercial/NonResidential	Lime Creek/2769 intersection, Vis/Firestation, Sandy Creek/Bleu		Lime Creek, FM 2769, Wharf Cove	Wide Range	2.9	1561	17	28	Wide Range	9	4	4

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**ORDINANCE NO. 2004-O-32**

**AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, PROVIDING ZONING DISTRICTS, ZONING REGULATIONS, AND STANDARDS FOR THE DEVELOPMENT AND USE OF LAND WITHIN THE CITY; ESTABLISHING A BOARD OF ADJUSTMENT AND PROVIDING RULES AND REGULATIONS FOR THE BOARD; PROVIDING REGULATIONS FOR CONDITIONAL USE PERMITS AND NON-CONFORMING USES AND STRUCTURES; PROVIDING DEFINITIONS, SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the Village of Volente desires to adopt zoning regulations pursuant to the provisions of Chapter 211 of the Texas Local Government Code to promote the public health, safety, morals and general welfare of the citizens of the Village of Volente and to protect and preserve places and areas of historical, cultural and architectural importance and significance within the Village of Volente;

**WHEREAS**, the provisions of this ordinance are consistent with the provisions of the comprehensive plan for the Village of Volente and are designed to achieve the purposes set forth in Sections 211.003 and 211.004 of the Texas Local Government Code;

**WHEREAS**, the Village of Volente has complied with the notice and public hearing requirements of Section 211.006 of the Texas Local Government Code;

**WHEREAS**, the Village of Volente has established a Planning and Zoning Commission (“Commission”) pursuant to Section 211.007 of the Texas Local Government Code and has received the preliminary report and a recommended zoning ordinance from the Commission;

**WHEREAS**, the Village of Volente desires to adopt the following zoning districts, zoning regulations and standards for the development and use of the land within the Village of Volente

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

**ARTICLE 30.100 ZONING REGULATIONS**

**DIVISION 1. GENERAL PROVISIONS**

**Sec. 30.100 Authority:** This article is pursuant to the police powers of the Village of Volente and under the authority of the Constitution and general laws of the State of Texas, including particularly *Chapter 211 of the Texas Local Government Code*.

47 **Sec. 30.102 Title:** This article shall be known, and may be cited, as the zoning  
48 ordinance of the Village.

49  
50 **Sec. 30.103 General Purpose and Intent:** The primary purposes of this article are to  
51 promote the public health, safety and the general welfare of the Village and it's present  
52 and future residents; provide reasonable regulations and requirements to protect,  
53 preserve, improve and provide for the public health, safety and general welfare of the  
54 present and future citizens of the Village; and to establish a framework of zoning  
55 guidelines and criteria which will provide for and support the development of a quality  
56 living and work environment by incorporating provisions requiring all future development  
57 and redevelopment to provide a compatible plan for residential, commercial and industrial  
58 uses, while providing reasonable protections for both the public and persons having an  
59 ownership interest in property affected by these regulations. This article should be  
60 administered and applied to result in development superior to that otherwise achievable  
61 and to promote the following purposes:

- 62 (a) Assist the safe, orderly, healthful and coordinated development of the Village;
- 63 (b) Conserve existing and future neighborhoods;
- 64 (c) Protect and conserve the value of real property throughout the community;
- 65 (d) Conserve, develop, protect, and utilize natural resources, as appropriate and  
66 consistent with the public interest, to enhance the preservation of the environment;
- 67 (e) Protect and preserve places and areas of historical and cultural importance and  
68 significance to the community;
- 69 (f) Prevent the overcrowding of land and avoid undue concentration of population or  
70 land uses, thereby encouraging high quality development and innovative design;
- 71 (g) Lessen congestion in the streets and provide convenient, safe and efficient  
72 circulation of vehicular and pedestrian traffic;
- 73 (h) Facilitate the adequate and efficient provision of transportation, water, wastewater,  
74 schools, parks, emergency and recreational facilities, and other public  
75 requirements;
- 76 (i) Promote compatible residential, commercial and industrial uses to harmoniously  
77 relate future development and redevelopment to the existing community and  
78 facilitate the development of adjoining properties;
- 79 (j) Standardize the procedure and requirements for zoning to provide administrative  
80 efficiency and property owner rights; and
- 81 (k) Provide the context for the appropriate reconciliation of any differences of interest  
82 among property owners, developers, neighborhoods and the Village.

83  
84  
85 **Sec.30.104 Jurisdiction and Intent:** The requirements of this article shall apply to all  
86 property within the Village; provide for the implementation of zoning regulations; provide a  
87 voluntary guide for uses within the extraterritorial jurisdiction in order that such property  
88 may be developed in a manner consistent with neighboring areas and existing or planned  
89 infrastructure; and be construed and applied in a manner to give effect to the Village  
90 comprehensive plan. This article has been made with reasonable consideration among  
91 other things, for the character of the district and its peculiar suitability for the particular  
92 uses specified, and with a view to conserving the value of buildings and encouraging the

93 most appropriate use of land throughout the Village consistent with the Village  
94 comprehensive plan. Nothing herein shall be construed to grant a “permanent” zoning.  
95

96 The intent of this article is to supplement the minimum standards for the development of  
97 land within the Village as contained in the Village's subdivision ordinance and site  
98 development ordinance, and applicable construction codes. If only the minimum  
99 standards are followed, as expressed by the various ordinances regulating land  
100 development, a standardization of development will occur. Such will produce a  
101 monotonous urban setting and is not encouraged.  
102

103 **Sec. 30.105 Definitions:**

104 *\*Amended 5/23/2006; Ordinance 2006-O-65*

105 *\*\*Amended 7/18/2006; Ordinance 2006-O-67*

106 *\*\*\*Amended 04/20/10 Ordinance 2010-O-116*

107 *\*\*\*\*Amended 01/18/2011 Ordinance 2011-O-121*

108 *\*\*\*\*\* Amended 08/19/2014 Ordinance 2014-O-08*

109 *\*\*\*\*\*Amended 10/21/2014 Ordinance 2014-O-11*  
110

111  
112 The following words, terms and phrases, when used in this chapter, shall have the  
113 meanings ascribed to them in this section, except where the context clearly indicates a  
114 different meaning. Words used in the present tense include the future tense. Words used  
115 in the plural number include the singular, and words in the singular include the plural. The  
116 word "shall" is always mandatory. The word "herein" means in this article. The word  
117 "regulations" means the provisions of any applicable ordinance, rule, regulation or policy.  
118 The word “person” means any human being or legal entity and includes a corporation, a  
119 partnership and an incorporated or unincorporated association. The words “used or  
120 occupied” as applied to any land or building shall be construed to include the words  
121 intended, arranged, or designed to be used or occupied. Any definition not expressly  
122 prescribed herein shall, until defined by ordinance, be construed in accordance with  
123 customary usage in municipal planning and engineering practices.  
124

125 **Access** means a way of approaching or entering a property.  
126

127 **Accessory Use** means a use that is customarily a part of the principal use, a use which  
128 is clearly incidental, subordinate and secondary to the permitted use, and which does not  
129 change the character thereof. See: Accessory Structure.  
130

131 **Accessory Structure** means, in a residential district, a subordinate building detached  
132 and used for a purpose customarily incidental to the main structure such as a private  
133 garage for automobile storage, toolhouse, bath or greenhouse as a hobby (no business),  
134 home workshop, children's playhouse, storage house or garden shelter, but not involving  
135 the conduct of a business or occupancy by any long-term or paying guests.  
136

137 **Adjacent** means abutting and directly connected to or bordering.  
138

139  
140 *Adult* is defined as a person over the age of sixteen (16) years old. \*\*\*\*\*Amended  
141 *10/21/2014 Ordinance 2014-O-11*  
142

143  
144 ***Alcoholic Beverages-Off-Premises*** means the standard use listing for a convenience  
145 store or similar facility where the sale of beer for off-premises consumption is an allowed  
146 use according to zoning standards.

147  
148 ***Alcoholic Beverages-On-Premises*** means the standard use listing which will solely  
149 allow the serving of beer for on-premise consumption.

150  
151 ***Alcoholic Beverages-Mixed Drinks*** means the typical use listing which will allow the  
152 serving of alcoholic beverages for on-premise consumption as an incidental use where  
153 the gross revenue from the on-premise sales of alcoholic beverages is less than 75% of  
154 total gross revenue.

155  
156 ***Alley*** means a minor right-of-way, dedicated to public use, which gives a secondary  
157 means of vehicular access to the back or side of properties otherwise abutting a street  
158 and which may be used for public utility purposes.

159  
160 ***Amortization*** means a method of eliminating non-conforming uses by requiring the  
161 termination of the non-conforming use after a specified period.

162  
163 ***Amusement (Indoor)*** means an amusement enterprise wholly enclosed in a building  
164 which is treated acoustically so that noise generated by the enterprise is not perceptible  
165 at the bounding property line, including a bowling alley, billiard parlor, and similar  
166 activities.

167  
168 ***Amusement (Outdoor)*** means any amusement enterprise offering entertainment or  
169 games of skill to the general public for a fee or charge wherein any portion of the activity  
170 takes place in the open, including a golf driving range, archery range, miniature golf  
171 course and similar activities.

172  
173 ***Annexation*** means the incorporation of land area into the Village with a resulting change  
174 in the boundaries of the Village.

175  
176 ***Animal(s)*** means any animate being that is not a human.

177  
178 ***Antique Shop*** means a business that sells items whose value is greater than the original  
179 purchase price because of age or intrinsic value.

180  
181 ***Applicant*** means a person applying for zoning approval under this article.

182  
183 ***Approval*** means the final approval in a series of required actions.  
184

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

187  
188 **Art Studio or Gallery** means a building where objects of art are created or displayed for  
189 the public enrichment or where said art objects are displayed for sale, including the  
190 teaching of painting and/or sculpting.

191  
192 **Assisted-Retirement Living** means a use providing 24-hour supervision and assisted  
193 living for more than 15 residents not requiring regular medical attention. This  
194 classification includes personal care homes for the physically impaired, and persons 60  
195 years of age or older.

196  
197 **Attendant Building** means a building used to house the work place of the manager or  
198 attendant of a public or private parking lot.

199  
200 **Attendant Documents** means materials needed to address the specific requirements of  
201 this article, which the applicant feels necessary to explain the submittal.

202  
203 **Auto Repair (Major)** means a business specializing in major repair of motor vehicles  
204 (including watercraft) entirely within an enclosed building, including any use listing below,  
205 as well as any use not listed as minor vehicle servicing.

- 206  
207 (a) Auto glass, seat cover and muffler shop;  
208  
209 (b) Auto painting or body rebuilding shop;  
210  
211 (c) Tire retreading and capping;  
212  
213 (d) Body, fender, clutch, transmission, differential, axle, spring and frame repairs;  
214  
215 (e) Major overhauling of engines requiring removal there from of cylinder head or  
216 crankcase pan and any associated engine rebuilding;  
217  
218 (f) Repair of radiator requiring removal from the vehicle;  
219  
220 (g) Repair of truck, trailer, farm or industrial equipment, or other  
221 machinery/supplies;  
222  
223 (h) Brake work, other than minor maintenance such as disc pad replacement and  
224 minor brake adjustment.

225  
226 **Auto Repair (Minor)** means a business specializing in minor, routine, periodic,  
227 preventive maintenance of a motor vehicle conducted entirely within an enclosed building,  
228 including the following:

- 229  
230 (a) Servicing of spark plugs, batteries, distributors and distributor parts and

- 231 including minor engine tune-ups;  
232  
233 (b) Tire servicing and flat repair but not recapping or regrooving;  
234  
235 (c) Radiator cleaning and flushing (on vehicle);  
236  
237 (d) Fuel pump, oil pump and related maintenance;  
238  
239 (e) Minor servicing of carburetors;  
240  
241 (f) Emergency wiring repairs;  
242  
243 (g) Minor motor adjustment not involving removal of head or crankcase;  
244  
245 (h) Quick oil and filter change;  
246  
247 (i) Servicing hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat belts,  
248 windshield wipers, mirrors, and installation of vehicle accessories such as radios;  
249  
250 (j) Lubrication, greasing and washing;  
251  
252 (k) Disc pad replacement and minor brake adjustment.  
253  
254

255 **Bar** means any business establishment required to have a state license for the sale of  
256 alcoholic beverages other than beer, for on-premises consumption.  
257

258 **Bed and Breakfast** means an establishment engaged in providing rooms or groups of  
259 rooms in a dwelling unit for temporary lodging for overnight transient guests on a paying  
260 basis. Or means a historic or otherwise architecturally unique building where lodging for  
261 overnight transient guests is provided by prearrangement for definite periods, for  
262 compensation, for not more than seven rooms to let and where breakfast is included in  
263 the rates charged to guests. Lodging of transient guest is generally for periods of less  
264 than thirty (30) days.

265  
266 \*\*\*\*\***Bedroom** is defined as a room that is designated to be used as a sleeping  
267 room and for no other primary purpose. Amended 10/21/2014 Ordinance 201-O-11  
268

269  
270 **Billboard**: See the Village sign ordinance.  
271

272 **Block**— means an area enclosed by streets, normally to be divided into lots to be  
273 occupied by or intended for buildings; or if the same word is used as a term of

274 measurement, it shall mean the distance along one side of a street between the nearest  
275 two streets which intersect said street on said side.

276  
277 **Board** means the Board of Adjustment of the Village of Volente, Texas.

278  
279 **Board of Adjustment** means a committee appointed by the Council to consider  
280 variances from the regulations of the zoning ordinance pursuant to § 211.008 of the  
281 *Texas Local Government Code* and that is given the authority set forth in this article and  
282 in § 211.009 of the *Texas Local Government Code*.

283  
284 **Boarding House** means a building other than a hotel, occupied as a single  
285 housekeeping unit where lodging or meals are provided for three (3) or more persons for  
286 compensation, pursuant to previous arrangements for definite periods, but not to the  
287 general public or transients.

288  
289 **Buffer** means an area within a property or site, generally adjacent to and parallel with the  
290 property line, either consisting of existing natural vegetation or created by the use of  
291 trees, shrubs, berms and/or fences, and designed to limit views and sound from the site  
292 to adjacent properties and vice versa.

293  
294 **Building** means any structure designed or built for the support, enclosure, shelter, or  
295 protection of persons, animals, chattels or property of any kind. When subdivided in a  
296 manner sufficient to prevent the spread of fire, each portion so subdivided may be  
297 deemed a separate building.

298  
299 **Building Area** means the gross area covered by a structure when placed on the lot.

300  
301 **Building Footprint** means the foundation, base or support of a building or structure.

302  
303 **Building Ordinance or Construction Code** means the construction codes and related  
304 ordinances of the Village providing standards, requirements and regulations for site  
305 development and the construction and erection of buildings and structures within the  
306 Village, including, but not limited to, the electrical code, plumbing code, building code and  
307 minimum housing code, adopted by the council from time to time.

308  
309 **Building Permit** means a permit issued by the Village which is required prior to  
310 commencing construction or reconstruction of any structure.

311  
312 **Building Plot** means the land, lot, lots or tract of land upon which a building or buildings  
313 are located, or upon which they are to be constructed, including yards.

314  
315 **Building Setback Line** means a line or lines designating the interior limit of the area of a  
316 lot within which the building footprint of structures may be erected. The building lines  
317 generally provide the boundaries of the buildable area of any given lot and no structure or  
318 building may be erected between a building and the corresponding lot line.

319

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

322  
323 **Caliper** means the trunk diameter of a tree at four and one half feet (4 1/2') above natural  
324 grade.

325  
326 **Carport** means an accessory structure with one or more sides, covered with a roof and  
327 constructed specifically for the storage of one or more motor vehicles (including  
328 watercraft), being not more than 1000 square feet. A carport is not an accessory structure  
329 if built as an integral part of the original primary structure having an indistinguishable,  
330 continuous roof structure.

331  
332 **Cemetery** means land used or intended to be used for the interment of human remains  
333 and dedicated for cemetery purposes, including crematories, mausoleums, columbariums  
334 and mortuaries when operated in conjunction with and within the boundary of such  
335 cemetery. Burial outside of human remains outside of a cemetery shall be prohibited  
336 except those authorized with a conditional use permit.

337  
338 **Centerline of a Waterway** means the centerline of the waterway and refers to existing  
339 topographically defined channels. If not readily discernible, the centerline shall be  
340 determined by (first) the low flow line, or (second) the center of the two (2) year flood  
341 plain.

342  
343 **Child Care Center (Small)** means a private residence where the occupant provides  
344 custodial care and supervision during daylight hours for a maximum six (6) children at any  
345 one time. The maximum of six (6) children includes the family's natural or adopted  
346 children under the age of fourteen (14). The residence must contain a minimum 150  
347 square feet of floor area for each child. This use shall exclude a family/group home.

348  
349 **Child Care Center (Intermediate)** means a facility (including non-residential structures)  
350 which provides custodial care and supervision for less than 24 hours a day for between  
351 seven (7) and twelve (12) children, excluding foster and group homes. The facility must  
352 contain a minimum 150 square feet of floor area for each child.

353  
354 **Child Care Center (Large)** means a facility where over twelve (12) children receive  
355 custodial care and supervision for less than 24 hours a day, excluding foster and group  
356 homes.

357  
358 **Child Care or Child Development Facilities** means any children's home, orphanage,  
359 institution, private home, residence or other place, whether public, parochial or private,  
360 operated for profit or not, which keeps, cares for, has custody of or is attended by four (4)  
361 or more children under sixteen years of age at any one time, who are not members of the  
362 immediate family or any natural person operating any such place, during any part or all of  
363 the twenty-four hours in a day. Also, any institution, home or other place, whether public,  
364 parochial or private, conducted for profit or not, which keeps, cares for, has custody of or  
365 is attended by any number of children, under sixteen years of age, who are not members

366 of the immediate family of any natural person operating such a place, who are mentally or  
367 physically handicapped, under medical or social supervision, and not within a hospital,  
368 twenty-four hours a day.

369  
370 **Church or Rectory** means a place of worship and religious training of recognized  
371 religions including on site housing of ministers, rabbis, priests, nuns and similar staff  
372 personnel.

373  
374 **City** means the Village of Volente, Texas.

375  
376 **Cleaning or Laundry Self Service Shop** means an establishment providing customers  
377 with self-service laundry facilities, and does not include a commercial laundry or  
378 cleaning plant.

379  
380 **Cleaning Shop or Laundry (Small)** means a custom cleaning shop not exceeding two  
381 thousand five hundred (2,500) square feet of floor area.

382  
383 **Clinic** means a public or private station or establishment for the examination and  
384 treatment of outpatients by an individual or group of doctors, dentists, opticians,  
385 veterinarians, or other similar medical professionals.

386  
387 **Club.** See: Social Club.

388  
389 **Cold Storage Plant** means a commercial establishment where food or other  
390 commodities are stored either in lockers, rented or leased, or in vaults in bulk for  
391 distribution to the home or to commercial businesses. No slaughtering of animals or fowl  
392 is allowed on the premises.

393  
394 **College or University** means an academic institution of higher learning, accredited or  
395 recognized by the state and offering a program or series of programs of academic study.

396  
397 **Commercial Amusement (Indoors)** means an enterprise conducted solely within one or  
398 more buildings or permanently enclosed area whose main purpose is to provide the  
399 general public with an amusing or entertaining activity, where tickets are sold or fees  
400 collected at the gate for the activity, including the following activities and activities of the  
401 same or closely similar nature. Commercial amusements (indoors) include zoos,  
402 carnivals, expositions, miniature golf courses, arcades, fairs, exhibitions, athletic contests,  
403 rodeos, children's rides, skating rinks, ice rinks, traveling shows, bowling alleys, and pool  
404 parlors, and similar enterprises.

405  
406 **Commercial Amusement (Outdoors)** means any enterprise whose main purpose is to  
407 provide the general public with an amusing or entertaining activity, where tickets are sold  
408 or fees collected at the gate for the activity, including the following activities and activities  
409 of the same or closely similar nature. Commercial amusements (outdoors) include zoos,  
410 carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions,  
411 athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters,

412 skating rinks, ice rinks, traveling shows and similar enterprises.

413

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

417

418 **Commission** means the Planning and Zoning Commission of the Village.

419

420 **Common Area** means privately owned land and improvements within a development  
421 including buildings, common open space, central services and utilities, streets, walks,  
422 parking areas, fencing and screening walls, landscaping, and any other elements and  
423 facilities under common ownership and available for the use of all owners or tenants.

424

425 **Common Open Space** means that portion of the common area which is designated for  
426 outdoor recreation area, private park, play lot, plaza, athletic court, swimming pool,  
427 fountain, stream or pond, ornamental landscaping or natural vegetation offering visual  
428 amenity, and which is open to general view and conveniently accessible to pedestrians  
429 within the project.

430

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

435

436 **Community Center (Public)** means a building and grounds owned or leased and  
437 operated by a governmental body for the social, recreational, health or welfare of the  
438 community served.

439

440 **Community Center (Private)** means a recreational facility, including both indoor and  
441 outdoor facilities, for use by residents and guests of a particular residential community  
442 development, subdivision or membership group.

443

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

446

447 **Comprehensive Plan or Master Plan** means the comprehensive plan of the Village and  
448 adjoining areas adopted by the council, including all its revisions as defined by Chapter  
449 219 of the *Texas Local Government Code*. The plan may indicate the general locations  
450 recommended for various land uses, transportation routes, public and private buildings,  
451 streets, parks, and other public and private developments and improvements, to include  
452 detailed plans for water and sewer facilities. Such plan is the overall development plan  
453 for the Village adopted to provide long-range development policies and may include all  
454 specified individual elements thereof among which are the plans for land intensities; land  
455 subdivision; circulation; and community facilities, utilities and services. The  
456 comprehensive or master plan does not constitute zoning regulations or establish zoning

457 district boundaries.

458

459 **Conditional Overlay District** means a special zoning district that is placed over a  
460 traditional zoning district so as to impose further use restrictions, site development  
461 requirements, or other restrictions or requirements in addition to those imposed by the  
462 established underlying zoning district in order to address specific circumstances  
463 presented by a particular geographic area or site. Lands affected by a Conditional  
464 Overlay District are subject to the regulations of the underlying zoning district, as well as  
465 the additional regulations of the Conditional Overlay District. The specific conditional  
466 overlay district will be the underlying zoning district followed by "Conditional Overlay  
467 District." \*\*\*Amended 04/20/15 2010-O-116

468

469

470 **Conditional Use** means an additional use which may be permitted in a district, subject to  
471 meeting certain conditions or procedures established by the council. No conditional use  
472 shall be permitted in any location where it will be inconsistent with the existing adjacent  
473 and nearby uses.

474

475 "Condominium" Residential means a form of real property with portions of the real  
476 property designated for separate ownership or occupancy, and the remainder of the real  
477 property designated for common ownership or occupancy solely by the owners of those  
478 portions. Real property is a condominium only if one or more of the common elements  
479 are directly owned in undivided interests by the unit owners. Real property is not a  
480 condominium if all of the common elements are owned by a legal entity separate from  
481 the unit owners, such as a corporation, even if the separate legal entity is owned by the  
482 unit owners.

483

484 **Construction Plans** means the maps, drawings, plans and specifications indicating the  
485 proposed location and design of improvements to be installed as part of a development  
486 and sealed by a Licensed Professional Engineer or Architect certified in the State of  
487 Texas.

488

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

491

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

494

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

499

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

502

503 **Council** means the governing body of the Village.

504  
505 **Country Club** means an area of twenty (20) acres or more containing a golf course and a  
506 clubhouse and available only to private specific membership, such a club may contain  
507 adjunct facilities such as private club, dining room, swimming pool, tennis courts and  
508 similar recreational or service facilities.

509  
510 **County** means Travis County, Texas.

511  
512 **County Appraisal District** means the Travis County Appraisal District.

513  
514 **Court** means an open, unoccupied space, bounded on more than two sides by the walls  
515 of a building. An inner court is a court entirely surrounded by the exterior walls of a  
516 building. An outer court is a court having one side open to a street, alley, yard or other  
517 open space.

518  
519 **Critical Root Zone** means a circular area around a Significant Tree equal to one (1) foot  
520 in radius for each one (1) inch caliper, and the center of the circular area located at the  
521 trunk

522  
523 **Cultural services** means a library, museum, or similar registered nonprofit organizational  
524 use displaying, preserving, and exhibiting objects of community and cultural interest in  
525 one or more of the arts and sciences.

526  
527 **Day Camp** means a facility arranged and conducted for the organized recreation and  
528 instruction of children including outdoor activities on a daytime basis.

529  
530 **Developer** means the legal owner of land to be improved and/or subdivided or his/her  
531 authorized representative.

532  
533 **Developed Area** means that portion of a lot, easement, or parcel upon which a building,  
534 structure, pavement or other improvements have been placed.

535  
536 **Development** means the construction or placement of any buildings, utilities, access,  
537 roads or other structures, excavation, mining, dredging, grading, filling, clearing or  
538 removing vegetation, or the deposit of refuse, waste or fill. Lawn and yard care, including  
539 mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees  
540 or other vegetation damaged by natural forces, and ranching and farming shall not  
541 constitute development. Utility, drainage, and street repair, and any construction  
542 maintenance and installation which does not require land disturbance or result in  
543 additional impervious cover, shall also not constitute development.

544  
545 **District** means a zoned section or sections of the Village for which regulations governing  
546 the use of buildings and premises, the height of buildings, the size of yards, and the  
547 intensity of use are uniform.

548

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

551  
552 **Double Frontage Lot.** See: Reverse Frontage Lot.

553  
554 **Drainageway.** See: Waterway.

555  
556 **Drive Approach** means a paved surface connecting the street to a lot line.

557  
558 **Drive-In Eating Establishment** means any structure and premises specifically designed  
559 for the preparation and dispensing of food and meals for consumption either indoors or in  
560 a vehicle parked on the premises, or to be taken away for consumption at other places.

561  
562 **Driveway** means the surface connecting a drive approach with a parking space, parking  
563 lot, loading dock or garage.

564  
565 **Dwelling (Single Family)** means a detached building having accommodations for  
566 occupancy by not more than one family.

567  
568 **Dwelling (Two-Family) or Duplex** means a detached building designed and constructed  
569 with two (2) separate living units under a single roof for occupancy by two families.

570  
571 **Dwelling Unit or Unit** means a building or portion of a building arranged, occupied or  
572 intended to be occupied as residential unit designed to accommodate one (1) household  
573 for living, sleeping, eating, cooking and sanitation.

574  
575 **Easement** means a grant by the property owner of the use of a strip of land for stated  
576 purposes.

577  
578 **Environment** means the aggregate of social and physical conditions that influence the  
579 life of the individual and/or community.

580  
581 **Exterior Side Yard** means a yard which faces and is parallel to a side street.

582  
583 **Extraterritorial Jurisdiction or ETJ** means that geographic area outside the corporate  
584 boundaries of the Village as established pursuant to §§ 42.021 and 42.022 of the Texas  
585 Local Government Code.

586  
587 **Family** means any number of individuals living together as a single housekeeping unit, in  
588 which not more than three (3) individuals are unrelated by blood, marriage, adoption, or  
589 guardianship, and occupying a dwelling unit.

590  
591 **Farm Accessory Building** means a structure, other than a dwelling, on a farm as herein  
592 defined, for the housing protection or storage of the usual farm equipment, animals and  
593 crops.

594

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

602  
603 **Filing Date** means, with respect to zoning applications, the date at which the Village  
604 deems an application administratively complete.

605  
606 **Financial services** means services provided by an establishment primarily engaged in  
607 financial and banking activities. Typical uses may include banks, savings and loan  
608 institutions, stock and bond brokers, loan and lending activities, and similar services.  
609 ~~loan and lending activities, and similar services.~~

610  
611 **Flood Plain** means that land lying within a stream channel or adjacent to a stream  
612 channel within which flooding frequently occurs, the elevation above sea level of which  
613 shall be as established by the Village and made of record. It is land which is required to  
614 be kept open and non-urbanized in order to maintain upstream flood plain characteristics  
615 and insure continued adequate drainage of adjacent land.

616  
617 **Floor Area** means the total square feet of floor space within the outside dimensions of a  
618 building, including each floor level, but excluding cellars, carports or garages.

619  
620 **Floor Area Ratio (FAR)** means the maximum square footage of total floor area permitted  
621 for each square foot of land area. The ratio between the total square feet of floor area in  
622 all buildings located on a lot and the total square feet of land in the lot or tract on which  
623 the buildings are located.

624  
625 **Food and Beverage Sales Store** means a retail establishment of greater than 2,500  
626 square feet of total floor area, selling a variety of consumables, notions and/or similar  
627 items, usually serving a significant market area. The sale of beer for off-premises  
628 consumption is allowed, if not otherwise prohibited, with a conditional use permit.

629  
630 **Food sales** means an establishment primarily engaged in the retail sale of food or  
631 household products for home consumption. Typical uses include grocery stores,  
632 delicatessens, meat markets, retail bakeries, and candy shops. There shall be a  
633 minimum of one parking space per 200 gross floor area.

634  
635 **Front Yard** means a space extending the full width of the lot between any building set  
636 back line and the front lot line, and measured perpendicular to the building at the closest  
637 point to the front lot line.

638  
639  
640 **Frontage** means that side of a lot, parcel or tract of land abutting a street right-of-way and

641 ordinarily regarded as the frontal orientation of the lot.

642

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

647

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

652

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

655

656 **Governing Body** means the Village council.

657

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

661

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

664

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

669

670

671

672

673

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

679

680 **Height\*** means the vertical distance from the highest point on a structure to the average  
681 ground elevation where the foundation meets the ground, ~~to be measured, from the average~~  
682 ~~finished grade to the highest roof ridge.\*~~ **to be measured, six feet perpendicular to the**  
683 **foundation as it meets the finished grade, from the average finished grade to the**  
684 **highest roof ridge\*\*.** Amended 05/23/2006 2006-O-65. Amended 07/18/2006 2006-O-67

685

686 **Heliport** means landing facility for rotary wing aircraft subject to regularly scheduled use

687 and may include fueling or servicing facilities for such craft

688

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

691

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

694

695 **Home Occupation** means a commercial use customarily carried on in the home by  
696 members of the occupant family without structural alterations in the principal building or  
697 any of its rooms, without the installation of machinery or additional equipment other than  
698 that customary to normal household operations, without the employment of additional  
699 persons, and which does not cause the generation of other than normal noise, pedestrian  
700 and vehicular traffic. It is an accessory to a residential use subject to the following  
701 limitations: (a) the home occupation shall be conducted entirely within a dwelling unit  
702 which is the bona fide residence of the practitioner(s); (b) the residential character of the  
703 lot and dwelling shall be maintained; the exterior of the dwelling shall not be structurally  
704 altered; and no additional buildings shall be added on the property to accommodate the  
705 home occupation; (c) the occupation shall not produce external noise, vibration, smoke,  
706 odor, fumes, electrical interference, involve the storage of weapons or dangerous  
707 materials, or waste run-off outside the dwelling unit or on the property surrounding the  
708 dwelling unit; and (d) no vehicle used in connection with the home occupation which  
709 requires a commercial driver's license to operate shall be parked on any street adjacent  
710 to the property.

711

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

715

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

720

721 **Hotel** means a building in which lodging is provided and offered to individual transient  
722 guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes,  
723 pressing shop, barber shop or other service facilities for guests for compensation, and in  
724 which ingress and egress to and from all rooms is made through and inside a lobby or  
725 office supervised by a person in charge at all hours. As such, it is open to the public in  
726 contradiction to a boarding house, a lodging house, or an apartment. To be classified as  
727 a hotel an establishment shall contain a minimum of six (6) individual guest rooms or units  
728 and shall furnish customary hotel services such as linen, maid service, telephone, and the  
729 use and upkeep of furniture. The term includes a hotel, motel, tourist home, tourist house,  
730 tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not  
731 include a hospital, sanitarium, nursing home, or a dormitory as defined in § 156.001, Tex.  
732 *Tax. Code.*

733  
734 **Impervious Cover** means roads, parking areas, buildings, swimming pools, rooftop  
735 landscapes and other construction and materials as defined by the Village's non-point  
736 source pollution control ordinance limiting the absorption of water by covering the natural  
737 land surface; this shall include, but not be limited to, all streets and pavement within the  
738 development.  
739  
740 **Improvements** means any street, alley, roadway, barricade, sidewalk, bikeway,  
741 pedestrian way, water line system, wastewater system, storm drainage network, public  
742 park land, landscaping, or other facility or portion thereof for which the local government  
743 may ultimately assume responsibility for maintenance and operation or which may affect  
744 an improvement for which local government responsibility is established.  
745  
746 **Incinerator** means a furnace or apparatus for burning waste materials such as trash  
747 wood and other flammable items for the purpose of reducing their weight and bulk.  
748  
749 **Institution for the Care of Substance Dependent Persons** means an institution  
750 offering resident or outpatient treatment to alcoholic or narcotic patients.  
751  
752 **Interior Lot** means a lot other than a corner lot and, bounded by a street on only one (1)  
753 side.  
754  
755 **Kennel** means a place in which five (5) or more dogs or cats at least six (6) months of  
756 age are kept, boarded or trained, by the owners of the dogs or cats or by persons  
757 providing facilities and care with or without compensation.  
758  
759 **Kindergarten or Pre-School** means any private school, operated for profit or not,  
760 attended by four (4) or more children at any one time during part of a twenty-four hour  
761 day, which provides a program of instruction for children below the first grade level in  
762 which constructive endeavors, object lessons and helpful games are prominent features  
763 of the curriculum.  
764  
765 **Laundry services** means an establishment engaged in providing laundering services.  
766 Typical uses shall include bulk laundry and linen supply services.  
767  
768 **Legal Lot** means a lot recorded in the Official County Records pursuant to and in  
769 compliance with the subdivision regulations and/or state law in effect at the time of the  
770 creation of the lot.  
771  
772 **Light manufacturing** means an establishment engaged in the manufacture of finished  
773 products or parts, including packaging of such products, and incidental storage, sales and  
774 distribution of such products, but excluding uses that are not traditionally classified as light  
775 industrial or manufacturing. Uses defined as traditional light industrial and manufacturing  
776 are set forth in this article.  
777  
778 **Livestock Auction** means barns, pens and sheds for the temporary holding and sale of

779 livestock.

780

781 **Loading Space** means an off-street space for the parking of a vehicle while loading or  
782 unloading merchandise or materials from commercial or industrial vehicles.

783

784 **Local Health District** means the Travis County Health District.

785

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

789

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

793

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

795

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

797

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

800

801 **\*\*\*\*Manufactured Home** means a "HUD-Code Manufactured Home" as defined by Tex.  
802 Occupations Code 1201.003(12), meaning a structure:

803 (i) constructed on or after June 15, 1976, according to the rules of the United  
804 States Department of Housing and Urban Development;

805 (ii) built on a permanent chassis;

806 (iii) designed for use as a dwelling with or without a permanent foundation  
807 when the structure is connected to the required utilities;

808 (iv) transportable in one or more sections; and

809 (v) in the traveling mode, is at least eight (8) body feet in width or at least forty  
810 (40) body feet in length or, when erected on site, at least 320 square feet;

811 (vi) includes the plumbing, heating, air conditioning, and electrical systems of  
812 the home; and

813 (vii) does not include a recreational vehicle as defined by 24 C.F.R. Section  
814 3282(g). A Manufactured Home or Manufactured Housing that is not  
815 installed on a permanent foundation system or whose square footage is  
816 less than the minimum established in Sec. 30.112 of this ordinance is  
817 prohibited in the Village unless it was in place and in use immediately prior  
818 to this ordinance being enacted. ~~complete living unit, manufactured at a~~  
819 ~~location away from the lot on which it will be located, as defined in Article~~  
820 ~~5221f~~Article 5221f of the Texas Revised Civil Statutes. ~~Amended~~  
821 01/18/2011 Ordinance 2011-O-121

822

823 **Manufactured Housing.** See: Manufactured Home.

824

825 ~~Master Plan~~ See Plan See. Comprehensive Plan.

826  
827 **Mini Storage Warehouse** means a building or group of buildings consisting of  
828 individualized shelters of various sizes for rent or lease for the purpose of providing  
829 protection of commodities stored therein. The size of each individual storage unit of a  
830 mini-storage warehouse shall be limited to 2,000 cubic feet.

831  
832 ~~\*\*\*\*~~ **Mobile Home** means a structure;

- 833 (i) constructed prior to June 15, 1976;  
834 (ii) built on a permanent chassis;  
835 (iii) designed for use as a dwelling with or without a permanent foundation  
836 when the structure is connected to the required utilities;  
837 (iv) transportable in one more sections; and  
838 (v) in the traveling mode, is a least eight (8) body feet in width or at least forty  
839 (40) body feet in length or, when erected on site, at least 320 square feet;  
840 and  
841 (vi) includes the plumbing, heating, air conditioning, and electrical systems of  
842 the home, as defined by Tex. Occupations Code 1201.003(20). Any mobile  
843 home constituting an existing conforming or non-conforming use is  
844 prohibited within the Village limits unless it was in place and in use  
845 immediately prior to this ordinance being enacted.  
846 ~~movable or portable structure constructed prior to June 15, 1976 that is~~  
847 ~~eight (8') feet, or more, in width and forty feet (40'), or more, in length~~  
848 ~~constructed to be towed on its own integral chassis, as defined in Article~~  
849 ~~5221f of the Texas Revised Civil Statutes. Any mobile home constituting an~~  
850 ~~existing conforming or non-conforming use is prohibited within the Village~~  
851 ~~limits. Amended 01/18/2011 Ordinance 2011-O-121~~

852  
853 ~~\*\*\*\*~~ **Modular Component** means a structural part of housing or a building permitted by  
854 and under the jurisdiction and control of the Texas Department of Licensing and  
855 Regulations that is constructed at a location other than the building site in a manner that  
856 prevents the construction from being adequately inspected for code compliance at the  
857 building site without damage or removal and reconstruction of a part of the housing or  
858 building, as defined by Tex. Occupations Code 1202.001(5).

859 ~~structure or building module as defined in Article 5221f Article 5221f-1 of the Texas~~  
860 ~~Revised Civil Statutes that is inspected and permitted by and under the jurisdiction and~~  
861 ~~control of the Texas Department of Licensing and Regulations, that is transportable in one~~  
862 ~~or more sections and designed to be used on a permanent foundation system. The term~~  
863 ~~includes the plumbing, heating, air conditioning and electrical systems contained in the~~  
864 ~~component. The term does not include a mobile home or a manufactured home.~~  
865 Amended 01/18/2011 Ordinance 2011-O-121

866  
867 **Motel** means a building or group of detached, semi-detached or attached buildings  
868 containing guest rooms with automobile storage space provided in connection therewith,  
869 which building or group is designed, intended or used primarily for the accommodation of  
870 automobile travelers, including groups designated as auto cabins, motor courts, motels

871 and similar designations.

872

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

875

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

878

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

881

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

884

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

888

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

892

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

898

899 **Neighborhood Park** means a publicly owned parcel of land, within a subdivision,  
900 dedicated solely for recreational uses and maintained by the Village or under authority  
901 granted by the Village.

902

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

908

909 **Nonconforming Lot** means a lot, the area, dimensions, or location of which was lawful  
910 prior to the adoption, revision or amendment of the zoning ordinance, but which fails by  
911 reason of such adoption revision or amendment to conform to the present requirements  
912 of the zoning district.

913

914 **Nonconforming Structure or Building** means a structure or building the size  
915 dimensions or location of which was lawful prior to the adoption, revision or amendment  
916 of the zoning ordinance, but which fails by reason of such adoption, revision or

917 amendment, to conform to the present requirements of the zoning district.

918

919 **\*\*\*\*Nonconforming Use** means the use of any building, structure, or land that lawfully  
920 existed at the time of passage of this article or amendments thereto, and that does not  
921 conform after the passage of this article or amendments with the regulations of the article  
922 or amendment. Amended 01/18/2011 Ordinance 2011-O-121.

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

927

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

929

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

932

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

934

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

937

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

940

941 **Off Street Parking Space** means an area of privately owned land not less than nine (9)  
942 feet by eighteen and one-half (18½) feet not on a public street or alley, with an all weather  
943 surface. A public street shall not be classified as such, nor shall head-in parking adjacent  
944 to a public street and dependent upon such street for maneuvering space.

945

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

947

948 **Open Space** means an area included in any side, rear or front yard or any unoccupied  
949 space on the lot that is open and unobstructed to the sky except for the ordinary  
950 projections of cornices, eaves, porches and plant material.

951

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

955

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

958

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

961

962 **Park or Playground** means an open recreation facility or park owned and operated by a

963 public agency such as the Village or the school district and available to the general public  
964 for neighborhood use, but not involving lighted athletic fields for nighttime play.

965  
966 **Parking Lot** means a paved parking area to accommodate the vehicles which utilize any  
967 multiple family, retail, commercial, office, business or industrial property.

968  
969 **Parking Space** means an area that is not a street, alley or public right-of-way that is used  
970 or designed to be used for motor vehicle parking, that is not less than nine (9) feet by  
971 eighteen and one-half (18 1/2) feet, exclusive of the driveways connecting said space with  
972 a street or alley. Said parking space and connecting driveway shall be durably surfaced  
973 and so arranged to permit satisfactory ingress and egress of an automobile.

974  
975 **Parking Structure or Garage** means a structure devoted to the parking or storage of  
976 automobiles for a fee and may include a facility for servicing of automobiles provided such  
977 facility is primarily an internal function for use only by automobiles occupying the structure  
978 and creates no special problems of ingress or egress.

979  
980 **Pasturage** means land used primarily for the grazing of animal stock.

981  
982 **Paved Area** means an area surfaced with asphalt, concrete or similar pavement,  
983 providing an all-weather surface.

984  
985 **Performance Standard** means a set of criteria or limits relating to nuisance elements  
986 which a particular use or process may not exceed.

987  
988 **Permit Issuing Authority** means the Village official, employee or agent designated by  
989 council with lawful authority to issue the applicable permit.

990  
991 **Permitted Use** means a use specifically allowed in the applicable zoning districts without  
992 the necessity of obtaining a Conditional Use Permit.

993  
994 **Personal Care Facility** means a facility that provides supervised living arrangements for  
995 persons with physical or mental disability, which by reason of federal or state law, is not  
996 subject to limitations set forth in deed restrictions or single family zoning districts. This  
997 definition includes a community-based residential home operated by (i) The Texas  
998 Department of Mental Health and Mental Retardation, (ii) a community center operated  
999 under Section 3.01, Texas Mental Health and Mental Retardation Act (Article 5547-203  
1000 VATCS), which provides services to disabled persons; (iii) a nonprofit corporation, or (iv)  
1001 any entity certified by the Texas Department of Human Resources as a provider under  
1002 the intermediate care facilities for the mentally retarded program. This definition includes  
1003 homes for the handicapped as defined in 42 U.S.C. Sec. 3602(h).

1004  
1005 **Personal Service Shop** means an establishment for the purpose of supplying limited  
1006 personal services such as, but not limited to, barber, shoe, boot or beauty shops.

1007  
1008 **Pharmacy** means a use where medicines are compounded or dispensed under the

1009 supervision of a licensed pharmacist.

1010

1011 **Planting Area** means any area designed for landscape planting having a minimum of ten  
1012 (10) square feet of actual plantable area and a minimum inside dimension on any side of  
1013 eighteen (18) inches.

1014

1015 **Playfield or Stadium** means an athletic field or stadium owned and operated by a public  
1016 agency for the general public including a baseball field, golf course football field or  
1017 stadium which may be lighted for nighttime play.

1018

1019 **POA Neighborhood Park** means a privately owned parcel of land, within a subdivision,  
1020 dedicated solely for recreational use by persons in such subdivision and their guests, and  
1021 maintained by the residents of said subdivision.

1022

1023 **Portable Storage Building** is any accessory ~~structure-building~~ of 100 square feet or  
1024 less, ~~that is not permanently attached to the ground. designed to be transported from~~  
1025 ~~one location on a specific site to another location either on the same lot or on a~~  
1026 ~~separate lot.~~ Portable Storage Building may be located in the side and rear setbacks.

1027

1028 **Postal facilities** means postal services, including post office, bulk mail processing, or  
1029 sorting centers operated by the United States Postal Service or a private postal service.

1030

1031 **Primary Structure** means a structure in which the principal use of the lot is conducted.  
1032 For example, for single-family residential lots, the house is the primary structure.

1033

1034 **Privacy Fence** means a well-constructed opaque fence or screen of wood, masonry or a  
1035 combination thereof at least six (6) feet in height. A fence shall be considered opaque if it  
1036 is made of opaque materials and constructed so those gaps in the fence do not exceed  
1037 one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners  
1038 shall be considered opaque if the boards overlap at least one-half (1/2) inch.

1039

1040 **Private Club** means an establishment required to have a state issued alcoholic beverage  
1041 permit for the sale, storage or vending of alcoholic beverages on-premises to its  
1042 members.

1043

1044 **Private Garage** means an accessory building housing vehicles owned and used by  
1045 occupants of the main building.

1046

1047 **Product development services (general)** means development and testing of non-  
1048 hazardous products related to research services. See: Research Services (general).

1049

1050 **Product development services (hazard)** means development and testing of products  
1051 related to research services, which products could pose a health or safety risk outside of  
1052 the structure in which the services are provided. See: Research Services (hazard).

1053

1054 **Professional Office** means a use providing professional or consulting services in the  
1055 fields of law, architecture, design, engineering, accounting and similar professions  
1056 licensed by the state.

1057  
1058 **Property Owners Association, (POA)**, means an incorporated, non-profit organization  
1059 operating under recorded land agreements through which (a) each lot and/or homeowner  
1060 in a subdivision is automatically a member, (b) each lot is automatically subject to a  
1061 charge for a proportionate share of the expenses for the organization's activities, such as  
1062 maintaining common property, and (c) the charge, if unpaid, becomes a lien against the  
1063 property.

1064  
1065 **Public** means, with respect to land and interests in land within the Village limits; the  
1066 Village; with respect to land and interests in land within the ETJ limits, the general public;  
1067 and, with respect to the provision of any services or products by a business  
1068 establishment, the general public.

1069  
1070 **Public Grounds or Building** means a facility such as office buildings, and maintenance  
1071 yards and shops required by branches of local, state or federal government for service to  
1072 an area such as highway department yard or a Village, county or school service center.

1073  
1074 **Public Use** means places of non-commercial public assembly or administrative functions  
1075 where the primary activity is contained within a building(s), including but not limited to  
1076 schools and government buildings.

1077  
1078 \*\*\*\***Public Water System** means a system for the provision to the public of water  
1079 for human consumption through pipes or other constructed conveyances, which  
1080 includes all uses described under the definition for drinking water. Such a system  
1081 must have at least fifteen (15) service connections or serve at least twenty five (25)  
1082 individuals at least sixty (60) days out of the year. This term includes: any  
1083 collection, treatment, storage, and distribution facilities under the control of the  
1084 operator of such system and used primarily in connection with such system, and  
1085 any collection or pretreatment storage facilities not under such control which are  
1086 used primarily in connection with such system. Two (2) or more systems with  
1087 each having a potential to serve less than fifteen (15) connections or less than  
1088 twenty five (25) individuals but owned by the same person, firm or corporation and  
1089 located on adjacent land will be considered a public water system when the total  
1090 potential service connections in the combined systems are fifteen (15) or greater or  
1091 if the total number of individuals served by the combined systems total twenty five  
1092 (25) or greater at least sixty (60) days out of the year. Without excluding other  
1093 meanings of the terms "individual" or "served," an individual shall be deemed to be  
1094 served by a water system if he lives in, uses as his place of employment, or works  
1095 in a place to which drinking water is supplied from the system. As defined by  
1096 Section 290.38(66) of TAC Chapter 290, Subchapter D (the Regulations of the  
1097 Texas Commission on Environmental Quality). Amended 08/19/2014 Ordinance  
1098 2014-O-08

1099

100 \*\*\*\***Pumping Plant** means a privately owned pumping facility used to pump water  
101 from a single well, lake or reservoir to more than two (2), but no more than  
102 fourteen (14), residential households or service connections within the Village's  
103 city limits. Amended 08/19/2014 Ordinance 2014-O-08

104  
105 \*\*\*\***Pumping Station** means a pumping facility, other than a Pumping Plant, use  
106 to pump water from a single well, lake, or reservoir to more than fourteen (14)  
107 service connections or used for a Public Water System, as that term is defined in  
108 Section 290.38(66) of Chapter 290, Subchapter D of the Texas Administrative  
109 Code. Amended 08/19/2014 Ordinance 2014-O-08

110  
111  
112  
113 **Radio, Television, Microwave and Similar Towers** means structures supporting  
114 antennae for transmitting or receiving any portion of the radio spectrum, but excluding  
115 noncommercial antennae installation for home use of radio or television.

116  
117 **Rear Yard** means a space extending across the full width of the lot between the principal  
118 building and the rear lot line, and measured perpendicular to the building to the closest  
119 point of the rear lot line.

120  
121 \*\*\*\***Recreational Vehicle (RV)** means any self-propelled or towable vehicle designed for  
122 and constructed primarily to provide temporary living quarters for recreational, camping,  
123 or travel use; primarily intended for recreational, purposes, including but not limited to a  
124 campervan, truck camper, pop-up camper, travel trailer, teardrop trailer, fifth-wheel trailer,  
125 toterhome or toy hauler. Storage of a property owner's RV or a Tenant's RV is allowed at  
126 the property owner's residence or the tenant's rental home on an Improved Lot and is  
127 limited to one RV per residence. For the limited purpose of this RV restriction only,  
128 "Improved Lot" means a lot upon which a single family residence has been constructed,  
129 for which a valid Certificate of Occupancy has been issued by the Village, and which is  
130 connected to a wastewater or septic system and electrical utilities. An RV may not be  
131 stored in any easement or set back areas. RV parking and use by visitors, by property  
132 owners during home construction/major remodeling, for emergency purposes, or by a  
133 governmental public utility or law enforcement agency while engaged in their official  
134 duties, is temporarily allowed for maximum length of 30 continuous days, with an annual  
135 maximum time limit of 3 months total. There must be a minimum of 14 days between  
136 stays. To exceed the time provisions or the use restrictions in this ordinance, a permit  
137 must be issued by the Village. No RV may be permitted to remain on any lot as a  
138 permanent residence, either by property owners or tenants. Permanent residence is  
139 defined as the vehicle being attached directly to a power and/or water source and/or  
140 sewage facility or used for more than 30 days at a time or more than 3 months during a  
141 calendar year. Amended 01/18/2011 Ordinance 2011-O-121

1142  
1143 **Recyclable Materials** means materials including, but not limited to, scrap steel,  
1144 aluminum cans, appliances, paper, batteries, glass bottles, motor vehicles, motor vehicle  
1145 parts and machinery that have no economic value except as composition or salvage

1146 material.

1147

1148 **Recycling Collection Use** means use of property as a location where glass, paper,  
1149 plastics and/or aluminum cans only are deposited in containers, with no sorting or  
1150 processing on site, and usually occurring as an accessory use on the property.

1151

1152 **Recycling Operation** means the collection, buying, storage, or processing of recyclable  
1153 materials such as glass, paper, plastics, liquids, wood or metals, which are then sorted or  
1154 processed for use or shipment for the purpose of reuse and manufacture, excluding  
1155 smelters and refining operations.

1156

1157 **Recycling Operations (Indoor)** means a recycling operation which is fully enclosed  
1158 within permanent walls and roof of a building or, if windows and doors are present, which  
1159 is capable of enclosure to insure compliance with the required performance standards in  
1160 the LI or HI districts as appropriate. The outside storage of recyclable materials in  
1161 conjunction with the recycling operation inside a building is prohibited in an LI district. A  
1162 dust collection system may be located outside the main building.

1163

1164 **Recycling Operations (Outdoor)** means a recycling operation that occurs in the open,  
1165 or partially within a building and partially in the open.

1166

1167 **Regulatory 100-Year Flood Plain** means the one hundred (100) year flood plain as  
1168 defined by the Federal Emergency Management Act (FEMA).

1169

1170 **Religious assembly** means a use (located in a permanent or temporary building)  
1171 providing regular organized religious worship and religious education incidental thereto.  
1172 See: Church.

1173

1174 **Replacement Trees** means new landscape trees to be planted by the developer to  
1175 replace Significant Trees removed during the development of property. A list of approved  
1176 Replacement Trees can be obtained at the office of the Village.

1177

1178 **Required Yard** means the open space between a lot line and the buildable area within  
1179 which no structure shall be located except as provided for herein.

1180

1181 **Research services (general)** means establishments engaged in research of an industrial  
1182 or scientific nature not involving or requiring the use of any biological, chemical or other  
1183 agent that could cause a hazard to adjacent property. Typical uses include electronics  
1184 research laboratories, and development and testing of computer software packages.

1185

1186 **Research services (hazard)** means establishments engaged in research of an industrial  
1187 or scientific nature involving or requiring the use of biological, chemical or other agents  
1188 capable of causing a hazard to property or persons outside the structure in which  
1189 conducted.

1190

1191 **Reserve Strip** means a narrow strip of property usually separating a parcel of land from a

1192 roadway or utility line easement, that is characterized by limited depth which will not  
1193 support development and which is intended to prevent access to the roadway or utility  
1194 easement from adjacent property and which are prohibited by these regulations unless  
1195 their control is given to the Village.

1196  
1197 **Retail Food Store** means a retail establishment selling meats, fruits, vegetables, bakery  
1198 products, dairy products, light hardware and other similar items, which are purchased for  
1199 use and/or consumption off the premises (may be a drive-in or supermarket).

1200  
1201 **Retail Sales** means the sale or rental of commonly used goods and merchandise for  
1202 personal or household use. Typical uses may include department stores, furniture stores,  
1203 or establishments providing the following products or services: home furnishings and  
1204 appliances, household cleaning and maintenance products; drugs, cards, stationery,  
1205 notions, books, tobacco products, cosmetics or specialty items; apparel, jewelry, fabrics  
1206 and like items; cameras or photography services; household electronic equipment,  
1207 records, sporting equipment, kitchen utensils, small home appliances, art supplies and  
1208 framing, arts and antiques, paint, interior decorating services or office supplies; bicycles,  
1209 wallpaper, carpeting and floor-covering, or automotive parts and accessories (excluding  
1210 service and installation).

1211  
1212 **Restaurant** means an establishment engaged in the preparation and retail sale of food  
1213 and beverages for on-premises consumption. Typical uses include diners, dinner-  
1214 houses, but not a drive-in or fast food restaurant.

1215  
1216 **Reverse Frontage Lot** means a double frontage lot which is to be developed with the  
1217 rear yard abutting a major street and with the primary means of ingress and egress  
1218 provided on a minor street.

1219  
1220 **Right-of-Way** means a strip of land occupied or intended to be occupied by street,  
1221 crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water main,  
1222 sanitary or storm sewer main, or for other similar purpose or use. The usage of the term  
1223 "right-of-way" for land platting purposes shall mean that every right-of-way hereinafter  
1224 established and shown on the Final Plat is to be separate and distinct from the lots or  
1225 parcels adjoining such right-of-way and not included within the dimensions or areas of  
1226 such lots or parcels. Right-of-way intended for streets, crosswalks, water mains,  
1227 wastewater lines, storm drains, or any other use involving maintenance by a public  
1228 agency shall be dedicated to the public by the maker of the plat where such right-of-way  
1229 is established.

1230  
1231 **Ridgeline** means an elongated crest or a series of crests of hills or mountains.

1232  
1233 **Ridgetop** means the land area which has less than 25% slope and which is located  
1234 above elevation 900 feet mean sea level. Ridgetops are generally located on the tops of  
1235 ridges and along ridgelines and drainage area boundaries.

1236  
1237 **Roofline** means the height of the roof excluding any peaks representing less than ten

1238 percent of the profile of the roof.

1239

1240 **Safety services** means a facility to conduct public safety and emergency services,  
1241 including police and fire protection services and emergency medical and ambulance  
1242 services.

1243

1244 **Salvage Processing** means the method or action to enhance recyclable materials for  
1245 reuse, including, but not limited to, separating, baling, flattening, shredding, crushing,  
1246 cleaning or cutting for the purpose of preparing recyclable materials for reuse, excluding a  
1247 smelter operation.

1248

1249 **Same Ownership** means ownership by the same person, corporation, firm, entity,  
1250 partnership, or unincorporated association; or ownership by different corporations, firms,  
1251 partnerships, entities, or unincorporated associations in which a stock holder, partner, or  
1252 associate or a member of his or her family owns an interest in each corporation, firm,  
1253 partnership, entity, or unincorporated association.

1254

1255 **School (Business)** means a business organized to operate for a profit and offering  
1256 instruction and training in a service or art such as secretarial school, barber college,  
1257 beauty school or commercial art school, but not including a commercial trade school.

1258

1259 **School (Commercial Trade)** means a business organized to operate for a profit and  
1260 offering instruction and training in a trade such as welding, brick laying, machinery  
1261 operation, mechanics and similar trades.

1262

1263 **School (Public or Denominational)** means a school under the sponsorship of a public  
1264 or religious agency having a curriculum generally equivalent to public elementary or  
1265 secondary schools, but not including trade or commercial schools.

1266

1267 **Servants Quarters** means an accessory building or portion of a main building located on  
1268 the same lot as the main building and used as living quarters for servants employed on  
1269 the premises and not rented or otherwise used as a separate domicile.

1270

1271 **Setback Line or Building Setback Line** means a line that marks the setback distance  
1272 from the property line, and establishes the minimum required front, side or rear yard  
1273 space of a building plot.

1274

1275 **Shopping Center** means a composite arrangement of shops and stores which provides a  
1276 variety of goods and services to the general public, when developed as an integral unit.

1277

1278 **Short Term Rental** means the rental of a portion of or an entire residence for less  
1279 than thirty (30) days. Where permitted in a district, a property owner who desires  
1280 to rent his or her partial and/or entire residential structure for a period of less than  
1281 thirty (30) days, whether leased directly or subleased through another party, is  
1282 engaged in the operation of a short term rental. \*\*\*\*\*Amended 10/21/2014  
1283 Ordinance 2014-O-11

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

**Side Yard** means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

**Sign** (See Sign Ordinance.)

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

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

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

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

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

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

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

**Square Foot or Square Feet** means the square footage computed from the outside dimensions of the dwelling or structure, excluding attached garages, attics, basements, open or screened porches.

**Stable** means an accessory building for quartering horses for private use of the resident when the stable building is set back from all adjacent property lines at least fifty (50') feet, is at least one hundred (100') feet from any adjacent residence and when the site contains minimum area of one (1) acre.

**Stable, Riding** means an accessory building for quartering horses for commercial or private riding lessons, boarding, training or renting of horses when the stable building is set back from all adjacent property lines at least one-hundred fifty (150') feet, contains a

1330 minimum of three acres of land and holds a Conditional Use Permit.  
1331  
1332 **State Health Department** means the Texas Department of Health or the Texas  
1333 Commission on Environmental Quality (TCEQ), as applicable.  
1334  
1335 **Storage and Distribution** means an establishment offering wholesaling, storage and  
1336 warehousing services of non-hazardous materials in enclosed structures.  
1337  
1338 **Storage Garage** means any premises and structure used exclusively for the storage of  
1339 more than five (5) automobiles.  
1340  
1341 **Story** means that portion of a building, other than a cellar, included between the surface  
1342 of any floor and the surface of the floor next above it or, if there is no floor above it, then  
1343 the space between the floor and the ceiling next above it.  
1344  
1345 **Street** means any public or private right-of-way that affords the primary means of  
1346 vehicular access to abutting property.  
1347  
1348 **Street Line** means that line limiting the right-of-way of the street and being identical with  
1349 the property line of persons owning property fronting on the streets.  
1350  
1351 **Street Side Yard** means an area between any required building setback line and the side  
1352 property line abutting a public right-of-way, and measured perpendicular to the building to  
1353 the closest point of the side property line abutting the right of way.  
1354  
1355 **Structural Alterations** means any change in the supporting members of a building, such  
1356 as load bearing walls or partitions, columns, beams or girders, or any complete rebuilding  
1357 of the roof or the exterior walls.  
1358  
1359 **Structural Integrity** means the ability of a structure to maintain stability against normal  
1360 forces experienced by said structure.  
1361  
1362 **Structure** means any building or anything constructed or erected on the ground or which  
1363 is attached to something located on the ground. Structures include buildings,  
1364 telecommunications towers, sheds, parking lots that are the primary use of a parcel and  
1365 permanent signs. Sidewalks and paving shall not be considered structures unless located  
1366 within a public utility or drainage easement.  
1367  
1368 **Structure, Principal** means the principal structure which fulfills the purpose for which the  
1369 building plot is intended.  
1370  
1371 **Subdivision** means the division or redivision of land into two (2) or more lots, tracts, sites  
1372 or parcels for the purpose of development, laying out any addition to the Village, or for  
1373 laying out any subdivision or building lots, or any lot, street, alley, access easement,  
1374 public utility easement, park or other portion intended for use by the public, or for the use  
1375 of any owner, purchaser, occupant, person or entity.

1376  
1377 **Swimming Pool (Commercial)** means a swimming pool with accessory facilities that is  
1378 not a part of the municipal or public recreational system or a private swim club and that is  
1379 available to the general public for a fee.

1380  
1381 **Swimming Pool (Private)** means a swimming pool constructed for the exclusive use of  
1382 the residents of a single family or multi-family dwelling, or other residential dwelling,  
1383 located and fenced in accordance with Village regulations and not operated as a business  
1384 or maintained in a manner to be hazardous or obnoxious to adjacent property owners.

1385  
1386 **Tavern** means an establishment required to have a state permit for the sale and on-  
1387 premises consumption of ~~beer, that~~beer that is not licensed or permitted to sell any other  
1388 alcoholic beverage.

1389  
1390 **Telephone Exchange** means switching relay and transmitting equipment, but not  
1391 including public business facilities, storage or repair facilities.

1392  
1393 **Temporary Field or Construction Office** means a structure or shelter used in  
1394 connection with a development or building project, for housing on site the temporary  
1395 administrative and supervisory functions, and for sheltering employees and equipment,  
1396 related to the development.

1397  
1398 **Tourist Home** means a building other than a hotel where lodging is provided and offered  
1399 to the public for compensation for not more than twenty (20) individuals and open to  
1400 transient guests.

1401  
1402 **Traffic Impact Analysis (TIA)** means a study of the impacts of a development on the  
1403 Village's transportation system.

1404  
1405 **Trailer Camp or Park** means an area designed, arranged or used for the parking or  
1406 storing of one or more auto trailers which are occupied or intended for occupancy as  
1407 temporary living quarters by individuals or families.

1408  
1409 **Transportation services** means a facility for loading, unloading, and interchange of  
1410 passengers and baggage, between modes of transportation, including bus terminals,  
1411 railroad stations and public transit facilities utilizing park and ride stations.

1412  
1413 **Tree** means any self-supporting woody plant species that normally grows to an overall  
1414 minimum height of fifteen (15) feet.

1415  
1416 **Tree Survey** means a scaled drawing accurately showing the location, Caliper and  
1417 Critical Root Zone of Significant Trees in relation to the property boundaries.

1418  
1419 **Two (2) Family Dwelling** means a building designed for or occupied exclusively by two  
1420 (2) families.

1421

1422 **Upholstery Shop** means a business establishment engaged in the installation of soft  
1423 covering material such as fabric and underlayment for furniture and other objects. Except  
1424 however, with respect to motor vehicles and watercraft, it shall only include interior  
1425 upholstery. In no event shall an upholstery shop include the manufacture or building of  
1426 furniture or other objects.

1427  
1428 **Urbanization** means the process of constructing public improvements required to support  
1429 suburban or urban land use.

1430  
1431 **Utilities Other than Listed** means any utility requiring a franchise, such as closed circuit  
1432 television, distribution of steam, hot or chilled water or similar service requiring the use of  
1433 public streets or easements.

1434  
1435 **Variance** means an adjustment in the application of the specific regulations of this article  
1436 to a particular parcel of property that, because of special conditions or circumstances  
1437 peculiar to the particular parcel, is necessary to prevent the property from being deprived  
1438 of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

1439  
1440 **Variety Store** means a retail commercial establishment which supplies a variety of  
1441 household goods, toys, limited light hardware items, candy, some clothing and other  
1442 general merchandise.

1443  
1444 **Veterinary hospital** means an establishment offering veterinary services and clinics for  
1445 pets, small and/or large animals. Typical uses include pet clinics, care, treatment and  
1446 temporary housing of livestock and large animals, with temporary housing of large  
1447 animals permitted in an attached or adjacent roofed building, with three (3) or more sides  
1448 having walls or a solid fence extending from the foundation to at least 3/4 of the distance  
1449 to the roof line.

1450  
1451 **Veterinary services** means an establishment offering veterinary services and clinics for  
1452 pets and small domestic animals, with all activities and work in-doors.

1453  
1454 **Video rental store** means an establishment engaged in the sale or rental of motion  
1455 pictures or games.

1456  
1457 **Vines** means any woody or herbaceous plants, which may cling by twining, by means of  
1458 aerial rootlets or by means of tendrils or which, may simply sprawl over the ground or  
1459 other plants.

1460  
1461 **Village** means the Village of Volente, Texas.

1462  
1463 **Village Council** means the governing body of the Village.

1464  
1465 **Village Engineer** means the Engineer for the Village or his or her designated  
1466 representative, as appointed by the council.

1467

1468 **Village Limits or Within the Village** means the, or within the, incorporated boundaries of  
1469 the Village.

1470  
1471 **Village Official or Village Officer** means the officer of the Village assigned and  
1472 designated by the council from time to time to fulfill administrative duties as provided in  
1473 the Local Government Code.

1474  
1475 **Village Planner** means the Planner for the Village or his or her designated  
1476 representative, as appointed by the council.

1477  
1478 **Village Staff** means the employees and agents of the Village assigned and designated  
1479 from time to time by the council to conduct Village administrative functions and duties.

1480  
1481 **Warehouse** means an establishment engaged in the storage of merchandise or  
1482 commodities in an enclosed structure.

1483  
1484 **Watershed** means area from which stormwater drains into a given basin, river or creek.

1485  
1486 **Waterway** means any natural or man-made channel conducting storm water from a two-  
1487 (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15)  
1488 cubic feet per second or more. Street pavement shall in no instance be considered a  
1489 waterway.

1490  
1491 **Wood Yard** means a tract of property used for the storage of wood either for use as  
1492 firewood or as a building material, containing a fence for safety and security.

1493  
1494 **Working Days** means Monday through Friday exclusive of Village recognized holidays.

1495  
1496 **Wrecking Yard** means any lot, tract, building or structure upon which used automobiles  
1497 or parts of used automobiles or other motor vehicles are stored for the primary purpose of  
1498 obtaining parts for resale as an automotive or motor vehicle part.

1499  
1500 **Yard** means an open space at grade between the principal and accessory buildings and  
1501 the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the  
1502 ground upward, except as otherwise provided herein.

1503  
1504 **Yard Depth** means the shortest distance between a lot line and a yard line.

1505  
1506 **Yard, Front.** A yard extending across the front of a lot between the side lot lines, and  
1507 being the minimum horizontal distance between the street easement line and the main  
1508 building or any projections thereof other than the projections of the usual steps, balconies  
1509 or bays, or unairconditioned porch. On corner lots the front yard shall be considered as  
1510 parallel to the street upon which the yard has its least dimension.

1511  
1512  
1513 **Yard Line** means a line drawn parallel to a lot line at a distance therefrom equal to the

1514 depth of the required yard.

1515

1516 **Yard, Rear** means a yard extending across the rear of a lot and being the required  
1517 minimum horizontal distance between the rear lot line and the rear of the main building or  
1518 any projections thereof other than the projections of steps, balconies or bays, or un-  
1519 airconditioned porches, accessory dwellings or detached garages.

1520

1521

1522

1523

1524 **Yard, Side** means a yard between the main building and the side line of the lot, and  
1525 extending from the required front yard to the required rear yard, and being the minimum  
1526 horizontal distance between a side lot line and the side of any building on the lot, or any  
1527 projections thereof.

1528

1529 **Zoning** means the division of the Village into districts in an effort to achieve compatible  
1530 land use relationships, and the associated establishment of regulations governing the  
1531 use, placement, spacing and size of land and buildings in order to achieve that  
1532 compatibility as defined in *Chapter 211 of the Texas Local Government Code of this*  
1533 *zoning ordinance.*

1534

1535 **Zoning (Spot)** means the zoning or rezoning of a lot or parcel of land to benefit an owner  
1536 for a use incompatible with surrounding uses and not for the purpose or effect of  
1537 furthering the comprehensive plan.

1538 **Zoning Map** means the official certified map showing the division of the Village into  
1539 districts, which is a part

1540 **Zoning (Strip)** means, typically, commercial and/or retail zoning proposed to  
1541 accommodate commercial or retail development, fronting a portion of a major street,  
1542 usually one lot deep.

1543

1544 **Zoo (Private)** means a facility housing and displaying live animals, reptiles or birds,  
1545 privately owned and operated for a fee or for the promotion of some other enterprise.

1546

1547 **Zoo (Public)** means a publicly owned zoo or similar facility owned and operated by a  
1548 governmental entity or nonprofit zoological society where live animals, birds and reptiles  
1549 are domiciled and displayed.

1550

1551 **ANY DEFINITION NOT EXPRESSLY PRESCRIBED HEREIN SHALL, UNTIL SUCH TIME AS DEFINED BY**  
1552 **ORDINANCE, BE CONSTRUED IN ACCORDANCE WITH CUSTOMARY USAGE IN MUNICIPAL PLANNING**  
1553 **AND ENGINEERING PRACTICES.**

1554

1555 **Sec. 30.106 Application:** The provisions of this article shall, except as specifically  
1556 provided otherwise in this article, apply to all land within the jurisdiction of the Village.

1557

1558 **Sec. 30.107 Exemptions:** The provisions of this article shall not:

1559

1560 (a) prohibit the continuation of plans, construction or designed use of a building for

1561 which a building permit was lawfully issued and which (i) is completed in its  
1562 entirety within one (1) year from the effective date of this article; and (ii) for which  
1563 construction shall have been started within ninety (90) days after the effective  
1564 date of this article; provided that any such building, construction or use that is not  
1565 in compliance with this article shall be a nonconforming use; or  
1566

1567 (b) Apply to permits or commitments given by the Village with reference to  
1568 construction of public utility buildings prior to the passage of this article.  
1569

1570 **Sec. 30.108 Enforcement of Regulations:**  
1571

1572 (a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or  
1573 utility tap shall be issued by the Village for or with respect to any lot, tract or  
1574 parcel of land within the Village limits that is developed, or proposed to be  
1575 developed, after the effective date of this article, until all applicable requirements  
1576 of this article have been satisfied and accepted by the Village.  
1577

1578 (b) This article may be further enforced by injunction and other judicial proceedings,  
1579 either at law or in equity; and, in lieu of or in addition to any other authorized  
1580 enforcement or action taken, any person who violates any term or provision of  
1581 this ordinance, with respect to any land or development within the Village, by fine  
1582 and penalties as provided herein.  
1583

1584 **DIVISION 2. ZONING DISTRICTS AND REGULATIONS**  
1585

1586 **Sec. 30.109 General Requirements and Limitations:**  
1587

1588 *Amended 10/18/2005; Ordinance 2005-O-56\**  
1589

1590 (a) Conformity to Zoning District Required: No building shall be erected and no  
1591 existing buildings shall be moved, structurally altered, added to or enlarged, nor  
1592 shall any land, building or premises be used, or designated for use for any  
1593 purpose or in any manner other than provided for hereinafter in the district in  
1594 which the building, land or premises is located; provided, however, that  
1595 necessary structural repairs may be made where health and safety are  
1596 endangered. Furthermore, no open space surrounding any building shall be  
1597 encroached upon by a structure or reduced in any manner, unless the same  
1598 shall conform to the regulations hereinafter designated for the zoning district in  
1599 which such building or open space is located.  
1600

1601 (b) Signs and Billboards: No sign or billboard shall be erected, moved, altered,  
1602 added to, enlarged, painted, or modified unless it shall conform to the provisions  
1603 of this article and all applicable Village ordinances governing the placement,  
1604 location, permitting, construction and maintenance of signs. Except as otherwise  
1605 expressly authorized by ordinance, all off-premises signs and billboards are  
1606 expressly prohibited.

- 1607  
1608 (c) Structures and Buildings: No building, structure or accessory structure shall be  
1609 erected, converted or enlarged, nor shall any such existing building or structure  
1610 be structurally altered or rebuilt, nor shall any open space surrounding any  
1611 building be encroached upon or reduced in any manner, unless the same shall  
1612 be done and completed in a manner to comply with all applicable Village codes  
1613 and ordinances, and such work and structure shall:  
1614  
1615  
1616  
1617 (1) Conform to the setback, building site area, building location and land use  
1618 regulations hereinafter designated for the zoning district in which such  
1619 building or open space is located.  
1620  
1621 (2) Not exceed the height limit herein established for the zoning district in which  
1622 such building is located, except as specifically authorized as follows:  
1623  
1624 (A) The height limits prescribed herein shall not apply to television and  
1625 radio towers, church spires, tanks, water and fire towers, cooling  
1626 towers, chimneys, smokestacks, necessary public or private utilities,  
1627 conveyors, and necessary mechanical appurtenances. The height  
1628 limits and other applicable regulations for television, radio and  
1629 communications towers and antennas may be established by separate  
1630 ordinance.  
1631 (B) Public or semi-public service buildings, hospitals, institutions or  
1632 schools, churches and other places of worship where permitted, may  
1633 be erected to a height not exceeding forty (40) feet when each of the  
1634 required yards is increased by one (1) foot for each two (2) feet of  
1635 additional building height above the height limits for the zoning district  
1636 in which the building is located.  
1637  
1638 (d) Accessory Structures and Uses: Accessory structures designed, constructed and  
1639 located for a use permitted in the zoning district, in compliance with this article and  
1640 all other applicable Village ordinances, are permitted in each zoning district.  
1641  
1642 (e) Conformity to Construction Plan Requirements: No structure or building shall be  
1643 erected, converted, enlarged, reconstructed or structurally altered unless  
1644 construction plans meeting the requirements of the applicable Village ordinances  
1645 have been approved by the Village.  
1646  
1647 (f) Conformity to Parking and Loading Space Requirements: No structure or building  
1648 shall be erected, converted, enlarged, reconstructed or structurally altered unless it  
1649 shall conform to the off-street parking and loading requirements of this article and  
1650 the applicable Village ordinances.  
1651  
1652 (g) Conformity to Building Setback Requirements: No yard or other open space

provided around any structure or building shall be considered as providing a yard or open space for a building on any other lot.

(h) Outdoor Lighting: All outdoor lighting shall be installed and maintained in compliance with the site development ordinance and all applicable Village ordinances. Such lighting shall be located and maintained in a manner as to not be directed onto any public street or adjacent property; provided that such street lighting may be directed directly down upon a public street.

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

The purpose of this amendment is to address the number of existing lots that do not qualify for IR zoning because they are larger than one acre, but do not conform with the definition of R1, because they are narrower than 125' or irregularly shaped. Application of the R1 side set back to an existing narrow lot adversely restricts development options. For example; an eighty foot wide lot with the current 25' side set back requirement would only allow for a 28' wide house (a bit wider than a standard 24' wide two car garage) - with one foot roof over hangs. The language also addresses pie shaped lots where the house is built in a place wider than the minimum building set back line. Adoption of this amendment should also alleviate the most common Board of Adjustment appeal and provide the BOA guidance for future variance requests. None of this language is in the therefore section of the amending ordinance.

For Example:

Zoning	Width	15%	Current	New Side Setback Per This Amendment
R1R	200	30	25	No change
R1	125	18.75	25	No change
<b>R1 (Existing)</b>	<b>100</b>	<b>15.0</b>	<b>25</b>	<b>15.0</b>
<b>R1 (Existing)</b>	<b>90</b>	<b>13.5</b>	<b>25</b>	<b>13.5</b>
<b>R1 (Existing)</b>	<b>80</b>	<b>12.0</b>	<b>25</b>	<b>12.0</b>
RIC	90	13.5	15	No change

R2	90	13.5	15	No change
IR	60	9	7.5	No change

1688  
1689  
1690  
1691

Chart 1.

Zoning District	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width <sup>(4)</sup>	Max. Height Limit
R-1	50 ft.	25 ft.	50 ft.	25 ft.	43,560 sf	200 ft	125 ft.	35 ft.
R-1R	50 ft.	50 ft.	50 ft.	25 ft.	43,560 sf	125 ft.	200 ft.	35 ft.
R-1 C (not applicable to ridgeline/ridge top)	30 feet	15 <u>7.5ft.</u>	15	15	Minimum of 21,780 sf and With max. density of one (1) home per acre in subdivision <u>Minimum lot size of 10,000 sq. ft. with maximum density of one (1) home per acre</u>	120 <u>**</u>	90 <u>**</u>	35 ft.
R-2	<del>25 ft.</del> for two unit 30 ft. For three and four unit	15 ft	15 ft.	10 ft. [15 ft. When abutting R-1]	10,000 sf per unit with max density of four (4) units per acre	120 <u>ft.</u>	90 ft.	35 ft.

Zoning District	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width <sup>(+)</sup>	Max. Height Limit
OS	25 ft.	10 ft.	15 ft.	25ft.	10,000	90	60 ft.	35 ft.
Gov	25 ft.	15 ft.	15 ft.	15 ft.	10,000	90	60 ft.	35 ft.

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

1692

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

(+)\*—Minimum lot width measured at front building setback line.

\*\* Minimum lot width and depth will be considered on a case by case basis

1693

Zoning District	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width <sup>(1)</sup>	Max. Height Limit
C-1	40 ft.	15 ft.	15 ft. 30 ft from Residential	15 ft. 30 ft from Residential	10,000	90	50 ft.	35 ft.
C-2	60 ft.	25 ft.	25 ft. 30 ft from Residential	15 ft. 30 ft from Residential	20,000	150	60 ft.	35 ft.
C-3	100 ft.	25 ft. for single tenant 50 ft. for multi-tenant	50 ft.	15 ft. 30 ft from Residential	25,000 for single tenant 40,000 for multi-tenant	250	60 ft. for single tenant 100 ft. for multi-tenant	35 ft.
I-1	100 ft.	50 ft.	50 ft.	50 ft.	40,000	250	125 ft.	35 ft.
I-2	100 ft.	50 ft. 100 ft. from Residential	50 ft. 100 ft. from Residential	50 ft. 100 ft. from Residential	60,000	250	125 ft.	35 ft.

<sup>(1)</sup> Minimum lot width measured at front building setback line.

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- (j) Impervious Coverage: The maximum percentage of impervious cover shall not exceed that set forth in the non-point source pollution control ordinance.
- (k) Floor Area Ratio: Except as hereinafter provided, no building or structure may be erected, added to or altered to exceed the maximum floor area ratio standards in the various zoning districts as set forth in the following Chart 2. In the following zoning districts, the maximum floor area ratio (FAR) for any building or structure shall be as follows:

Maximum Floor Area Ratio (FAR)

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<u>District</u>	<u>Building Area</u>		<u>Land Area</u>
C-1, C-2, C-3	0.20	to	1
I-1, I-2	0.20	to	1

Structures used for off-street parking of vehicles shall not be included in calculating building area to determine floor area ratio (FAR) standards.

(l) Parking: Automotive vehicles or trailers bearing current license plates and state motor vehicle inspection stickers, excluding racing cars, antique cars, and cars belonging to members of armed forces who are on active duty, shall be parked in accordance with this section and any applicable Village ordinances.

(1) Parking Regulations: Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this article, designated on-street and off-street parking spaces shall be provided in a number not less than as provided in Chart 3 set forth hereinafter.

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

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

(4) Reduction of Parking: The total number of required motor vehicle parking spaces for a non-residential use may be reduced by five percent (5%) for each of the activities listed below provided by the owners or operators, up to a maximum ten percent (10%) reduction in the total number of motor vehicle spaces:

(A) Participates in an area wide carpool/vanpool ride matching program for employees; designating at least ten percent (10%) of the employee motor vehicle parking spaces as carpool/vanpool parking and placing such spaces closer to the building than other employee parking;

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

- 1751 (C) Providing covered, secured bicycle parking racks or facilities;  
 1752  
 1753 (D) Providing a transit facility that is approved by the local transit authority, and  
 1754 related amenities. Related amenities include, but are not limited to, a public  
 1755 plaza, pedestrian sitting areas, and additional landscaping.  
 1756  
 1757 (5) Development and Maintenance Standards for Parking Areas: Every parcel of  
 1758 land hereafter used as a public or private parking area, including commercial  
 1759 parking lots, shall be developed as follows:  
 1760  
 1761 (A) Off-street parking areas for more than five (5) vehicles and loading areas  
 1762 shall be effectively screened by a privacy fence, hedge or planting, on each  
 1763 side which adjoins a residential use or property situated in a Residential  
 1764 Area.  
 1765  
 1766 (B) Except for parking to serve residential uses, parking and loading areas  
 1767 adjacent to or within residential zones or adjacent to residential uses shall  
 1768 be designed to minimize disturbance of residents.  
 1769  
 1770 (C) Access aisles shall be of sufficient width for vehicular turning and  
 1771 maneuvering.  
 1772  
 1773 (6) Council Determination: Off-street and on-street parking for all uses not within  
 1774 the categories above shall be adequate to meet the anticipated needs and shall  
 1775 be determined by the council using standards outlined for special exception  
 1776 and with a view towards providing adequate parking and carrying out the  
 1777 general scheme of the parking requirements herein set out.  
 1778  
 1779 (7) Special Exception: The council may grant a special exception to allow two or  
 1780 more uses to share parking spaces upon a showing that the particular uses in  
 1781 question will require parking at different times. Any spaces the council allows  
 1782 to be shared count toward the number of spaces each use must provide.  
 1783

1784 **Chart 3\***  
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Use	Number of Parking Spaces
Residential dwellings, single to multi-family, and manufactured homes	Two spaces minimum for each living unit, and one-half (1/2) space for each additional bedroom above two.
Warehouses and other similar commercial establishments not catering to the general public	One space per 1,000 square feet of gross floor area
Hotels, Motels and similar transient accommodations	One space per bedroom and one space for each two employees
Rest homes, Nursing Homes, Convalescent Homes, sanitariums, and	One space for each two employees, and

similar uses	One space for each four patient beds
Bars, Cafes, Restaurants, Taverns, Nightclubs and similar uses	One space for every four seats provided for customer services
Food Sales, Food and Beverage Sales, Convenience Stores and similar uses	One space for each 200 square feet of gross floor area
Banks, Offices, financial lending institutions, personal service shops, retail establishments, shopping centers and similar uses catering to the general public	One space for each 250 square feet of gross floor area

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

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

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

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

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

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

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

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

(E) The structure and operations shall comply with the standards established by the Texas Department of Human Services as licensing standards for personal care facilities for a Type B facility.

(2) The Home must meet all applicable State licensing requirements;

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- (3) A Personal Care Facility must have at least one (1) paid staff member on duty 24 hours per day, and one supervisor for each six (6) residents during waking hours;
- (4) A Personal Care Facility may not have more than fifteen (15) residents.

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

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

**Sec. 30.110 Establishment of Zoning Districts.**

(\* Amended 1/10/06 2006-O-59, 10/23/2006 2006-O-70,\*\*\* 4/20/10 2010-O-116)

(a) The Village is hereby divided into *thirteen (13)* \*\*\*zoning districts. The use, height and area regulations as set out herein shall be uniform in each district, except to the extent modified by Conditional Overlay Districts, where applicable. The thirteen (13) districts established shall be known as:

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

(b) Zoning Map: The location and boundaries of the Districts herein established are shown upon the Zoning Map, which is hereby incorporated and made a part of this article; provided that such uses as listed but not shown on the zoning map are provided for future growth and use upon amendment of the comprehensive plan. The Village secretary maintains the Zoning Map together with all notations, references and other information shown thereon and all amendments thereto.

(c) District Boundaries: Where uncertainty exists with respect to the boundaries of

1867 the established districts as shown on the Zoning Map, the following rules shall  
1868 apply:

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- 1870 (1) Where district boundaries are indicated as approximately following the  
1871 centerlines of streets or highways, street lines or highway right-of-way lines  
1872 shall be construed to be said boundaries.
- 1873
- 1874 (2) Where district boundaries are so indicated that they approximately follow  
1875 the lot lines, such lot lines shall be construed to be said boundaries.
- 1876
- 1877 (3) Where district boundaries are so indicated that they are approximately  
1878 parallel to the center lines or street lines of streets, or the center lines of  
1879 right-of-way lines of highways such district boundaries shall be construed as  
1880 being parallel thereto and at such distance therefrom as indicated on the  
1881 Zoning Map. If no distance is given, such dimension shall be determined by  
1882 the use of the scale on said Zoning Map.
- 1883
- 1884 (4) In subdivided property, the district boundary lines on the Zoning Map shall  
1885 be determined by use of the scale appearing on the map.
- 1886
- 1887 (5) If a district boundary line divides a property into two (2) parts, the district  
1888 boundary line shall be construed to be the property line nearest the district  
1889 line as shown.
- 1890
- 1891 (6) Whenever any street, alley or other public way is vacated by the council, the  
1892 zoning district shall be automatically extended to the center of such  
1893 vacation and all area included in the vacation shall then and henceforth be  
1894 subject to all regulations of the districts as extended.
- 1895
- 1896 (7) Where the streets on the ground differ from the streets shown on the  
1897 Zoning Map, those on the ground shall control.
- 1898

1899 **Sec. 30.111 Zoning of Annexed Areas:**

- 1900
- 1901 (a) Interim Zoning District. All territory hereafter annexed to the Village shall be  
1902 automatically classified on a temporary basis as Residential District "R-1",  
1903 pending subsequent action by the commission and council for permanent zoning;  
1904 provided that upon application, by either the Village or the property owner of the  
1905 land being annexed, for zoning other than Agricultural, notice may be given and  
1906 hearings held in compliance with *Chapter 211 of the Texas Local Government*  
1907 *Code* and, upon annexation, such property may be permanently zoned as  
1908 determined by the council after considering the commission's recommendation.
- 1909
- 1910 (b) Permits in Interim Zoned Areas. In an area temporarily classified as Residential  
1911 District "R-1", no permits for the construction of a building or use of land other  
1912 than uses allowed in said District under this article shall be issued by the Village.

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**Sec. 30.112 Single Family Residential 1 - District "R-1":**

*(\*Amended 5/6/2007; Ordinance 2007-O-78  
\*\*Amended 10/21/2014 Ordinance 2014-O-11*

)

- (a) Purpose and Permitted Uses. Permits detached single-family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of 43,560 square feet.
  
- (b) Additional Permitted Uses.
  - (1) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
  - (2) Public buildings, including libraries, museums, police and fire stations.
  - (3) Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are converted to a permitted use within a period of one (1) year, specific permission must be obtained from the council for said display houses to remain.
  - (4) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
  - (5) Water supply reservoirs, and water towers. (*Amended 05/06/2007 2007-O-78*)
  - (6) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required ~~to to receive a conditional use permit and must~~ be in architectural harmony with the main structure.
  
- (c) Conditions and Limitations:
  - (1) See Chart 1.
  - (2) See Chart 3.
  - (3) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated "For Sale" or "For Rent" sign not more than eight square feet (8sf) in area may be

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

(4) Privacy fences, if installed, that face public streets, roadways or rights of way must have the finished side facing the public street, roadways or right of way.

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

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

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

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

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

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

d) Authorizing pumping plants as a conditional use in this zoning district:

(1) Conditional Uses Permitted Upon Authorization of Council.

\*(A) Pumping plants. *\*Amended 5/6/2007; Ordinance 2007-O-78*

e) Authorizing Short Term Rentals as a conditional use in this zoning district:

(1) Conditional Uses Permitted Upon Authorization of Village Council.

\*\* (A) Short Term Rentals. *\*Amended 10/21/2014; Ordinance 2014-O-11*

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

*\*Amended 5/6/2007; Ordinance 2007-O-78*

*\*\*Amended 08/19/14 Ordinance 2014-O-10*

*\*\*\*Amended 10/21/2014 Ordinance 2014-O-11*

- 2005 (a) Applicability. District R-1R is applicable to all land areas as defined by the  
 2006 ridgetop zoning district as shown on the Official Zoning Map and/or Ridgetop  
 2007 Plan (Plate 10-2, Comprehensive Plan, October 2004).  
 2008
- 2009 (b) Purpose and Permitted Uses. Permits detached single-family dwellings with a  
 2010 minimum of 1,000 square feet of living area, and related accessory structures, on  
 2011 a minimum lot size of 43,560 square feet.  
 2012
- 2013 (c) Additional Permitted Uses.  
 2014
- 2015 (1) Parks, playgrounds, community buildings and other public recreational  
 2016 facilities, owned and/or operated by the municipality or other public agency.  
 2017
- 2018 (2) Public buildings, including libraries, museums, police and fire stations.  
 2019
- 2020 (3) Real estate sales offices during the development of a residential subdivision  
 2021 but not to exceed two (2) years. Display dwellings with sales offices,  
 2022 provided that if said display dwellings are not moved are converted to a  
 2023 permitted use within a period of one (1) year, specific permission must be  
 2024 obtained from the council for said display houses to remain.  
 2025
- 2026 (4) Temporary buildings for uses incidental to construction work on the  
 2027 premises, which buildings shall be removed upon the completion or  
 2028 abandonment of construction work.  
 2029
- 2030 (5) Water supply reservoirs, ~~pumping plants~~ and water towers.  
 2031
- 2032 (6) Accessory structures and uses customarily incident to the above uses and  
 2033 located on the same lot therewith, not involving the conduct of any business  
 2034 or commercial enterprise. Such structures will be required to receive a  
 2035 conditional use permit and must be in architectural harmony with the main  
 2036 structure.  
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- 2038 (d) Conditions and Limitations:  
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- 2040 (1) See Chart 1.  
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- 2042 (2) See Chart 3.  
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- 2044 (3) A billboard, signboard, or advertising sign shall not be permitted as an  
 2045 accessory use; provided that the placing of an unilluminated "For Sale" or  
 2046 "For Rent" sign not more than eight square feet (8sf) in area may be  
 2047 permitted as an accessory use, and churches and other institutions may  
 2048 display signs showing names, activities and services therein provided, and  
 2049 that during construction of a structure or building one (1) unilluminated sign  
 2050 advertising contractors or architects on such premises shall be permitted

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provided that such sign shall not be more than eight square feet (8sf) in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(4) Privacy fences, if installed, that face public streets, roadways or rights of way must have the finished side facing the public street, roadways or right of way.

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

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

(F) Home and related residential lot improvements, including driveways:

(1) Driveway construction may occur on slopes averaging from 25% up to 40% within the driveway envelope, only if necessary to provide access from a road to a home, provided Best Management Practice erosion controls approved by the Village Engineer and the Village Council are used. Such construction shall be approved on a case by case basis and shall be inspected by a qualified third party recommended by the Village Engineer and approved by the Village Council and paid for by the Landowner(s). (Review and Approval from Fire Dept.)

(2) Residential construction may occur on slopes averaging from 25% to 35% within the building envelope provided Best Management Practice erosion controls approved by the Village engineer and approved by the Village Council on a case by case basis are used. Such construction must be inspected by a qualified third party, recommended by the Village engineer and approved by the Village Council and paid for by the Landowner(s). The lots where construction will occur on slopes from 25% to 35% will be identified on the final plat(s).

~~d)~~ e) \_\_\_\_\_

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f) Authorizing pumping plants as a conditional use in this zoning district:

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(1) Conditional Uses Permitted Upon Authorizing of Council.

\*\* (A) Pumping plants. *\*Amended 5/6/2007; Ordinance 2014-O-108*  
*\*\*Amended 08/19/2014 Ordinance 2014-O-10*

f) Authorizing Short Term Rentals as a conditional use in this zoning district:

(1) Conditional Uses Permitted Upon Authorization of Village Council.

\*\*\*(A) Short Term Rentals.\*\*\**Amended 10/21/2014; Ordinance 2014-O-11*

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

*\*Amended 5/6/2007; Ordinance 2007-O-78*  
*\*\*Amended 08/19/2014 Ordinance 2014-O-10*  
*\*\*\*Amended 10/21/2014; Ordinance 2014-O-11*

(a) Purpose and Permitted Uses: Permits detached single family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, ~~on a lot size that does not cause the development to exceed one (1) home per 43,560 square feet.~~ that maximizes common open space by grouping housing units to minimize individual yards and which, for each detached unit, has a minimum lot area of 10,000 square feet.

(b) Additional Permitted Uses:

- (1) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (2) Public buildings, including libraries, museums, police and fire stations.
- (3) Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are converted to a permitted use within a period of one (1) year, specific permission must be obtained from the council for said display houses to remain.
- (4) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.

- 2143 (5) Water supply reservoirs, ~~pumping plants~~ and water towers.  
2144  
2145 (6) Accessory structures and uses customarily incident to the above uses and  
2146 located on the same lot therewith, not involving the conduct of any business  
2147 or commercial enterprise. Such structures will be required to receive a  
2148 conditional use permit and must be in architectural harmony with the main  
2149 structure.

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2151 (7). Condominium Residential.  
2152

2153 (c) Conditions and Limitations:  
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- 2155 (1) See Chart 1.  
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2157 (2) See Chart 3.  
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2159 (3) A billboard, signboard, or advertising sign shall not be permitted as an  
2160 accessory use; provided that the placing of an unilluminated "For Sale" or  
2161 "For Rent" sign not more than eight square feet (8sf) in area may be  
2162 permitted as an accessory use, and churches and other institutions may  
2163 display signs showing names, activities and services therein provided, and  
2164 that during construction of a structure or building one (1) unilluminated sign  
2165 advertising contractors or architects on such premises shall be permitted  
2166 provided that such sign shall not be more than eight square feet (8sf) in area  
2167 and shall be set back of the established or customary building line, and  
2168 such sign shall be removed immediately upon completion of the building.  
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2170 (4) Privacy fences, if installed, that face public streets, roadways or rights of  
2171 way must have the finished side facing the public street, roadways or right  
2172 of way.  
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2174 (5) Common walkways will be required in place of sidewalks.  
2175

2176 d) Authorizing pumping plants as a conditional use in this zoning district:  
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2178 ~~(2)(1)~~ Conditional Uses Permitted Upon Authorizing of Council.  
2179

2180 (A) Pumping plants. \*Amended 5/6/2007; Ordinance 2007-O-78  
2181 \*\*Amended 08/19/2014 Ordinance 2014-O-10  
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2183 e) Authorizing Short Term Rentals as a conditional use in this zoning district:  
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2185 (1) Conditional Uses Permitted Upon Authorization of Village Council.  
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2187 \*\*\* (A) Short Term Rentals. \*\*\* Amended 10/21/2014; Ordinance 2014-O-11  
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**Sec. 30.115 Single Family Residential 2 - District "R-2":**

\*Amended 5/6/2007; Ordinance 2007-O-78  
\*\*Amended 08/19/2014 Ordinance 2014-O-10  
\*\*\*Amended 10/21/2014; Ordinance 2014-O-11

- (a) Purpose and Permitted Uses. Allows detached duplexes, three and four unit residences with a minimum of 1,000 square feet of living area per unit and permitted accessory structures on a minimum lot size of 10,000 square feet per unit.
  
- (b) Additional Permitted Uses.
  - (1) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
  - (2) Public buildings, including libraries, museums, police and fire stations.
  - (3) Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are converted to a permitted use within a period of one (1) year, specific permission must be obtained from the council for said display houses to remain.
  - (4) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
  - (5) Water supply reservoirs, ~~pumping plants~~ and towers.
    - (2) ~~\_\_\_\_\_ (6) \_\_\_\_\_~~ Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in architectural harmony with the main structure.
    - (3) Condominium Residential.
  
- (c) Conditions and Limitations.
  - (1) See Chart 1.
  - (2) See Chart 3.

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

(4) Privacy fences, if installed, that face public streets, roadways or rights of way must have the finished side facing the public street, roadways or right of way.

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

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

d) Authorizing pumping plants as a conditional use in this zoning district:

(1) Conditional Uses Permitted Upon Authorizing of Council.

\*(A) Pumping plants. \*Amended 5/6/2007; Ordinance 2007-O-78  
\*\*Amended 08/19/2014 Ordinance 2014-O-10

e) Authorizing Short Term Rentals as a conditional use in this zoning district:

(1) Conditional Uses Permitted Upon Authorization of Village Council.

\*\*\* (A) Short Term Rentals. \*\*\* Amended 10/21/2014; Ordinance 2014-O-11

~~(A)~~

**Sec. 30.116 Open Space – District "OS":**

*Amended 5/22/07; Ordinance 2007-O-79*

2280 (a) An open space district is a tract of land provided as a general benefit for the  
2281 Village. Common open space must be usable for recreational purposes or  
2282 must provide visual, aesthetic and environmental amenities. The uses  
2283 authorized for the common open space should be appropriate to the scale and  
2284 character of the surrounding development considering its size, density,  
2285 expected population, topography, and the number and type of dwellings to be  
2286 provided. As a minimum, the total open space shall not be less than required  
2287 for parks in the subdivision ordinance. Common open space should be  
2288 improved for its intended use, but open space containing natural features  
2289 worthy of preservation may be left unimproved. Any buildings, structures and  
2290 improvements to be located in the common open space must be appropriate to  
2291 the uses which are intended therefore, and must conserve and enhance the  
2292 amenities of the common open space having regard to its topography and the  
2293 intended function of the common open space.

2294  
2295 (1) The following properties within the corporate limits of the Village of Volente  
2296 are zoned Open Space pursuant to the provisions of Section 30.116 of the  
2297 Village Code:

2298  
2299 (A) LAKE TRAVIS SUBDIVISION # 4 & NICHOLSON SUBDIVISION #  
2300 1, REED DRIVE

2301  
2302 (I) LOT 19: PRIVATE WAY FOR GENERAL USE

2303  
2304 (II) LOT 9: PRIVATE WAY FOR GENERAL USE

2305  
2306 (III) LOT 3: PRIVATE WAY FOR GENERAL USE

2307  
2308 (B) LAKE TRAVIS SUBDIVISION # 3, BOOTH CIRCLE

2309  
2310 (I) LOT 68: TRACT 68 DEDICATED TO THE USE OF AND  
2311 BENEFIT OF ANY OWNER OF ANY OTHER TRACT IN  
2312 LAKE TRAVIS SUBDIVISION # 3. NOT FOR CAMPING  
2313 OR FOR RESIDENTIAL USE.

2314  
2315 (II) LOT BETWEEN, LOT 28 & LOT 85: PRIVATE WAY FOR  
2316 GENERAL USE:

2317  
2318 (III) LOT BETWEEN LOT 77 & LOT 78: PRIVATE WAY FOR  
2319 GENERAL USE

2320  
2321 (IV) LOT BETWEEN LOT 62 & LOT 63: EASEMENT (NOT  
2322 DEDICATED TO THE PUBLIC

2323  
2324 (VI) LOT BETWEEN LOT 59 & LOT 60: FOR BENEFIT OF  
2325 TRACTS 56-67 ONLY  
2326

- 2327 (V) PRIVATE ROADEASEMENT (NOT DEDICATED TO THE  
 2328 PUBLIC): FOR THE BENEFIT OF TRACTS 56-67  
 2329
- 2330 (VI) LOT BETWEEN LOT 51 & LOT 52: PRIVATE WAY FOR  
 2331 GENERAL USE  
 2332
- 2333 (C) LAKE TRAVIS SUBDIVISION # 3  
 2334
- 2335 (I) LOT BETWEEN LOT 54 & LOT 55: PARK AREA – 7603  
 2336 DEBBIE & 7613 DEBBIE  
 2337
- 2338 (II) LOT BETWEEN LOT 59 & LOT 14: LOT GOES BEHIND  
 2339 LOTS 55 – 59  
 2340
- 2341 (D) LAKE TRAVIS SUBDIVISION # 6, WEST DR.  
 2342
- 2343 (I) LOT BETWEEN LOT 13 & LOT 14: PRIVATE WAY FOR  
 2344 USE OF OWNERS OF LOT IN LAKE TRAVIS  
 2345 SUBDIVISION # 6  
 2346  
 2347
- 2348 (E) LAKE TRAVIS SUBDIVISION # 2, JACKSON STREET  
 2349
- 2350 (I) TRACT BETWEEN LOT 10 & LOT 11: PRIVATE WAY  
 2351 FOR USE OF OWNERS OF TRACTS IN LAKE TRAVIS  
 2352 SUBDIVISION # 2  
 2353
- 2354 (II) TRACT BETWEEN LOT 6 & LOT 7: PRIVATE WAY FOR  
 2355 USE OF OWNERS OF TRACTS IN LAKE TRAVIS  
 2356 SUBDIVISION # 2  
 2357
- 2358 (F) SUBDIVISION SANDY SHORES, JOY RD  
 2359
- 2360 (I) PART LOT # 9 HOMEOWNERS PARK  
 2361
- 2362 (G) LAKE TRAVIS SUBDIVISION # 1, Dodd Street & Lakeview  
 2363
- 2364 (I) Tract between Lot 19 and Lot 20  
 2365
- 2366 (2) The Mayor and Village staff shall change the Village’s zoning map to  
 2367 conform the map to the zoning changes made by this ordinance.  
 2368
- 2369 (b) The uses permitted for this District are:
- 2370
- 2371 (1) Cemeteries.
- 2372
- 2373 (2) Conservation areas.

- 2374
- 2375 (3) Golf courses.
- 2376
- 2377 (4) Outdoor recreational and athletic facilities.
- 2378
- 2379 (5) Outdoor swimming pools.
- 2380
- 2381 (6) POA neighborhood parks, common open space, common open area,
- 2382 playgrounds and play fields.
- 2383
- 2384 (7) Wildlife sanctuaries.
- 2385
- 2386 (c) Secondary uses that require a conditional use permit are as follows:
- 2387
- 2388 (1) Club Houses and Community Centers.
- 2389
- 2390 (2) Retail-oriented uses which are clearly secondary and customarily or
- 2391 necessarily incidental to the permitted use including but not necessarily
- 2392 limited to the following:
- 2393
- 2394 (A) Retail sales and services operated as part of a golf course,
- 2395 recreational or athletic facility.
- 2396
- 2397 (B) Retail sales and services sponsored by service clubs, non-profit
- 2398 societies or organizations and concessions contracted with the
- 2399 Village.
- 2400
- 2401 (C) Food and beverage sales, including alcoholic beverages (with a
- 2402 conditional use permit) to members only.
- 2403
- 2404 (D) Restaurants including alcoholic beverage sales which are operated
- 2405 as part of or in conjunction with a Club House facility for members
- 2406 only.
- 2407
- 2408 (i) Caretaker residence.
- 2409
- 2410 (ii) Maintenance buildings required to house equipment and

2411 material to maintain the site.

2412  
2413 (iii) See Chart 1.

2414  
2415 (iv) See Chart 3.

2416  
2417 **Sec. 30.117 "Gov" Government or Institutional District:**

2418  
2419 (a) Purpose: This district is intended to provide appropriate areas for uses that  
2420 provide important community services often requiring large amounts of land.  
2421 Uses permitted in the "Gov" District generate a large amount of traffic. Only  
2422 land abutting a major street that can be used for access shall be considered  
2423 appropriate for "Gov" classification. An appropriate site should also contain  
2424 adequate space for required off-street parking and buffering.

2425  
2426 (b) Permitted Uses:

2427  
2428 (1) Facilities owned and operated by the federal government, the state or  
2429 political subdivisions thereof, including public grounds;

2430  
2431 (2) Fire station and safety services;

2432  
2433 (3) Schools, public, denominational, kindergarten and pre-school, college,  
2434 university, dormitory and group student housing;

2435  
2436 (4) Uses required by public utilities and public transportation services;

2437  
2438 (5) Public athletic fields, stadium, sports facilities, playgrounds,  
2439 neighborhood park, greenbelt, recreational centers, community  
2440 centers and swimming pools;

2441  
2442 (6) Churches, rectory and places of worship; and

2443  
2444 (7) Accessory uses customarily incidental to any of the foregoing  
2445 permitted uses.

2446  
2447 (c) Conditional Uses Permitted Upon Authorization of Council.

2448  
2449 (1) Cemeteries.

2450  
2451 (2) Cultural services.

2452  
2453 (3) Halfway house and institution for the care of substance dependent  
2454 persons.

2455

2456 (4) Non-profit institutions or non-profit social clubs providing a charitable or  
2457 philanthropic beneficial community service are permitted with a conditional  
2458 use permit first being obtained; not including any jail, penal or mental  
2459 institution.

2460  
2461 (5) Public Zoo.

2462  
2463 (d) Conditions and Limitations.

2464  
2465 (1) See Chart 1.

2466  
2467 (2) See Chart 3.

2468  
2469 **Sec. 30.118 Commercial and Industrial Uses:**

2470  
2471 (a) Purpose. The zoning map will reflect the following Commercial or Industrial  
2472 zones generally. Should a use fall under the permitted or conditional uses the  
2473 property must be in accordance with the Conditions and Limitations and Chart 1.  
2474 Should the property not conform to those standards then the use will be  
2475 disallowed.

2476  
2477 (b) Screening of Non-Residential Uses from Residential Districts or Uses: All lots,  
2478 or parts of lots, which are improved with a predominantly non-residential use  
2479 and whose side or rear lines are adjacent to a residential district or use and not  
2480 separated by a public street or roadway, shall be screened from such  
2481 residential district or use in accordance with the Village's nonpoint source  
2482 pollution control, subdivision, and site development ordinances and  
2483 construction codes.

2484  
2485 **Sec. 30.119 Light Commercial - District "C-1".**

2486  
2487 (a) Purpose and Permitted Uses: This district allows a mix of commercial uses  
2488 including, light retail, office, light commercial, and similar uses. This district  
2489 allows the retail sale of goods and products (in the following listed use areas) to  
2490 which value has been added on-site, including sales of goods and services  
2491 outside of the primary structure as customary with the uses specifically listed in  
2492 facilities with: Floor space less than 2,000 SF; No more than 3 employees;  
2493 Maximum of 10 parking spaces; No use/storage of hazardous materials; and the  
2494 following:

2495  
2496 (1) Light Retail.

2497  
2498 (2) Small Professional Offices.

2499  
2500 (3) Personal Services, including barber shops, beauty parlors,  
2501 photographic or artist studios, and other personal service uses of

2502 similar character.

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

(b) Conditions and Limitations:

- (1) That C-1 activities be conducted wholly within an enclosed building, except for delivery or sales, conducted within an outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.
- (2) That required yards and outdoor areas not be used for display, sale vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.
- (3) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused by customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.
- (4) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within any required yard nor within twenty-five feet (25') of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and the Village's sign ordinance.
- (5) Establishments located on property that is within three hundred feet (300') of any property zoned for a residential use when the commercial use is first established may not to be open to the general public before 6:00 a.m. and must be closed to the general public by 12:00 a.m. (midnight)
- (6) See Chart 1.
- (7) See Chart 2.
- (8) See Chart 3.

(c) Site Development Regulations:

- (1) Development of any use permitted in the "C-1" District shall conform to the

2548 site development regulations established for that District.

2549

2550 (2) Paved sidewalks, driveways and parking areas are required.

2551

2552 (3) Screening of loading and storage facilities is required.

2553

2554 **Sec. 30.120 Medium Commercial - District "C-2":**

2555 *\*Amended 5/6/2007; Ordinance 2007-O-78*

2556 *\*\*Amended 08/19/2014 Ordinance 2014-O-10*

2557

2558

2559 (a) Purpose and Permitted Uses. This district allows the following  
2560 commercial land uses in facilities with: Floor space less than 5,000SF; No  
2561 more than 10 employees; Maximum of 25 parking spaces; Mild  
2562 use/storage of some hazardous materials (e.g., oxygen, carbon dioxide,  
2563 nitrogen); and the following:

2564

2565 (1) Retail.

2566

2567 (2) Professional Offices.

2568

2569 (3) Restaurant, cafe or cafeteria.

2570

2571 (4) Personal Services.

2572

2573 (5) Bar, nightclub, private club, dance hall and social club.

2574

2575 (6) Bakeries with goods primarily prepared for in-store retail sales on  
2576 site.

2577

2578 (7) Assisted retirement living, bed & breakfast, home for the aged and  
2579 group day care.

2580

2581 (8) Child care center and child development facilities.

2582

2583 (9) Cultural services and community center (public and private).

2584

2585 (10) Uses as determined by the commission and the council which are closely  
2586 related and similar to those listed and that are not likely to create any more  
2587 offensive noise, vibration, dust, heat, smoke, odor, glare, or other  
2588 objectionable influences than the minimum amount normally resulting from  
2589 listed uses permitted, such permitted uses being generally retail trade,  
2590 service industries that store and distribute goods and materials, and are in  
2591 general dependent on raw materials refined elsewhere.

2592

2593 (b) Conditional Uses Permitted Upon Authorization of Council.

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(1) Marinas.

(2) Parking lots.

(c) Conditions and Limitations:

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

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

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

(4) See Chart 1.

(5) See Chart 2.

(6) See Chart 3.

(c) Site Development Regulations:

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

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

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

(d) Authorizing pumping plants as a conditional use in this zoning district:

(1) Conditional Uses Permitted Upon Authorizing of Council.

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*\*A. Pumping plants. \*Amended 5/6/2007; Ordinance 2007-O-78  
\*\*Amended 08/19/2014 Ordinance 2014-O-10*

*(B)*

2640 **Sec. 30.121 Heavy Commercial - District "C-3":**

2641 \*Amended 5/6/2007; Ordinance 2007-O-78

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

- (1) Amusement (indoor); Amusement (outdoor) and swimming pool (commercial).
- (2) Bar, nightclub, private club, dance hall and social club.
- (3) Carpentry, painting or plumbing shop (retail sales of building supplies).
- (4) Convenience stores, retail food store, grocery stores.
- (5) Marinas.
- (6) Restaurant, cafe or cafeteria.
- (7) Retail facilities under 10,000 square feet.
- (8) Parking lots.
- (9) Veterinary services and hospital.
- (10) Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

\_\_\_\_\*(11)\_Pumping plants. \*Amended 5/6/2007; Ordinance 2007-O-78

(b) Conditions and Limitations:

- (1) That it be conducted within a building and/or outdoor area that is improved

2686 with concrete, asphalt pavement or other all weather surface and that is  
2687 suitably landscaped, screened or fenced.

2688  
2689 (2) That the use not be objectionable because of odor, excessive light, smoke,  
2690 dust, noise, vibration or similar nuisance.

2691  
2692 (3) Adequate enclosures, space, shelters and proper drainage and waste  
2693 disposal to eliminate odor.

2694  
2695 (4) Signs (advertising) must be on the same lot as the business establishments  
2696 to which they refer and shall not be placed within twenty-five feet (25') of  
2697 any Residential District. Signs may be illuminated but must be stationary  
2698 and non-flashing. All signs shall comply with all applicable provisions of this  
2699 article and the Village's sign ordinance.

2700  
2701 (5) See Chart 1.

2702  
2703 (6) See Chart 2.

2704  
2705 (7) See Chart 3.

2706  
2707 (c) Site Development Regulations:

2708  
2709 (1) Development of any use permitted in the "C-3" District shall conform to the  
2710 site development regulations established for that District.

2711  
2712 (2) Paved sidewalks, driveways and parking areas are required.

2713  
2714 (3) Screening of loading and storage facilities is required.

2715  
2716 **Sec. 30.122 Light Industrial - District "I-1":**

2717 \*Amended 5/6/2007; Ordinance 2007-O-78

2718 \*\*Amended 08/19/2014 Ordinance 2014-O-10

2719  
2720  
2721 (a) Purpose and Permitted Uses. This district is designed to provide locations for  
2722 outlets offering goods and services to a targeted segment of the general public  
2723 as well as industrial users. No building or land shall be used, and no building  
2724 hereafter shall be erected, maintained, or structurally altered, except for one (1)  
2725 or more of the uses hereinafter enumerated. Allows assembly, packaging and  
2726 manufacture of non-hazardous, non-volatile products and the following listed  
2727 uses:

2728  
2729 (1) Carpentry, painting, plumbing or tinsmiths shop.

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2731 (2) Furniture manufacturers and upholsterers.

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- (3) Light manufacturing.
- (4) Warehouse and storage including watercraft storage.
- (5) Recycling operation and collection (Indoors).
- (6) Wood Yard.

~~(4)~~ ~~(7)~~ Uses as determined by the commission and the council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(5) Authorizing pumping plants as a conditional use in this zoning district:

(1) Conditional Uses Permitted Upon Authorizing of Council.

\*A. Pumping plants. \*Amended 5/6/2007; Ordinance 2007-O-78  
\*\*Amended 08/19/2014 Ordinance 2014-O-10

~~(8) Pumping Plants.~~

(b) Conditions and Limitations:

- (1) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.
- (2) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.
- (3) \_\_\_\_\_ Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one hundred feet (100') of any Residential District. All signs shall comply with all applicable provisions of this article and with the Village's sign ordinance. Alcoholic beverage sales are not permitted without a conditional use permit first being obtained.
- (4) See Chart 1.
- (5) See Chart 2.

2778 (6) See Chart 3.

2779

2780

2781 (c) Site Development Regulations: Paved sidewalks, driveways and parking areas  
2782 are required.

2783

2784 (d) Performance Standards - Light Industrial Districts: All uses in the District "I-  
2785 1", shall conform in operation, location and construction to the minimum  
2786 performance standards specified in the site development ordinance for noise,  
2787 odorous matter, toxic and noxious matter, glare, smoke, particulate matter and  
2788 other air contaminants, fire, explosive and hazardous matter, and vibration.

2789

2790 **Sec. 30.123 Heavy Industrial - District "I-2":**

2791 *\*Amended 5/6/2007; Ordinance 2007-O-78*

2792 *\*\*Amended 08/19/2014 Ordinance 2014-O-08*

2793

2794

2795 (a) Permitted Uses: Allows assembly, packaging, treatment, processing and  
2796 manufacture of products that do not pose any materially potential hazard to  
2797 persons and property outside the boundaries of the property, and the following  
2798 specifically listed uses to the extent such uses are contained or included within  
2799 property as to not pose a potential hazard outside of the property on which such  
2800 use is conducted:

2801

2802 (1) Acetylene gas storage.

2803

2804 (2) Blacksmith shops.

2805

2806 (3) Automobile shops and garages including watercraft and welding shops.

2807

2808 (4) Candle manufacture.

2809

2810 (5) Crating express storage.

2811

2812 (6) Gas and petroleum storage.

2813

2814 (7) Glass products from previously manufactured glass for wholesale  
2815 distribution.

2816

2817 (8) Greenhouses and wholesale growers.

2818

2819 (9) Hatchery.

2820

2821 (10) Manufacture, assembly and testing of communication equipment, medical  
2822 instruments and apparatus, optics, photographic equipment and supplies,  
2823 timing equipment, musical instruments and related equipment, computer

- 2824 components, computers, electronics and precision instruments.
- 2825
- 2826 (11) Manufacturing, assembly and packaging of products from previously
- 2827 prepared material such as cloth, plastic, paper, leather, and precious or
- 2828 semi-precious metal or stone.
- 2829
- 2830 (12) Motion picture or video production facilities and sound stages.
- 2831
- 2832 (13) Printing, publishing and book binding.
- 2833
- 2834 (14) Product assembly services (non-hazardous).
- 2835
- 2836 (15) Product development services (general).
- 2837
- 2838 (16) Public utility substations and distributing centers, regulation centers and
- 2839 underground stations.
- 2840
- 2841 (17) Research services (general), engineering and development facilities or
- 2842 laboratories.
- 2843
- 2844 (18) Sign shops.
- 2845
- 2846 (19) Testing and research laboratories.
- 2847
- 2848 (20) Tool and die shops.
- 2849
- 2850 (21) Uses as determined by the commission and the council which are closely
- 2851 related and similar to those listed and that are not likely to create any more
- 2852 offensive noise, vibration, dust, heat, smoke, odor, glare, or other
- 2853 objectionable influences than the minimum amount normally resulting from
- 2854 listed uses permitted, such permitted uses being generally retail trade,
- 2855 service industries that store and distribute goods and materials, and are in
- 2856 general dependent on raw materials refined elsewhere.

2857

2858 \_\_\_\_\_\*(22)\_\_\_\_\_ Authorizing pumping plants as a conditional use in this

2859 zoning district:

2860

2861 (1) Conditional Uses Permitted Upon Authorizing of Council.

2862

2863 \*A. Pumping plants. \*Amended 5/6/2007; Ordinance 2007-O-78

2864 \*\*Amended 08/19/2014 Ordinance 2014-O-10

2865 Pumping Plants.

2866 \*\* (23) Pumping Stations. Amended 08/19/2014 Ordinance 2014-O-08

2867

2868

2869 (b) Conditions and Limitations:

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- (1) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.
  - (2) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.
  - (3) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one hundred feet (100') of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this article and the Village's sign ordinance.
  - (4) See Chart 1.
  - (5) ~~See~~ Chart 2.
  - (6) See Chart 3.
  - (7) Development of any use permitted in the "I-2" District shall conform with the conditions and limitations established for that District.
- (c) Site Development Regulations: Development of any use permitted in the "I-2" District shall conform to the site development regulations established for that District.
- (d) Performance Standards - Industrial Districts: See: Site development ordinance of the Village.

**Sec.30.124 (A) — Overlays: Infill Redevelopment: ~~— Removing Overlay~~ District “IR”**

**Amended 4/20/10 Ordinance 2010-O-1176**  
**Amended 08/19/2014 Ordinance 2014-O-09**

**~~A. — Planned Development District — PDD~~**

**~~(a). Permitted Uses. A PDD may be comprised of a combination of residential multifamily, and commercial uses, with the exception of C-3 heavy Commercial, L-1.....~~**

The Village hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this article. Within these overlay districts, additional requirements are imposed on certain properties within one or more

2912 ~~underlying general or conditional zoning districts. The Overlay Districts established by~~  
2913 ~~this article, including the symbol for each type of district is as follows:~~  
2914 Infill Redevelopment: This district applies to a platted lot that was less than 43,560  
2915 square feet in area when the Village of Volente was incorporated and would otherwise  
2916 be subject to the permitted uses, conditions, and restrictions and limitations for Single  
2917 Family Residential 1 (District "R-1") set forth in Section 30.112. Lots zoned IR are  
2918 subject to the restrictions set forth in Chart 3, as well as the additional IR restrictions in  
2919 Chart 1.

2920  
2921 **30.124(B) Conditional Overlay Districts:**

2922 *Amended 04/20/2010 Ordinance 2010-O-116*

2923  
2924 (a) ~~—~~The Village Council may establish Conditional Overlay Districts that  
2925 impose additional use restrictions, site development requirements, or other  
2926 restrictions or requirements in addition to those imposed by the established  
2927 underlying zoning district in order to address specific circumstances  
2928 presented by a particular geographic area or site. Land within a Conditional  
2929 Overlay District is subject to the regulations of the underlying zoning district,  
2930 as well as the additional regulations of the Conditional Overlay District as  
2931 specified in the ordinance establishing the Conditional Overlay District.

2932 (a)  
2933 (b) The purposes for which a Conditional Overlay District may be established  
2934 over a base zoning district include, but are not limited to:

- 2935  
2936 (1) easing transition from one zoning district to another;  
2937 (2) promoting compatibility between competing, incompatible, or  
2938 potentially incompatible uses;  
2939 (3) protecting natural resources or addressing other environmental or  
2940 conservational concerns; and  
2941 (4) guiding development and addressing land-use concerns in unique  
2942 circumstances

2943  
2944 (c) A Conditional Overlay District may be established by the Village Council  
2945 only upon written application by a real property owner, the owner's  
2946 authorized representative, or upon recommendation by the Planning and  
2947 Zoning Commission or upon the Village Council's own motion, after public  
2948 hearings are held as required by law to amend, supplement, or change  
2949 this article or the boundaries of the zoning districts specified on the zoning  
2950 district map pursuant to Section 30.134 ("Changes and Amendments to  
2951 Zoning Ordinances and Districts, and Administrative Procedures") and  
2952 Section 30.136 ("Administrative Procedures for Changes and  
2953 Amendments to Zoning Regulations and Districts"). In the event a  
2954 Conditional Overlay District is proposed upon recommendation by the  
2955 Planning and Zoning Commission or upon the Village Council's own

2956 motion, the Conditional Overlay District may be created only if the real  
2957 property owners agree to the additional use restrictions, site development  
2958 requirements, or other restrictions or requirements to be imposed by the  
2959 Conditional Overlay District.

- 2960
- 2961 (d) Prior to formal application for approval of a Conditional Overlay District, a  
2962 real property owner or the owner’s authorized representative shall request  
2963 and attend a pre-application conference as prescribed in the Village’s Site  
2964 Development Ordinance. A written application by a real property owner or  
2965 the owner’s authorized representative for creation of a Conditional Overlay  
2966 District, which may be accompanied by a request for change in base  
2967 zoning district, shall be submitted and considered in conformance with the  
2968 procedures and terms for changes and amendments to zoning ordinances  
2969 and districts established by Sections 30.134 and 30.136 and shall include  
2970 a proposed Site Plan as prescribed in the Village’s Site Development  
2971 Ordinance along with all proposed use restrictions, site development  
2972 requirements, and any other proposed restrictions and requirements for  
2973 the requested Conditional Overlay District. Submittal of a Concept Plan as  
2974 prescribed in the Village’s Site Development Ordinance is recommended  
2975 prior to formal application for creation of a Conditional Overlay District.

2976

2977 **Sec. 30.1254 (AC) Planned Development District – PDD**

2978 **Amended 1/10/06 Ordinance 2006-O-59**

2979 **Amended 08/19/2014 Ordinance 2014-O-09**

2980

2981 (a) Permitted Uses. A PDD may be comprised of a combination of  
2982 residential, multifamily, and commercial uses, with the exception of C-3  
2983 heavy Commercial, L-1, Light Industrial, L-2, Heavy Industrial and IR, Infill  
2984 Redevelopment Overlay. Each designated PDD district will have unique  
2985 standards and requirements that are described in the adopting ordinance for  
2986 that district. A PDD can also include utilities, but only those directly related  
2987 to the proposed development.

2988

2989 (b) Description of a PDD. The outer boundary of each PDD Zoning District  
2990 shall be shown on a map. Each PDD must be wholly contained within the  
2991 incorporated Village city limits and cannot extend either into the future  
2992 Village’s extraterritorial jurisdiction or into another city’s extraterritorial  
2993 jurisdiction. The Village, however, may conditionally approve a Preliminary  
2994 Development Plan contingent on the areas outside of the Village’s city limits  
2995 being annexed into the Village prior to approval of the Final Development  
2996 Plan. Said map will include a descriptive legend, the specific boundaries of  
2997 the area proposed for use authorized for in any other zoning district, and  
2998 percentage of the total area of such PDD which will comprise each such  
2999 separate use, and all notations, references, and other information shown  
3000 thereon, shall be adopted by ordinance.

3001  
3002 (c) Flexible Planning. When considering a PDD, the unique nature of each  
3003 proposal for a PDD may require, under proper circumstances, the departure  
3004 from the strict enforcement of certain present codes and ordinances, e.g.,  
3005 without limitation, the width and surfacing of streets and highways, lot size,  
3006 parking standards, set-backs, alleyways for public utilities, signage  
3007 requirements, curbs, gutters, sidewalks and street lights, public parks and  
3008 playgrounds, drainage, school sites, storm drainage, water supply and  
3009 distribution, sanitary sewers, sewage collection and treatment, and/or single  
3010 use districts.

3011  
3012 (d) Application Processing. The process for the filing of an application, requirements for  
3013 notice and advertisement of public meetings, procedures for protest of the  
3014 establishment of PDD designation and other related actions shall be the same as those  
3015 provided for in the rezoning process as described in the Village's zoning and  
3016 development ordinances. In addition to the PDD process being a re-zoning process,  
3017 the approval of the Final Development Plan for a PDD will substitute for the approval of  
3018 the Site Development Plan and the Site Development Permits required by the Village's  
3019 Site Development Ordinance. However, the owner of land zoned as a PDD must  
3020 comply with the provisions of the Village's subdivision ordinance, except for those  
3021 provisions modified by this Ordinance, and must apply for and receive the necessary  
3022 building permits prior to construction of improvements in a PDD.

3023  
3024 (e) Preliminary Development Plan. The request for rezoning to a PDD must be  
3025 accompanied by a proposed Preliminary Development Plan. The Preliminary  
3026 Development Plan is to enable the Commission and Council to understand the  
3027 proposed PDD in sufficient detail to make an informed decision prior to rezoning the  
3028 property. Its purpose is also to provide sufficient detail that the council can comply with  
3029 the standard established by this ordinance that the Commission will recommend and the  
3030 Council will approve the Final Development Plan if it substantially conforms to the  
3031 Preliminary Development Plan. A Preliminary Development Plan for the entire property  
3032 within the PDD shall be considered by the Commission and Council prior to any  
3033 recommendation to, or consideration by, the Village Council to re-zone the property as a  
3034 PDD. Approval of the Preliminary Development Plan is an integral part of the PDD  
3035 approval process and the property will not be re-zoned as a PDD unless the Council at  
3036 the same time approves the Preliminary Development Plan. An acceptable Preliminary  
3037 Development Plan will contain the following information in enough detail that the  
3038 commission and council are able to determine that the PDD complies with the  
3039 standards established by this ordinance prior to rezoning the property.

- 3040  
3041 (1) The name, address, and telephone number of the Landowner and  
3042 the Developer;  
3043 (2) The name of the proposed project;  
3044 (3) The location of the proposed project;  
3045 (4) The names and addresses of adjoining property owners within 500  
3046 feet of the proposed site;

- 3047 (5) A location map;
- 3048 (6) All existing streets, driveways, buildings, watercourses, flood plains,
- 3049 and significant environmental features;
- 3050 (7) The proposed location, type/use and size of the following:
- 3051 (a) Buildings and structures, except for single family
- 3052 residential lots which need only show the location of such
- 3053 lots;
- 3054 (b) Streets, drives, alleys, and curbs, except that the
- 3055 exact locations need not be established in the Preliminary
- 3056 PDD Plan;
- 3057 (c) Off-street parking areas, except that the exact
- 3058 location need not be established in the Preliminary PDD
- 3059 Plan;
- 3060 (d) Sidewalks, landscaping, common/green space, other
- 3061 amenities, except that the exact locations need not be
- 3062 established in the Preliminary PDD Plan; and
- 3063 (e) How lighting to achieve “Dark Skies” standards will be
- 3064 handled conceptually.
- 3065 (8) Existing and proposed utilities;
- 3066 (9) Estimated percentage of impervious cover for the entire PDD, not
- 3067 to exceed 25%;
- 3068 (10) Proposed location of water quality facilities;
- 3069 (11) Average density of residential structures per one acre of residential
- 3070 land in the PDD, not to exceed an average of one structure per
- 3071 acre;
- 3072 (12) A PDD must include parkland and useable open space at a
- 3073 minimum rate of .02 acres per residential unit projected for the fully
- 3074 developed PDD.
- 3075 (13) Proposed building front yard setback lines, proposed side yard
- 3076 setback lines, proposed street side yard setback lines, and
- 3077 proposed rear yard set-back lines.
- 3078 (14) Minimum lot sizes and any landscape buffers.
- 3079
- 3080 (15) Any other proposed departures or deviations from the Village’s
- 3081 zoning and site development standards. Applicants are advised that
- 3082 under the Non-Point Source Pollution Control Ordinance, there is
- 3083 limited flexibility to modify development standards because the
- 3084 Village is subject to the terms of an interlocal agreement with the
- 3085 LCRA concerning the enforcement of water quality standards.
- 3086

3087 (f) Final Development Plan. The Final Development Plan will conform to the approved

3088 Preliminary Development Plan in all major aspects. Unless the PDD is to be developed

3089 in sections, the Final Development Plan will include the specific detail and information

3090 required by the Village’s Site Development Ordinance. If the PDD is to be developed in

3091 sections, the Final Development Plan must include the specific detail and information

3092 required by the Village’s Site Development Ordinance for the first section to be

3093 developed and must be amended for each additional section to be developed to include  
3094 the specific detail and information required by the Village's Site Development Ordinance  
3095 prior to the development of that section. A Final Development Plan or an Amended  
3096 Final Development Plan must be approved by the Village Council prior to construction in  
3097 a section being commenced.

3098  
3099 (g) Size and Rules applicable to a PDD. The Village Council, after public hearing and  
3100 proper notice to all parties affected and after recommendation from the Planning and  
3101 Zoning Commission, may zone any tract of land equal to or greater than fifty (50) acres  
3102 as a PDD. Under a PDD, the following rules apply:

3103  
3104 (1) The approval of any proposed PDD or combination of uses proposed  
3105 therein shall be subject to the discretion of the Village Council, and no  
3106 such approval will be inferred or implied.

3107  
3108 (2) Permitted uses are those listed under the applicable zoning district(s) for  
3109 the land use for that tract of land in the PDD. In approving a PDD,  
3110 additional uses may be permitted other than those listed and specific  
3111 listed uses may be prohibited that are in the applicable zoning district.

3112  
3113 (3) Conditional Uses are those uses listed as conditional uses under the  
3114 applicable zoning districts. Those land uses in a PDD require the same  
3115 conditional use permit required under other districts and is in addition to  
3116 the grant of approval for the PDD.

3117  
3118 (4) In approving a Planned Development District, no standards required for  
3119 a land use by the zoning districts for the uses proposed may be modified  
3120 unless the provisions of the PDD expressly permits such modifications,  
3121 and in no case may standards be modified more than the maximum  
3122 deviations authorized by this PDD district ordinance.

3123  
3124 (5) In approving a PDD, the Village Council may require additional  
3125 standards deemed necessary to create a reasonable transition to, and  
3126 protection of, adjacent property and public areas, including but not  
3127 limited to, light and air, orientation, type and manner of construction,  
3128 setbacks, lighting, landscaping, management associations, open space,  
3129 and screening.

3130  
3131 (6) Left Blank

3132  
3133 (7) The Commission and Village Council, in approving modifications to  
3134 standards and regulations, shall be guided by the purposes for the  
3135 zoning provisions established for the land uses being proposed in the  
3136 PDD and the general intent of this Article.

3137

3138 (8) All written and oral representations made in connection with the  
3139 Preliminary Development Plan or Final Development Plan become  
3140 conditions upon which the PDD is approved.

3141  
3142 (9) All regulatory standards contained in the Village's zoning and  
3143 development ordinances for which a deviation or departure has not been  
3144 approved in a Preliminary or Final Development Plan are the regulatory  
3145 standards applicable in the PDD.

3146  
3147 (h) **Amendments.** Consideration of amendments to a Planned Development District  
3148 will take into consideration the effect of the proposed development on the remainder of  
3149 the property, adjacent properties and the neighboring communities. Amendments to the  
3150 final site plan or any planned development conditions that are substantive shall require  
3151 public hearings in the manner required for any other zoning change.

3152  
3153 (i) **Expiration.** If development equal to at least twenty-five (25%) percent of the cost of  
3154 installing streets, utilities and drainage in the PDD, or, if the PDD is approved to be  
3155 developed in sections or phases, if development equal to at least fifty (50%) percent of  
3156 the cost of installing streets, utilities and drainage in the first section or phase of the  
3157 PDD has not occurred on a Planned Development tract or lot within five (5) years after  
3158 the date of approval, such approval shall expire; and may only be renewed after  
3159 application is made therefore, notice is given and public hearings are held by the  
3160 Commission and Village Council to evaluate the appropriateness of the previously  
3161 authorized Planned Development approval. Any such application for renewal or  
3162 extension shall be considered in the same manner, and under the same rules,  
3163 regulations and ordinances then in effect, as a new application for zoning.

3164  
3165 (j) **Ordinance Amendment.** Every PDD approved under the provisions of this Article is  
3166 considered an amendment of this Article as to the property involved, and to the  
3167 Comprehensive Plan. All PDDs will be referenced on the Zoning District Map, and a list  
3168 of such Planned Development districts shall be maintained as an appendix to this  
3169 Article.

3170  
3171

3172 **DIVISION 3: BOARD OF ADJUSTMENT ESTABLISHMENT**

3173  
3174 **Sec.30.125 (B) General Provisions:**

3175  
3176 (a) **Creation:** In accordance with Chapter 211.008 of the Texas Local Government  
3177 Code, there is hereby created a board of adjustment (hereafter referred to as the  
3178 "board") for the purpose, in appropriate cases and subject to appropriate  
3179 conditions and safeguards, to make special exceptions to the terms of this article  
3180 that are consistent with the general purpose and intent of this article.

3181  
3182 (b) **Board Membership:** The board shall be composed of five (5) board members

- 3183 and two alternate members who:  
3184  
3185 (1) Are qualified voters who reside in the Village; and  
3186  
3187 (2) Have demonstrated their civic interest, general knowledge of the Village,  
3188 independent judgment, interest in zoning and zoning issues, and ability to  
3189 attend meetings; and  
3190  
3191 (3) By reason of their occupations and the areas of the Village in which they  
3192 reside, are broadly representative of the Village.  
3193
- 3194 (c) Appointment of Board Membership: The council shall appoint the five (5) board  
3195 members and the two alternate members. The alternate member(s) shall attend  
3196 meetings and vote on matters before the Board of Adjustment if one or more of  
3197 the board members is unable to attend.  
3198
- 3199 (d) Terms of Office; Filling of Vacancies: The terms of two (2) of the members shall  
3200 expire on January 1<sup>st</sup> of each odd-numbered year, and the terms of three (3) of  
3201 the members shall expire on January 1<sup>st</sup> of each even-numbered years. The  
3202 term of one of the alternate members shall expire on January 1<sup>st</sup> of each odd-  
3203 numbered year and the term of the other alternate member shall expire on  
3204 January 1<sup>st</sup> of each even-numbered years. Place numbers one through five shall  
3205 identify the members of the board. Board members may be appointed to  
3206 successive terms. A member of the board shall serve until his or her successor  
3207 is appointed and installed. The council shall fill vacancies for the uncompleted  
3208 term of any vacant position. Newly appointed members shall be installed at the  
3209 first regular board meeting after their appointment.  
3210
- 3211 (e) Removal of Board Members: The council may by majority vote remove a board  
3212 member or an alternate member for cause, including lack of confidence,  
3213 incompetence, corruption, misconduct, or malfeasance, on a written charge after  
3214 a public hearing. Any board member who misses three (3) consecutive meetings  
3215 within a twelve (12) month time period or one-third (1/3) of all regular meetings  
3216 shall be deemed to have automatically vacated his/her position on the board.  
3217 This subsection shall not apply to a board member who applied for and received  
3218 an excused absence from the board chairperson prior to the meeting(s) at issue.  
3219 Any board member who no longer resides within the corporate boundaries is  
3220 deemed to have automatically vacated his/her position on the board.  
3221
- 3222 (f) Motions at Board Meeting:  
3223
- 3224 (1) A motion may be made by any board member other than the presiding  
3225 officer. The presiding officer may second a motion and may vote on all  
3226 matters considered by the board.  
3227
- 3228 (2) A motion before the board shall require a majority vote of the board

3229 members present and voting, except as provided in Section 30.126 of this  
3230 article.

3231  
3232 (g) Disqualifications from Voting: A board member shall disqualify himself/herself  
3233 from voting whenever the board member has a personal or monetary interest in  
3234 a matter before the board that is substantially different from the interest of the  
3235 other citizens of the Village, or if the value of the board member's property or  
3236 interest in property will be affected in a substantially different manner than other  
3237 citizen's properties or interest in properties within the Village.  
3238

3239 **SECTION 125 (C) PLANNING AND ZONING COMMISSION**

3240 **\*Amended Ordinance 2004-O-25**

3241  
3242 **a. Purpose.**

3243  
3244 1. Planning and Zoning Commission is created to accomplish the following  
3245 purposes:

3246 2. To identify community needs and advise the Council of their short-range  
3247 and long-range implications for the total development of the Village;

3248  
3249 3. To recommend achievable community goals as a basis for long-range  
3250 planning and development programs;

3251  
3252 4. To recommend plans, programs, and policies that will aid the entire  
3253 community in achieving its defined goals;

3254  
3255 5. To recommend to the Village Council the adoption, amendment and  
3256 repeal of various provisions in the Village Master or Comprehensive Plan;

3257  
3258 6. To interpret the adopted plans and programs to concerned citizens so  
3259 that private activities and desires may be accomplished in harmony with  
3260 public needs and policies;

3261  
3262 7. To recommend to the Village Council the adoption, modification and  
3263 repeal of provisions in the Village's zoning ordinances;

3264  
3265 8. To recommend to the Village Council the initial and changes to the  
3266 zoning of the various parcels of land in the Village;

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9. To recommend to the Village Council the adoption, modification and repeal of provisions in the Village’s subdivision ordinances;

10. To recommend to the Village Council the approval, approval with modification or rejection of various applications for subdivision and re-subdivision of land within the Village.

11. To recommend to the Village Council the provisions for such other ordinances as from time to time may be requested by the Village Council.

**b. — Membership and Appointment.**

The Planning and Zoning Commission shall be composed of five (5) qualified permanent and two alternate members. voters who reside in the Village. All the members shall be qualified voters who reside in the Village.\* The Village Council will consider for appointment to the Commission those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to attend meetings. The Village Council shall strive to appoint members who, by reason of their occupations and the areas of the Village in which they reside, will be broadly representative of the community.

**c. — Appointment of Chair and Vice-Chair.**

The Mayor with the approval of the Village Council shall appoint the Chair and Vice-Chair.

**d. — Terms of Office; Filling of Vacancies.**

The terms of two of the permanent and one of the alternate\* members shall expire on January 1st of each odd-numbered year and the terms of three of the permanent and one of the alternate\* members shall expire on January 1st of even-numbered years. Place numbers one through five shall identify the permanent\* members of the Commission. The alternate members shall not have place numbers but can substitute for any of the permanent members if he or she is unavailable to attend a Commission meeting\*. Commission members may be appointed to successive

3302 terms. A member of the Commission shall serve until his or her successor is  
3303 appointed and installed. The Village Council shall fill vacancies for the  
3304 uncompleted term of any vacant position. Newly appointed members shall be  
3305 installed at the first regular commission meeting after their appointment.

3306  
3307 **e. Removal of Commissioners.**

3308 The Village Council may by majority vote remove a permanent or alternate \*  
3309 Commissioner for lack of confidence, incompetence, corruption, misconduct, or  
3310 malfeasance. Any permanent\* Commissioner who misses three (3) consecutive  
3311 meetings within a twelve (12) month time period or one-third (1/3) of all regular  
3312 meetings shall be deemed to have automatically vacated his/her position on the  
3313 Commission. This section shall not apply to a Commissioner who applied for and  
3314 received an excused absence from the Commission chairperson prior to the  
3315 meeting(s) at issue. Any Commissioner who no longer resides within the  
3316 corporate boundaries is deemed to have automatically vacated his/her position  
3317 on the Commission.

3318  
3319 **f. Motions at Meetings.**

3320 1. A motion may be made by any member other than the presiding  
3321 officer. The presiding officer may second a motion and may vote on all  
3322 matters considered by the Commission.

3323  
3324 2. A motion to approve any matter before the Commission or to  
3325 recommend approval of any request requiring Village Council action shall  
3326 require a majority vote of the members present and voting.

3327  
3328 **g. Disqualification from Voting.**

3329 A member shall disqualify himself/herself from voting whenever the member has  
3330 a personal or monetary interest in a matter before the Commission that is  
3331 substantially different from the interest of the other citizens of the Village, or if the  
3332 value of the member's property will be affected in a substantially different manner  
3333 than other properties within the Village.

3334  
3335 **h. Rules of Procedure.**

3336 1. Organization and officers.

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A. Officers.

- i. In the absence of both the Chair and Vice-Chair, the Commission shall elect an Acting Chair.
- ii. The Village Secretary shall be custodian of the minutes and other official records, shall attend to the correspondence of the Commission and shall cause to be given such notices as are required and in the manner prescribed by law.

B. Rules of Order. Roberts Rules of Order, as amended, shall be the Commission's final authority on all questions of procedure and parliamentary law not covered by these Rules of Procedure.

2. Meetings

(A) Quorum. A quorum shall consist of three members.

(B) Agenda. The Village Secretary shall prepare an agenda for each meeting of the Commission, and shall attach to each agenda a report of matters pending further action by the Commission. The Village Secretary shall post a copy of the agenda in the Village Hall as required by law for a period of three full calendar days, not counting the day of posting, but which may count the day of the meeting.

(C) Regular Meetings. The Commission shall conduct regular meetings once a month at a time and place determined by resolution adopted by the Commission. The initial meeting of the Commission shall be called by the Village Council.

(D) Special Meetings. Special meetings for any purpose may be held: on the call of the Chair, or on request of two or more members and by giving written notice to all members deposited in the mail at least 72 hours before the meeting, or as may be scheduled by a majority of the Commission at any previous meeting. The convening authority shall determine the time and

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place of the special meeting.

E.— Public meetings. Any party in interest may appear in his/her own behalf or be represented by council or agent.

3.— Official Records.

A.— Official Records. The official records shall be the minutes of the Commission, together with all findings, decisions and other official records of the Commission.

B.— Recording of Vote. The minutes of the Commission’s proceedings shall show the vote of each member, or indicate a member’s absence or failure to vote.

C.— Files Retention. All matters coming before the Commission shall be filed in the Village’s records. Original papers of all requests and proposals shall be retained as a part of the permanent record.

D.— Public Record. The official records and citizen requests filed for Commission action in regular or special meetings shall be on file in the Village Hall and shall be open to public inspection during customary working hours.

4.— Application Procedures.

A.— Written Request Required. Every proposal submitted for Commission action shall be made in writing. Where appropriate, the Village shall provide application forms. The proposal shall be accompanied by all prescribed fees and shall be complete in all respects before the Village shall accept it for filing.

B.— Schedules and Instructions. Every proposal or request for Commission action or recommendation shall be filed, processed

3407 and considered in accordance with this section.

3408  
3409 C. Submission and Supporting Information. Information  
3410 supporting a request or recommendation to approve or disapprove  
3411 any proposal before the Commission shall be submitted through the  
3412 Village Secretary in writing or to the Commission in public meeting.

3413  
3414 D. Withdrawal of Proposal. When any applicant desires to  
3415 withdraw his or her proposal, he or she may do so by filing a written  
3416 request with the Village Secretary. Such request shall be effective  
3417 upon the date of its official receipt, provided, however, that no such  
3418 request shall be valid after notices have been mailed, except on  
3419 action of the Commission. Withdrawal of a proposal at any stage of  
3420 its processing shall terminate all consideration of it by the Village,  
3421 and the case file shall be closed.

3422  
3423 **Duties and Powers.**

3424 The Planning and Zoning Commission is charged with the duty and invested with  
3425 the authority to:

3426  
3427 — Inspect property and premises at reasonable hours when required to  
3428 discharge its responsibilities under the laws of the State and of the  
3429 Village.

3430  
3431 — Formulate and recommend to the Village Council for its adoption a  
3432 comprehensive plan for the orderly growth and development of the  
3433 Village and its environs, and from time to time recommend such  
3434 changes in the plan as it finds will facilitate the movement of people  
3435 and goods, and the health, recreation, safety, and general welfare of  
3436 the citizens of the Village.

3437  
3438 3. Formulate a zoning plan as may be deemed best to carry out the goals  
3439 of the comprehensive plan; hold public hearings and make  
3440 recommendations to the Village Council relating to the creation,  
3441 amendment, and implementation of zoning regulations and districts as

3442 provided in the Texas Local Government Code, as amended.

3443  
3444 4. Exercise all the powers of a commission as to the approval or  
3445 disapproval of plans, plats, or replats and vacations of plans, plats or  
3446 replats as provided in the Texas Local Government Code.

3447  
3448 5. Study and make recommendations on the location, extension, planning,  
3449 vacating, and closing of public rights-of-way, parks and other public  
3450 places.

3451  
3452 6. Formulate and recommend to the Village Council policies and  
3453 regulations consistent with the adopted comprehensive plan governing the  
3454 location and/or operation of utilities, public facilities, and services owned  
3455 or under the control of the Village.

3456  
3457 7. Review and make recommendations concerning annexation of land  
3458 into the Village.

3459  
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3461  
3462 **Sec.30.126 Rules of Procedures:**

3463 (a) Organization and Officers:

3464 (1) Officers:

3465 (A) The Village Council shall choose the Chair and Vice Chair.

3466 (B) In the absence of both the Chairperson and Vice-Chairperson, the  
3467 board shall elect an Acting Chair.

3468 (C) The Village Secretary shall be custodian of the minutes and other  
3469 official records, shall attend to the correspondence of the board and  
3470 shall cause to be given such notices as are required and in the  
3471 manner prescribed by law.

3472 (2) Rules of Order: Roberts Rules of Order, as amended, shall be the board's  
3473 final authority on all questions of procedure and parliamentary law not  
3474 covered by this section.

3475 (3) Adoption of Rules of Procedures: The board by majority vote shall adopt  
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3483 rules of procedures that conform to this section.

3484  
3485 (b) Meetings:

3486  
3487 (1) Quorum: A quorum for a board meeting shall be three (3) board members,  
3488 except action on cases during a board meeting in accordance with Section  
3489 30.127 of this article shall require at least four (4) board members present  
3490 and voting.

3491  
3492 (2) Agenda: The Village Secretary shall prepare an agenda for each meeting  
3493 of the Board, and shall attach to each agenda a report of matters pending  
3494 further action by the board. The Village Secretary shall post a copy of the  
3495 agenda in the Village Hall as required by law.

3496  
3497 (3) Special Meetings: Special meetings for any purpose may be held: on the  
3498 call of the Chairperson, or on request of two (2) or more board members  
3499 and by giving written notice to all board members deposited in the mail at  
3500 least 72 hours before the board meeting, or as may be scheduled by a  
3501 majority of the board at any previous meeting. The convening authority  
3502 shall determine the time and place of the special meeting.

3503  
3504  
3505 (4) Public Meeting: All meetings of the board shall be open to the public. Any party in  
3506 interest may appear in his/her own behalf or be represented by council or  
3507 agent.

3508  
3509 (c) Official Records:

3510  
3511 (1) Official Records: The official records shall be the minutes of the board,  
3512 together with all findings, decisions and other official records of the board.

3513  
3514 (2) Recording of Vote: The minutes of the board's proceedings shall show the  
3515 vote of each member, or indicate a member's absence or failure to vote.

3516  
3517 (3) Records Retention: All matters coming before the board shall be filed in the  
3518 Village's records. Original papers of all request and proposals shall be  
3519 retained as a part of the permanent record.

3520  
3521 (4) Public Record: The official records and citizen requests filed for board  
3522 action in special meetings shall be on file with the Village and shall be open  
3523 to public inspection during customary working hours.

3524  
3525 **Sec.30.127 Authority of Board;**

3526  
3527 (a) The board shall have the authority granted in Sections 211.008 through 211.011  
3528 of the Texas Local Government Code and those established herein, to exercise

3529 powers and to perform duties including the following:

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- (1) Hear and decide special exceptions to the terms of this article when this article requires the board to do so;
  - (2) Authorize, in specific cases, a variance from the terms of this article if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this article would result in unnecessary hardship, and so that the spirit of this article is observed and substantial justice is done; and
  - (3) Hear and decide other matters as may be authorized by an ordinance adopted under this article.
- (b) In exercising its authority under subsection (a)(1) above, the board may reverse or affirm, in whole or in part, or modify the Village administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the board has the same authority as the Village administrative official.
- (c) The concurring vote of at least seventy-five percent (75%) of the full board membership is necessary to:
- (1) Reverse an order, requirement, decision or determination of an administrative official;
  - (2) Decide in favor of an applicant on a matter on which the board is required to review under this article;
  - (3) Authorize a variance from the terms of this article.

**Sec.30.128 Limitations on Authority of Board:**

- (a) The board may not grant a variance authorizing a use other than those permitted in the zoning district for which the variance is sought.
- (b) The board shall have no power to grant or modify Conditional Use Permits authorized under the zoning regulations of the Village.
- (c) The board shall have no power to grant a zoning amendment. In the event that a written request for a zoning amendment is pending before the committee or the council, the board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.
- (d) The board shall not grant a variance for any parcel of property or portion thereof

3575 upon which a site plan, preliminary plat or final plat, where required, is pending  
3576 on the agenda of the commission or where applicable, by the council. All  
3577 administrative and procedural remedies available to the applicant shall have  
3578 been exhausted prior to hearing by the board.

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**Sec.30.129 Variances:**

3582 (a) The board may authorize a variance from the terms of this article when, in its  
3583 opinion, undue hardship will result from requiring strict compliance. In granting a  
3584 variance, the board shall prescribe only conditions that it deems necessary for, or  
3585 desirable to, the public interest. In making the findings herein below required,  
3586 the board shall take into account the nature of the proposed use of the land  
3587 involved, existing uses of land in the vicinity, the number of persons who will  
3588 reside or work within the proposed use, and the probable effect such variance  
3589 will have upon traffic conditions and upon the public health, safety, convenience  
3590 and welfare of the Village.

3591  
3592 (b) Conditions Required for Variance: No variance shall be granted without first  
3593 having given public notice and having held a public hearing on the written  
3594 variance request in accordance with this article and unless the board finds:

- 3595  
3596 (1) That there are special circumstances or conditions affecting the land  
3597 involved such that the strict application of the provisions of this article would  
3598 deprive the applicant of the reasonable use of the land; and  
3599  
3600 (2) That the variance is necessary for the preservation and enjoyment of a  
3601 substantial property right of the applicant; and  
3602  
3603 (3) That the granting of the variance will not be detrimental to the public health,  
3604 safety, or welfare, or injurious to other property within the area; and  
3605  
3606 (4) That the granting of the variance will not have the effect of preventing the  
3607 orderly use of other land within the area in accordance with the provisions  
3608 of this article.

3609  
3610 (c) Such findings of the board, together with the specific facts upon which such  
3611 findings are based, shall be incorporated into the official minutes of the board  
3612 meeting at which such variance is granted. Variances may be granted only  
3613 when in harmony with the general purpose and intent of this article so that the  
3614 public health, safety and welfare may be secured and that substantial justice may  
3615 be done.

3616  
3617 (d) Findings of Undue Hardship: In order to grant a variance, the board must make  
3618 written findings that an undue hardship exists, using the following criteria:

- 3619  
3620 (1) That literal enforcement of the zoning controls will create an unnecessary

- 3621 hardship or practical difficulty in the development of the affected property;  
3622 and
- 3623
- 3624 (2) That the situation causing the hardship or difficulty is neither self-imposed  
3625 nor generally affecting all or most properties in the same zoning district; and
- 3626
- 3627 (3) That the relief sought will not injure the permitted use of adjacent  
3628 conforming property; and
- 3629
- 3630 (4) That the granting of a variance will be in harmony with the spirit and  
3631 purpose of this article.
- 3632
- 3633 (e) A variance shall not be granted to relieve a self-created or personal hardship, nor  
3634 shall it be based solely upon economic gain or loss, nor shall it permit any person  
3635 the privilege of developing a parcel of land not permitted by this article on other  
3636 parcels of land in the particular zoning district. No variance may be granted  
3637 which results in undue hardship upon another parcel of land.
- 3638
- 3639 (f) The applicant bears the burden of proof in establishing the facts that may justify  
3640 a variance.
- 3641
- 3642 (g) Special Exceptions for Nonconforming Uses and Structures: Upon written  
3643 request of the property owner the board may grant special exceptions to the  
3644 provisions of Section 30.135 of this article, limited to the following, and in  
3645 accordance with the following standards:
- 3646
- 3647 (1) Expansion of a nonconforming use within an existing structure a maximum  
3648 of ten percent (10%); provided that, in the case of a nonconforming  
3649 residential use, such expansion does not increase the number of dwelling  
3650 units to more than the number existing when the use first became  
3651 nonconforming; or
- 3652
- 3653 (2) Expansion of the gross floor area of a nonconforming structure a maximum  
3654 of ten percent (10%), provided that such expansion does not decrease any  
3655 existing setback.
- 3656
- 3657 (3) Change from one nonconforming use to another, re-construction of a  
3658 nonconforming structure that has been totally destroyed, or resumption of a  
3659 nonconforming use previously abandoned, only upon finding that the failure  
3660 to grant the special exception deprives the property owner of substantially  
3661 all use or economic value of the land.
- 3662
- 3663 (4) In granting special exceptions under this Sec.30.129 the board may impose  
3664 such conditions as are necessary to protect adjacent property owners and  
3665 to ensure the public health, safety and general welfare, including but not  
3666 limited to conditions specifying the period during which the nonconforming

3667 use may continue to operate or exist before being conformed to the  
3668 standards of this article.

3669  
3670 **Sec.30.130 Procedures:**

3671  
3672 (a) Application and Fee: An application to the board shall be made in writing using  
3673 forms prescribed by the Village, and shall be accompanied by an application fee,  
3674 a site plan and such additional information as may be requested in writing in  
3675 order to properly review the application. Such information may include, but is not  
3676 limited to, plat plans, site building plans, photographs, topographic contour maps,  
3677 and other similar documents. All drawings must be to scale.

3678  
3679 (b) Review and Report by the Village: The Village shall visit the site where the  
3680 requested board action will apply and the surrounding area, and shall report its  
3681 findings to the board.

3682  
3683 (c) Notice and Public Hearing: The board shall hold a public hearing for  
3684 consideration of the application no later than forty-five (45) days after the date  
3685 the application for action, or an appeal, is filed. Notice of the public hearing shall  
3686 be provided to all property owners within two hundred feet (200') of the affected  
3687 property at least ten (10) days prior to the public hearing, and also published in  
3688 the official local newspaper at least ten (10) days prior to the public hearing.

3689  
3690 (d) Action by the Board: The board shall not grant an appeal or a variance unless it  
3691 finds, based upon evidence, that each of the conditions in Sec.30.128 has been  
3692 established. The board may impose such conditions, limitations and safeguards  
3693 as it deems appropriate upon the granting of any variance or appeal. Violation of  
3694 any such condition, limitation or safeguard shall constitute a violation of this  
3695 article.

3696  
3697 **Sec.30.131 Appeals to the Board:**

3698  
3699 (a) The appellant must file with the board and the Village administrative official from  
3700 whom the appeal is taken a written notice to appeal specifying the grounds for  
3701 the appeal. The appeal must be filed within sixty (60) days after the Village  
3702 official's decision has been rendered. Upon receiving the notice, the Village  
3703 administrative official from whom the appeal is taken shall immediately transmit  
3704 to the board all papers constituting the record of Village action that is appealed.

3705  
3706 (b) An appeal stays all Village proceedings in furtherance of the Village action that is  
3707 appealed unless the Village administrative official from whom the appeal is taken  
3708 certifies in writing to the board facts supporting the official's opinion that a stay  
3709 would cause imminent peril to life or property. In that case, the Village  
3710 proceedings may be stayed only by a restraining order granted by the board or a  
3711 court of record on application, after notice to the official, if due cause is shown.  
3712

- 3713 (c) The appellant may appear at the appeal hearing in person or by agent or  
3714 attorney.
- 3715
- 3716 (d) The board shall decide the appeal within four (4) weeks after the notice of appeal  
3717 is filed with the Village, after which time the appeal shall be deemed  
3718 automatically approved if no formal action is taken.
- 3719
- 3720 (e) The board may reverse or affirm, in whole or in part, or modify the Village  
3721 administrative official's order, requirement, decision or determination from which  
3722 an appeal is taken, and may make the correct order, requirement, decision or  
3723 determination.
- 3724

3725 **Sec.30.132 Finality of Decisions; Judicial Review:** All decisions of the board are final  
3726 and binding. However, any person aggrieved by a decision of the board may present a  
3727 verified petition to a court of record which states that the decision of the board is illegal, in  
3728 whole or in part, and specifying the grounds of the illegality. Such petition must be  
3729 presented within ten (10) days after the date the board's decision is filed in the Village  
3730 subject to the provisions of Chapter 211.011 of the Texas Local Government Code, only a  
3731 court of record may reverse, affirm or modify a decision of the board.

3732

3733 **DIVISION 4: SPECIAL PROVISIONS**

3734

3735 **Sec.30.133 Conditional Use Permit:**  
 3736 \*Amended 12/18/2007 2007-O-85  
 3737 \*\*Amended 01/21/2015 Ordinance 2015-O-02

- 3738
- 3739 (a) Purpose and Intent:
- 3740
- 3741 (1) Nature of Conditional Use: A conditional use is a land use which, because  
3742 of its unique nature, is compatible with the permitted land uses in a given  
3743 zoning district only upon a determination that the external effects of the use  
3744 in relation to the existing and planned uses of adjoining property and the  
3745 neighborhood can be mitigated through imposition of standards and  
3746 conditions. This section sets forth the standards used to evaluate proposed  
3747 conditional uses and the procedures for approving conditional use permit  
3748 applications.
- 3749
- 3750 (2) Permit Required: No conditional use shall be established and no building  
3751 permit shall be issued for any use designated as a conditional use within a  
3752 zoning district until a conditional use permit is issued in accordance with the  
3753 provisions of this section. An application for a conditional use permit shall  
3754 be accompanied by a concept plan prepared in the manner described in the  
3755 Village's site development ordinance. The concept plan shall illustrate the  
3756 proposed use to be established, its relationship to adjoining properties, and  
3757 how it meets the approval standards set forth in subsection.
- 3758

3759 (b) Status of Conditionally Permitted Use: The following general rules apply to all  
3760 conditional uses:

- 3761 (1) The designation of a use in a zoning district as a conditional use does not  
3762 constitute an authorization or assurance that such use will be approved.
- 3763 (2) Approval of a conditional use permit shall authorize only the particular use  
3764 for which the conditional use permit is issued.
- 3765 (3) No use authorized by a conditional use permit shall be enlarged, extended  
3766 or relocated, nor may the number of dwelling units be increased, unless an  
3767 application is made for approval of a new conditional use permit in  
3768 accordance with the procedures set forth in this section.
- 3769 (4) Development of the use shall not be carried out until the applicant has  
3770 secured all the permits and approvals required by the Village's code of  
3771 ordinances, or any permits required by regional, State and Federal  
3772 agencies.

3773 (c) Authorized Conditional Uses. The following listed conditional uses and those  
3774 indicated in a specific zoning district as a permitted use with a conditional use  
3775 permit, and none other, may be authorized subject to the terms of this subsection  
3776 and compliance with all conditional terms, regulations and requirements  
3777 established by the council.

- 3784 (1) Airport, landing field, landing strip or heliport for aircraft; municipal service  
3785 facilities and buildings.

3786  
3787 \*\* (2) Amusement park, but not  
3788 within ~~three~~ five hundred feet (~~3~~500') of any Residential District.  
3789 \*\* Amended 01/21/2015 Ordinance 2015-O-02

3790  
3791  
3792 \*\* (3) Circus, carnival or zoo grounds,  
3793 but not within ~~three~~ five hundred feet (~~3~~500') of any Residential District.  
3794 \*\* Amended 01/21/2015 Ordinance 2015-O-02

- 3795 (4) Commercial, recreational or amusement development for temporary or  
3796 seasonal periods.

3797  
3798  
3799 \*\* (5) Clinic or institution, provided that any institution permitted in any  
3800 Residential District shall be located on a site of not less than five (5) acres,  
3801 shall not occupy more than ten percent (10%) of the total lot area and shall  
3802 be set back from all property lines at least two feet (2') for each foot one (1)  
3803 of building height or the required zoning set back whichever is greater.  
3804

Amended 01/21/15 Ordinance 2015-O-02

3805  
3806  
3807  
3808 (6) — Horse race track and riding stables.  
3809

3810 (7) — Private operated community building or recreation field.  
3811

3812 ~~(8)~~ ~~Radio or television broadcasting towers or station~~ or  
3813 Wireless Communications Facilities. ~~\*Amended 2007-O-85-12/18/2007~~  
3814 Ordinance 2007-O-85  
3815

3816 (a) Purpose and Intent. The purpose and intent of this section is to:

3817 (1) Promote the health, safety and general welfare of the public by  
3818 regulating the siting of wireless communication facilities, including satellite  
3819 earth stations; and

3820 (2) Minimize the impacts of wireless communication facilities on  
3821 surrounding areas by establishing standards for location, structural integrity and  
3822 compatibility; and

3823 (3) Encourage the location and colocation of wireless communication  
3824 equipment on existing structures thereby minimizing new visual, aesthetic and  
3825 public safety impacts, effects upon the natural environment and wildlife, and to  
3826 reduce the need for additional antenna-supporting structures; and

3827 (4) Accommodate the growing need and demand for wireless  
3828 communication services; and

3829 (5) Encourage coordination between suppliers of wireless communication  
3830 services in the Village of Volente; and

3831 (6) Respond to the policies embodied in the Telecommunications Act of  
3832 1996 in such a manner as not to unreasonably discriminate between providers of  
3833 functionally equivalent personal wireless service or to prohibit or have the effect  
3834 of prohibiting personal wireless service in the Village; and

3835 (7) Establish predictable and balanced codes governing the construction  
3836 and location of wireless communications facilities, within the confines of  
3837 permissible local codes; and

3838 (8) Establish review procedures to ensure that applications for wireless  
3839 communications facilities are reviewed and acted upon within a reasonable  
3840 period of time; and

3841 (9) Consideration of and compatibility with the goals and objectives of  
3842 the comprehensive plan and

3843 (10) Protection of the unique natural beauty and small town character of  
3844 the Village while meeting the needs of its citizens to enjoy the benefits of  
3845 wireless communications services.

3846 **b. Siting Alternatives Hierarchy.**

3847 Siting of a wireless communications facility (as herein defined) shall be in accordance  
3848 with the following siting alternatives hierarchy:

3849 (1) Stealth wireless communications facility;

3850 (2) Attached wireless communications facility;

3851 (3) Replacement of existing antenna-support structure;

3852 (4) Colocation on existing antenna-supporting structure;

3853 —(5) New antenna-support structure (which shall mean non-stealth in  
3854 all references herein);

3855 —(6) The order of ranking, from highest to lowest, shall be (A), (B),  
3856 (C), (D) and (E). Where a lower ranked alternative is proposed, the  
3857 applicant must file an affidavit demonstrating that despite diligent efforts  
3858 to adhere to the established hierarchy within the geographic search area, as  
3859 determined by a qualified radio frequency engineer, higher ranked options  
3860 are not feasible.

3861 —(7) Upon the request of the applicant and recommendation by the  
3862 Village administrator and approval of the Village council, the siting  
3863 alternatives hierarchy set forth above may be adjusted and the  
3864 requirements of subsection (8) above may be adjusted if the Village  
3865 council determines that such adjustment is in the best interests of the  
3866 Village of Volente.

3867 **c. Definitions.**

3868 For the purposes of this section, the terms and phrases listed below shall have the  
3869 following meanings:

3870 (A-1) Ancillary Structures. Means forms of development associated with a  
3871 wireless communications facility, including but not limited to: foundations,  
3872 concrete slabs on grade, guy wire anchors, generators, and transmission cable  
3873 supports; however, specifically excluding equipment enclosures.

3874 (A-2) Anti-Climbing Device. Means a piece or pieces of equipment which are  
3875 either attached to antenna-supporting structure, or which are free-standing and  
3876 are designed to prevent people from climbing the structure. These devices may  
3877 include but are not limited to fine mesh wrap around structure legs, "squirrel-

3878 cones," the removal of climbing pegs on monopole structures, or other approved  
3879 devices, but excluding the use of barbed wire.

3880 (A-3) Antenna. Means any apparatus designed for the transmitting and/or  
3881 receiving of electromagnetic waves that includes but is not limited to  
3882 telephonic, radio or television communications. Types of antennas include, but  
3883 are not limited to: omni-directional (whip) antenna, sectorized (panel) antennas,  
3884 multi or single bay (FM & TV), yagi, or parabolic (dish) antennas.

3885 (A-4) Antenna Array. Means a single or group of antennas and their  
3886 associated mounting hardware, transmission lines, or other appurtenances which  
3887 share a common attachment device such as a mounting frame or mounting  
3888 support.

3889 (A-5) Antenna-Supporting Structure. Means a vertical projection composed of  
3890 metal, or other substance with or without a foundation that is for the express  
3891 purpose of accommodating antennas at a desired height above grade. Antenna-  
3892 supporting structures do not include any device used to attach antennas to an  
3893 existing building, unless the device extends above the highest point of the  
3894 building by more than ten (10) feet.

3895 (A-6) Attached Wireless Communication Facility. Means an antenna or  
3896 antenna array, non-stealth in nature that is attached to an existing building with  
3897 any accompanying pole or device which attaches it to the building, transmission  
3898 cables, and an equipment enclosure, which may be located either inside or  
3899 outside of the existing building. An attached wireless communications facility is  
3900 considered to be an accessory use to the existing principal use on a site.

3901 (B-1) Breakpoint Technology. Means the engineering design of a monopole  
3902 wherein a specified point on the monopole is designed to have stresses at least  
3903 5% greater than any other point along the monopole, including the anchor bolts  
3904 and baseplate, so that in the event of a weather induced failure of the monopole,  
3905 the failure will occur at the breakpoint rather than at the baseplate or any other  
3906 point on the monopole.

3907 (C-1) Code. Means the Village of Volente Code of Ordinances.

3908 (C-2) Colocation. Means a situation in which two or more different wireless  
3909 communication service providers place wireless communication antenna or  
3910 antennas on a common antenna-supporting structure, including where possible a  
3911 stealth wireless communications facility. The term colocation shall not be  
3912 applied to a situation where two or more wireless communications service  
3913 providers independently place equipment on an existing building.

3914 (C-3) Combined Antenna or Combining. As used herein shall mean an  
3915 antenna or an array of antennas designed and utilized to provide services for  
3916 more than one carrier, for the same type of services.

3917 (D-1) Development Area. Means the area occupied by a wireless  
3918 communications facility including areas inside or under the following: an  
3919 antenna-supporting structure's framework, equipment enclosures, ancillary  
3920 structures, and access ways.

3921 (E-1) Equipment Enclosure. Means any structure above the base flood  
3922 elevation including: cabinets, shelters, pedestals, and other similar structures.  
3923 Equipment enclosures are used exclusively to contain radio or other equipment  
3924 necessary for the transmission or reception of wireless communication signals  
3925 and not for the storage of equipment nor as habitable space.

3926 (F-1) FAA. Means the Federal Aviation Administration.

3927 (F-2) FCC. Means the Federal Communications Commission.

3928 (G-1) Guyed. Means a style of antenna-supporting structure consisting of a  
3929 single truss assembly composed of sections with bracing incorporated. The  
3930 sections are attached to each other, and the assembly is attached to a foundation  
3931 and supported by a series of guy wires that are connected to anchors placed in  
3932 the ground or on a building.

3933 (G-2) Geographic Search Area. Means an area designated by a wireless  
3934 provider or operator for a new base station facility, determined in accordance  
3935 with generally accepted principles of wireless engineering.

3936 (L-1) Lattice. Means a tapered style of antenna-supporting structure that  
3937 consists of vertical and horizontal supports with multiple legs and cross-bracing,  
3938 and metal crossed strips or bars to support antennas.

3939 (M-1) Monopole. Means a style of free-standing antenna-supporting structure  
3940 that is composed of a single shaft usually composed of two or more hollow  
3941 sections that are in turn attached to a foundation. This type of antenna-  
3942 supporting structure is designed to support itself without the use of guy wires or  
3943 other stabilization devices. These structures are mounted to a foundation that  
3944 rests on or in the ground or on a building's roof.

3945 (P-1) Personal Wireless Service. Means commercial mobile services,  
3946 unlicensed wireless services, and common carrier wireless exchange access  
3947 services, as defined in the Telecommunications Act of 1996.

3948 (P-3) Public Antenna-Supporting Structure. Means an antenna-supporting  
3949 structure, appurtenances, equipment enclosures, and all associated ancillary  
3950 structures used by a public body or public utility for the purposes of  
3951 transmission and/or reception of wireless communication signals associated  
3952 with but not limited to: public education, parks and recreation, fire and police  
3953 protection, public works, and general government.

3954 (P-4) Public Safety Communications Equipment. Means all communications  
3955 equipment utilized by the Village of Volente for the purpose of operation in the

3956 interest of the safety of the citizens of Volente and operating within the  
3957 frequency range of 806 MHz and 1,000 MHz, and shall be protected from  
3958 interference from all frequencies, to include but not limited to adjacent channel  
3959 receiver overload, and intermodulation distortion originating from any  
3960 frequencies or derivative of any frequencies from any transmissions emanating  
3961 from proponents system computed to the third order and fifth order levels.

3962 (R-1) Radio Frequency Emissions. Means any electromagnetic radiation or  
3963 other communications signal emitted from an antenna or antenna-related  
3964 equipment on the ground, antenna-supporting structure, building, or other  
3965 vertical projection.

3966 (R-2) Replacement. Means the construction of a new antenna-supporting  
3967 structure built to replace an existing antenna-supporting structure.

3968 (S-1) Satellite Earth Station. Means a single or group of satellite parabolic (or  
3969 dish) antennas. These dishes are mounted to a supporting device that may be a  
3970 pole or truss assembly attached to a foundation in the ground, or in some other  
3971 configuration. A satellite earth station may include the associated separate  
3972 equipment enclosures necessary for the transmission or reception of wireless  
3973 communications signals with satellites.

3974 (S-2) State of the Art. As used herein shall mean existing technology where  
3975 the level of facilities, technical performance, capacity, equipment, components  
3976 and service are equal to that developed and demonstrated to be more  
3977 technologically advanced than generally available for comparable service in the  
3978 State of Texas. (type accepted by the FCC)

3979 (S-3) Stealth Wireless Communications Facility. Means an unidentifiable  
3980 attached or self-supporting-wireless communications facility, ancillary  
3981 structure, or equipment enclosure that is not readily visible, and is designed to  
3982 be aesthetically compatible with existing and proposed uses on a site. A stealth  
3983 facility shall have a secondary function, including, but not limited to the  
3984 following: church steeple, bell tower, spire, clock tower, cupola, light standard,  
3985 flagpole with a flag, or tree.

3986 (T-1) Temporary Wireless Communications Facility. Means a wireless  
3987 communications facility that is portable, self-contained, and designed for use on  
3988 a non-permanent basis.

3989 (W-1) Wireless Communications. Means personal wireless service, which  
3990 includes but is not limited to, cellular, personal communication services (PCS),  
3991 specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR),  
3992 unlicensed spectrum services utilizing Part 15 devices (i.e. wireless internet  
3993 services) and paging.

3994 (W-2) Wireless Communication Facility (WCF). Means any staffed or  
3995 unstaffed facility for the transmission and/or reception of radio frequency  
3996 signals, or other wireless communications, and usually consisting of an antenna

3997 or group of antennas, transmission cables, and equipment enclosures, and may  
3998 include an antenna-supporting structure. The following developments shall be  
3999 considered as a Wireless Communication Facility: developments containing  
4000 new or existing antenna-supporting structure, public antenna-supporting  
4001 structures, replacement antenna-supporting structures, colocations on existing  
4002 antenna-supporting structures, attached wireless communications facilities,  
4003 stealth wireless communication facilities, temporary wireless communications  
4004 facilities and satellite earth stations.

4005 **d. Applicability.**

4006 1. Except as provided for in subsection (B) below, this section shall apply to  
4007 development activities including installation, construction, or modification to  
4008 the following wireless communications facilities:

4009 (A) Existing antenna-supporting structures; and

4010 (B) Proposed antenna-supporting structures; and

4011 (C) Public antenna-supporting structures; and

4012 (D) Replacement of existing antenna-supporting structures; and

4013 (E) Colocation on existing antenna-supporting structures; and

4014 (F) Attached wireless communications facilities; and

4015 (G) Stealth wireless communications facilities; and

4016 (H) Temporary wireless communications facilities.

4017 (2) The following items are exempt from the provisions of this section,  
4018 notwithstanding any other provisions contained in zoning codes of the Village  
4019 of Volente:

4020 (A) Non-commercial, amateur, ham radio or citizen's band radio  
4021 antenna-supporting structures; antenna or antenna arrays which are less  
4022 than forty (40) feet in height in residential zones Any person constructing  
4023 and/or operating an antenna-support structure, antenna or antenna arrays  
4024 less than the heights enumerated above shall, upon request from the  
4025 Village building official, provide evidence of a valid FCC amateur license  
4026 for operation of an amateur facility. Failure to demonstrate a valid license  
4027 upon request shall be cause for issuance of a code violation citation in  
4028 accordance with the provisions of Article 30 "Zoning Regulations" and  
4029 the person shall either furnish evidence of a valid FCC license or remove  
4030 the antenna-support structure, antenna or antenna arrays within 15 days of  
4031 the issuance of the aforementioned citation. Non-commercial, amateur,  
4032 ham radio or citizen's band antenna-supporting structures, antennas or  
4033 antenna arrays with heights greater than as provided above shall be  
4034 regulated in accordance with subsection (11); and

4035 (B) Satellite earth stations that are one (1) meter (39.37 inches) or less  
4036 in diameter in residential zoning districts and two (2) meters or less in all  
4037 other zoning districts and which are not greater than twenty (20) feet  
4038 above grade in residential zoning districts and thirty-five (35) feet above  
4039 grade in all other zoning districts; and

4040 (C) Regular maintenance of any existing wireless communications  
4041 facility that does not include the addition of, or the placement of, any new  
4042 wireless communications facility; and

4043 (D) Any existing or proposed commercial antenna-supporting structure,  
4044 antenna or antenna arrays with an overall height of thirty-five (35) feet or  
4045 less above ground level in all non-residential zoning districts

4046 (E) A government-owned wireless communications facility, upon the  
4047 declaration of a state of emergency by federal, state, or local government,  
4048 and a written determination of public necessity by the director of public  
4049 safety; except that such facility must comply with all federal and state  
4050 requirements. No wireless communications facility shall be exempt from  
4051 the provisions of this division beyond the duration of the state of  
4052 emergency.

4053 (F) Antenna-supporting structures, antennas and/or antenna arrays for  
4054 AM/FM/TV/DTV Broadcasting transmission facilities that are licensed by  
4055 the Federal Communications Commission shall be regulated in accordance  
4056 with subsection (114).

4057 (G) Temporary wireless communication facilities if authorized as a part of  
4058 a special event in accordance with Article 30.133 “Conditional Use  
4059 Permit”.

4060 (H) Facilities exempt under subsections (1) and (2) above shall be limited  
4061 to only one (1) amateur antenna and support structure per residential lot,  
4062 and a maximum of two (2) satellite dishes per residential lot, provided  
4063 neither unit is larger than one (1) meter (39.37 inches) in diameter.  
4064 Satellite dishes in any residential district that exceed one (1) meter in  
4065 diameter shall be regulated pursuant to subsection .111.

4066 **e. Development Standards for new antenna-supporting structures.**

4067 **(1) Approval criteria for new antenna-supporting structures:**

4068 (A) Setbacks. Any new antenna-supporting structures, equipment  
4069 enclosures and ancillary structures shall meet the minimum setback  
4070 requirements for the land use district where they are located, except that  
4071 where the minimum setback distance for an antenna-supporting structure  
4072 from any property line or public right-of-way is less than the height of the  
4073 proposed antenna-supporting structure, the minimum setback distance  
4074 shall be increased to equal the height of the proposed antenna-supporting

4075 structure, unless the antenna-supporting structure has been constructed  
4076 using "breakpoint" design technology, in which case the minimum setback  
4077 distance shall be equal to 110% of the distance from the top of the  
4078 antenna-supporting structure to the "breakpoint" level of the antenna-  
4079 supporting structure, or the distance from the base of the antenna-  
4080 supporting structure to the "breakpoint" level of the antenna- supporting  
4081 structure, whichever is greater; plus the minimum setback for that land use  
4082 district. However, in all instances, the minimum setback distance from the  
4083 setback line of any residentially zoned property, with an inhabited  
4084 residence or proposed residences, shall be at least 200% of the height of  
4085 the entire proposed antenna-supporting structure. Certification by a  
4086 licensed Texas professional engineer of the "breakpoint" design and the  
4087 design's fall radius must be provided together with the other information  
4088 required herein from an applicant.

4089 (B) Height. The overall height of any antenna-supporting structure,  
4090 antenna and/or antenna array shall not be greater than one hundred and  
4091 twenty (120) feet. Height for all purposes in this section shall mean the  
4092 linear distance from the ground to the highest physical point on the  
4093 wireless communications facility.

4094 (C) Construction. New antenna-supporting structures shall have a  
4095 monopole type construction only, and shall not be guyed or have a lattice  
4096 type construction.

4097 (D) Structural Integrity.

4098 i. The entire antenna-supporting structure and all appurtenances  
4099 shall be designed pursuant to the wind speed design requirements  
4100 of ASCE 7-95, including any subsequent modification to those  
4101 specifications; and

4102 ii. The new antenna-supporting structure shall be designed to  
4103 accommodate the maximum amount of wireless communications  
4104 equipment, including that of other wireless communication service  
4105 providers. The exact amount of potential additional equipment to  
4106 be accommodated shall be agreed upon during a pre-application  
4107 conference and recorded in the Letter of Understanding resulting  
4108 from the conference. In all cases, the minimum number of  
4109 colocated facilities on a new antenna-supporting structure between  
4110 80 and 120 feet in height shall be three (3), and the minimum  
4111 number of colocated facilities on a new antenna-supporting  
4112 structure between 40 and 80 feet in height shall be two (2).

4113 (E) Lighting. Any facility shall be illuminated in accordance with FAA  
4114 requirements to provide aircraft obstruction lighting, where required. Any  
4115 lighting required by the FAA must be of the minimum intensity and  
4116 number of flashes per minute (i.e. the longest duration between flashes)

4117 allowable by the FAA. No strobes or other lighting shall be permitted  
4118 unless required by the FAA.

4119 (F) Colocation Feasibility.

4120 i. No antenna-supporting structure shall be permitted unless the  
4121 applicant demonstrates that no existing wireless communications  
4122 facility can accommodate the applicant's proposed facility; or that  
4123 use of such existing facilities would prohibit personal wireless  
4124 services or unreasonably discriminate between providers of  
4125 functionally equivalent personal wireless service providers in the  
4126 area of the Village to be served by the proposed antenna-  
4127 supporting structure.

4128 ii. Evidence submitted to demonstrate that no existing wireless  
4129 communications facility could accommodate the applicant's  
4130 proposed facility may consist of any of the following:

4131 a. No existing wireless communications facilities located  
4132 within the geographic area meet the applicant's engineering  
4133 requirements.

4134 b. Existing wireless communications facilities are not of  
4135 sufficient height to meet the applicant's engineering  
4136 requirements, and cannot be increased in height not to  
4137 exceed 120 feet.

4138 c. Existing wireless communications facilities do not  
4139 have sufficient structural strength to support the applicant's  
4140 proposed wireless communications facilities and related  
4141 equipment, and the existing facility cannot be structurally  
4142 improved.

4143 d. The applicant demonstrates that there are other  
4144 limiting factors that render existing wireless  
4145 communications facilities unsuitable.

4146 (G) Color. New antenna-supporting structures shall maintain a  
4147 galvanized gray finish or other accepted contextual or compatible color,  
4148 except as required by federal rules or regulations.

4149 (H) Radio Frequency Emissions/Noise. The radio frequency emissions  
4150 shall comply with FCC standards for such emissions on an individual and  
4151 cumulative basis with any adjacent facilities. The applicant shall certify  
4152 that any and all new services shall cause no harmful interference to the  
4153 existing Emergency Services Communications equipment. Any  
4154 equipment which produces noise shall be sited and/or insulated in such a  
4155 fashion as to minimize the audio impact on adjacent property, and shall

4156 not exceed sixty (60) decibels (60 db) when measured from the nearest  
4157 property line to such equipment.

4158 (I) Security. Applicants shall provide for a fence or wall around the  
4159 proposed facility that meets the requirements of Article 33.337 of the  
4160 Village Site Development Ordinance. Alternative equivalent screening  
4161 may be approved through the site plan approval process in Article 33.312  
4162 The Village Site Development Ordinance.

4163 i. Any security lighting for on-ground facilities and  
4164 equipment shall be in compliance with Article 33.345 The Village  
4165 Site Development Ordinance and shall minimize the potential  
4166 attraction to migratory birds.

4167 (J) Landscaping. Landscaping and buffering shall be required around the  
4168 perimeter of development areas, as required by Article 33.336 of The  
4169 Village Ordinances. Landscaping shall be installed on the outside of the  
4170 perimeter fence or wall. Existing vegetation shall be preserved to the  
4171 maximum extent practicable and may be used as a substitute for or in  
4172 supplement towards meeting the landscaping requirements, subject to  
4173 approval by the Village council. Where not inconsistent with Article  
4174 33.336, landscaping shall be placed in a manner so as to maximize the  
4175 screening between residential areas and the wireless telecommunications  
4176 facility and minimize the view of the facility from any residential areas  
4177 and public roads and rights-of-way.

4178 (K) Signage. Unless otherwise required by state or federal law, the only  
4179 signage that is permitted upon an antenna-supporting structure, equipment  
4180 enclosures, or fence (if applicable) shall be informational, and for the  
4181 purpose of identifying the antenna-supporting structure, (such as ASR  
4182 registration number) as well as the party responsible for the operation and  
4183 maintenance of the facility, its current address and telephone number,  
4184 security or safety signs, and property manager signs (if applicable). If  
4185 more than two hundred twenty (220) voltage is necessary for the operation  
4186 of the facility and is present in a ground grid or in the tower, signs located  
4187 every twenty (20) feet and attached to the fence or wall shall display in  
4188 large, bold, high contrast letters (minimum height of each letter: four (4)  
4189 inches) the following: "HIGH VOLTAGE - DANGER."

4190 (L) Adverse Effects on Adjacent Properties.

4191 i. New antenna-supporting structures shall be configured and  
4192 located in a manner that shall minimize adverse effects including  
4193 visual impacts on adjacent properties. The applicant shall  
4194 demonstrate that alternative locations, configurations, and facility  
4195 types have been examined and shall address in narrative and  
4196 graphic form the feasibility of any alternatives that may have fewer

4197 adverse effects on adjacent properties than the facility,  
4198 configuration, and location proposed.

4199 ii. The following attributes shall be considered from vantage  
4200 points at adjacent properties, roadways and occupied structures:

4201 a. Height and location; and

4202 b. Mass and scale; and

4203 c. Materials and color; and

4204 d. Illumination; and

4205 e. Existing and proposed vegetation and intervening  
4206 structures.

4207 f. Overall aesthetics of the proposed structure.

4208 An applicant shall demonstrate through a photo-simulation  
4209 requirements under subsection (b)(c) herein below that the  
4210 project design employs each of these attributes in a manner  
4211 that minimizes adverse effects to the greatest extent  
4212 feasible.

4213 2. Submittal requirements for new antenna-supporting structure applications shall include:

4214 (A) A completed application form and any appropriate fees; and

4215 (B) Ten (10) sets (24" x 36") of signed and sealed site plans, including tower  
4216 elevations, and landscape plans if required, preliminary grading plans may be included on  
4217 site plans or separately submitted in equal quantities; and

4218 (C) A property card for the subject property from Travis County Tax Assessor's Office  
4219 or a tax bill showing the ownership of the subject parcel; and

4220 (D) A form indicating that a property and/or antenna-supporting structure's owner's  
4221 agent has authorization to act upon their behalf (if applicable); and

4222 (E) A signed statement from the antenna-supporting structure's owner or owner's agent  
4223 and the applicant stating that the radio frequency emissions comply with FCC standards  
4224 for such emissions certifying that both individually and cumulatively with any other  
4225 facilities located on or immediately adjacent to the proposed facility; and

4226 (F) Proof of FCC authority to transmit and/or receive radio signals in the Village of  
4227 Volente; and

4228 (G) Prior to issuance of a building permit, a stamped or sealed structural analysis of the  
4229 proposed antenna-supporting structure prepared by a licensed Texas engineer indicating  
4230 the proposed and future loading capacity of the antenna-supporting structure; and

4231 (H) One (1) original and two (2) copies of a survey of the property completed by a  
4232 licensed Texas engineer or surveyor which shows all existing uses, structures, and  
4233 improvements; and

4234 (I) A landscape plan in accordance with the provisions of Article 33.336 the Site  
4235 Development Ordinance; and

4236 (J) Photo-simulated post construction renderings of the proposed antenna-supporting  
4237 structure, equipment enclosures, and ancillary structures as they would look after  
4238 construction from locations to be determined during the pre-application conference (but  
4239 shall, at a minimum include renderings from the vantage point of any adjacent roadways  
4240 and occupied or proposed non-residential or residential structures), as well as photo-  
4241 simulations of the antenna-supporting structure after it has been fully developed with  
4242 antenna array (applicant may assume for the purpose of the simulation that other antenna  
4243 array on the facility will resemble their proposed array in size and design), proposed  
4244 exterior paint and stain samples for any items to be painted or stained, exterior building  
4245 material and roof samples (all mounted on color board no larger than 11" by 17"  
4246 indicating light reflectance values (LRV); and

4247 (K) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of  
4248 the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace; and

4249 (L) A signed statement from the antenna-supporting structure owner agreeing to allow  
4250 the colocation of other wireless equipment on the proposed antenna-supporting structure;  
4251 and

4252 (M) If required by the United States Fish and Wildlife Service, a letter indicating that the  
4253 proposed antenna-supporting structure and appurtenances are in compliance with all  
4254 applicable federal rules and regulations; and

4255 (N) All other documentation, evidence, or materials necessary to demonstrate  
4256 compliance with the applicable approval criteria set forth in this chapter, including where  
4257 applicable:

4258 i. existing wireless communications facilities to which the proposed facility will  
4259 be a handoff candidate, including latitude, longitude, and power levels of each;

4260 ii. a radio frequency plot indicating the coverage of existing wireless  
4261 communications sites, and that of the proposed site sufficient to demonstrate radio  
4262 frequency search area, coverage prediction, and design radius, together with a  
4263 certification from the applicant's radio frequency engineer that the proposed  
4264 facility's coverage or capacity potential cannot be achieved by any higher ranked  
4265 alternative such as a stealth facility, attached facility, replacement facility,  
4266 colocation, or new antenna-supporting structure;

4267 iii. a statement that the proposed facility conforms with state of the art, as  
4268 defined herein, or alternatively, that state of the art technology is unsuitable for  
4269 the proposed facility. Costs of state of the art technology that exceed facility  
4270 development costs shall not be presumed to render the technology unsuitable;

4271 iv. prior to issuance of a building permit, a statement by a licensed professional  
4272 engineer specifying the design structural failure modes of the proposed facility;  
4273 and

4274 v. antenna heights and power levels of the proposed facility and all other  
4275 facilities on the subject property;

4276 vi. a statement from the applicant that demonstrates that alternative locations,  
4277 configurations, and facility types have been examined; and addresses in narrative  
4278 form the feasibility of any alternatives that may have fewer adverse effects on  
4279 adjacent properties than the facility, configuration, and location proposed  
4280 including but not limited to:

4281 a. Height; and

4282 b. Mass and scale; and

4283 c. Materials and color; and

4284 d. Illumination;

4285 e. Multiple stealth or attached facilities which provide similar proposed  
4286 coverage to the proposed facility;

4287 f. Overall aesthetics; and

4288 g. Information addressing the following items:

4289 (i1) The extent of any existing or proposed commercial  
4290 development within the geographic search area of the proposed  
4291 facility;

4292 (ii2) The proximity of the structure to any existing or proposed  
4293 residential dwellings;

4294 (iii3) The proximity of the structure to any existing or proposed  
4295 public buildings or facilities;

4296 (iv4) The existence or proposal of tall and like structures within  
4297 the geographic search area of the proposed structure;

4298 (O) Title report or A.L.T.A. Survey showing all easements on the subject property,  
4299 together with a full legal description of the property.

4300 (P) A vicinity map delineating the location and classification of all major public or  
4301 private streets and rights-of-way, driveways, public parking areas, pedestrian ways, trails

4302 and bikeways within 600 feet of property boundary, including zoning district boundaries,  
4303 on a 24"x 36" sheet, together with a list of property owners within 1,000 feet of the  
4304 subject property and keyed to the map. The list must be from the most current ownership  
4305 information supplied by the Travis County Tax Assessor's Office, together with two (2)  
4306 sets of mailing labels for such property owners. Applicant will also provide a notarized  
4307 certification letter stating the ownership list referenced herein is as accurate as possible.

4308 (Q) Any other information required by the Village administrator in its general  
4309 submittal requirements for wireless communications facilities, together with an  
4310 application fee in the amounts set forth in Article 27, Fee Ordinance.

4311 (R) No application will be considered "filed" until it is deemed  
4312 administratively complete by the Village.

4313 (S) The applicant shall provide a certificate of public liability insurance of an amount  
4314 equal to or greater than \$1 million, from a, insurance carrier licensed in the State of  
4315 Texas to provide such. The insurance carrier will be responsible to provide notice to  
4316 the Village of Volente should the insurance lapse or be cancelled.

4317 (T-) A pre-application conference is required for any new antenna-supporting structure.

4318 At the time a pre-application conference is held, the applicant shall demonstrate  
4319 that the following notice was mailed (via certified mail) to all other wireless  
4320 service providers licensed to provide service within the Village of Volente as  
4321 indicated on the list of wireless service providers provided by the Village  
4322 administrator:

4323 "Pursuant to the requirements of the Village of Volente Code of Ordinances,  
4324 (name of provider) is hereby providing you with notice of our intent to meet with  
4325 the Village of Volente Staff in a pre-application conference to discuss the location  
4326 of a free-standing wireless communications facility that would be located at  
4327 (location) . In general, we plan to construct a monopole support structure  
4328 of \_\_\_\_\_ feet in height for the purpose of providing \_\_\_\_\_ (type of wireless  
4329 service) . The Village of Volente wishes to encourage co-location of free-  
4330 standing wireless communications facilities, and so requires all applicants to  
4331 determine whether there are opportunities for co-locating with current or future  
4332 wireless service providers. If your company has plans to locate wireless facilities  
4333 or equipment within two (2) miles of our proposed facility, please consider the  
4334 option of co-locating your facilities with our proposed facility. Please inform the  
4335 Village Administrator and us if you have any desire for placing additional  
4336 wireless facilities or equipment within two (2) miles of our proposed facility, and  
4337 contact us so that the feasibility of co-location can be discussed. Please provide us  
4338 with this information within twenty (20) business days after the date of this letter.  
4339 Your cooperation is sincerely appreciated.

4340 Sincerely, (pre-application applicant, wireless provider)"

4341 Included with the notice shall be the latitude and longitude (NAD 83) of the  
4342 proposed structure, and the actual proposed physical address. Within twenty (20)

4343 days of receiving a timely response from an interested potential co-applicant, the  
4344 applicant shall inform the respondent and the Village in writing as to whether or  
4345 not the potential colocation or combining is acceptable and under what conditions.  
4346 If the colocation or combining is not acceptable, then the applicant must provide  
4347 the respondent and the Village written justification as to why the colocations or  
4348 combining not feasible.

4349 (i) ~~(i)~~—For all structures requiring a conditional use permit, all  
4350 property owners within one thousand (1000) feet of the property  
4351 boundary where the proposed structure will be constructed shall  
4352 receive written notice of the application via certified mail from the  
4353 applicant.

4354  
4355 —f. Development Standards for Replacement of Existing Antenna-Supporting  
4356 Structures.

4357 (a1) Approval criteria for replacement antenna-supporting structures:

4358 ~~(1A)~~ For a proposed replacement antenna-supporting structure to be  
4359 approved, it shall meet the approval criteria (4), (5), (7), (8), (9) and (11)  
4360 as indicated in subsection 104 (a), as well as the following:

4361 (B2) Setbacks.

4362 ———Ai.— Any new equipment enclosures shall meet the  
4363 minimum setback requirements for the land use district where they  
4364 are located; and

4365 ———Bii. Replacement antenna-supporting structure  
4366 foundations constructed on a property or properties which is/are  
4367 contiguous to residential zones shall not be any closer to these  
4368 zones than the foundation of the original antenna-supporting  
4369 structure being replaced.

4370 ~~(3iii)~~ Height. Replacement antenna-supporting structures,  
4371 antennas and/or antenna arrays shall not exceed the height  
4372 requirements set forth in subsection 104.(a).2 or 110% of the  
4373 height of the antenna-supporting structure it is replacing,  
4374 whichever is lesser.

4375 ~~(4iv)~~ Replacement antenna-supporting structures, antennas  
4376 and/or antenna arrays which are replacing existing structures that  
4377 have an overall height of one hundred twenty (120) feet or less  
4378 shall have a monopole type construction.

4379 ~~(v5)~~ Landscaping. Landscaping requirements for a replacement  
4380 antenna-supporting structure shall be the same as that set for in  
4381 subsection 104.d.

4382 -(6vi) Removal of old structure shall be completed within 90  
4383 days of completion of replacement structure and otherwise subject  
4384 to the abandonment provision herein below.

4385 -(7vii) Submittal requirements for replacement antenna-  
4386 supporting structure applications:

4387 ——Aa. For a proposed replacement antenna-  
4388 supporting structure application to be considered  
4389 complete, it shall contain the same submittal  
4390 materials required as indicated in subsection 104.g.

4391 ——Bb. For proposed alternative replacement  
4392 structures as provided in subsection 105.a.4. above,  
4393 a complete application shall contain all of the  
4394 requirements specified in subsections 104.g, as  
4395 applicable.

4396 ——Cc. No application will be considered  
4397 "filed" until it is deemed administratively complete  
4398 by the Village.

4399 ~~g. 36.106~~ Colocations on an Existing Antenna-Supporting Structure.

4400 —(a1.) Approval criteria for colocations on existing antenna-supporting  
4401 structures (other than stealth):

4402 ——(i) For a colocation on an existing antenna-supporting structure to  
4403 be approved, it shall meet with approval criteria in subsection 104.a.b, as  
4404 well as the following:

4405 ——(ii) Height. A colocation on an existing antenna-supporting structure  
4406 shall not increase the overall height of the antenna-supporting structure,  
4407 antenna and/or antenna array beyond that allowed under subsection  
4408 104.a.2.

4409 ——(iii) Structural Integrity. Any colocation on an existing antenna-  
4410 supporting structure shall meet current building code requirements  
4411 (including wind loading).

4412 —(b2.) Submittal requirements for colocation on an existing antenna-supporting  
4413 structure application:

4414 —1i. For a colocation on an existing antenna-supporting structure  
4415 application to be considered complete, it shall contain submittal materials  
4416 listed in subsection 104.b.

4417 ——A. A stamped or sealed structural analysis of the existing  
4418 antenna-supporting structure prepared by a licensed Texas

4419 engineer indicating that the existing antenna-supporting structure  
4420 as well as all existing and proposed appurtenances meets current  
4421 building code requirements (including wind loading) for the  
4422 antenna-supporting structure.

4423 —B. A copy of the lease, license or sublease between the  
4424 owner of the antenna-supporting structure and the applicant  
4425 seeking to place additional wireless equipment on the structure.

4426 —C. A certification from the applicant that the radio frequency  
4427 emissions from the proposed facility, individually and in  
4428 conjunction with the existing facilities to which colocation is  
4429 proposed, meet all applicable federal guidelines.

4430 —2ii. No application will be considered "filed" until it is deemed  
4431 administratively complete by the Village.

4432 **3h.6.107 Attached Wireless Communications Facilities.**

4433 —(a1) Approval criteria for attached wireless communications facilities  
4434 (other than stealth):

4435 —1i. For a proposed attached wireless communications facility to be  
4436 approved, it shall meet with the approval criteria (5), (8), and (11), as  
4437 indicated in subsection 104 a, as well as the following:

4438 2ii. Height

4439 —A. The antenna, antenna array, attachment device,  
4440 equipment enclosure and/or any ancillary equipment shall not  
4441 extend above the highest point of the building by more than ten  
4442 (10) feet; and

4443 —B. Existing or proposed attached wireless  
4444 communications facilities which project more than ten (10) feet  
4445 above the highest point of the building upon which it is mounted  
4446 shall be considered as a non-stealth antenna-supporting structure  
4447 and subject to the provisions for these types of uses pursuant to  
4448 subsection 104.a.

4449 —3iii. Construction. Attached facilities may have a guyed, lattice, or  
4450 monopole type construction, but in no case shall a lattice type construction  
4451 exceed a height of ten (10) feet from the base of the attached facility; and

4452 —4iv. Color. All attached antenna or antenna arrays, equipment  
4453 enclosures and ancillary equipment visible from outside the building  
4454 where they are located shall be painted so as to blend in with the building  
4455 where they are placed; and

4456 5v. Screening and Placement.

4457 ————A. Attached wireless communications facilities shall be  
4458 screened by a parapet or other device so as to minimize its visual  
4459 impact as measured from the boundary line of the subject property.  
4460 .Attached facilities shall be placed in the center of the building  
4461 where reasonably possible so as to further minimize visual impact;  
4462 and

4463 ————B. An attached wireless communications facility shall  
4464 only be attached to a non-residential building.

4465 ————(2b) Submittal requirements for attached wireless communications facility  
4466 applications:

4467 ——1i. For a proposed attached wireless communication facility  
4468 application to be considered complete, it shall contain submittal materials  
4469 as indicated in subsection 104.b as well as photo-simulated post  
4470 construction renderings of the proposed attached facility, equipment  
4471 enclosures, and ancillary structures as they would look after construction  
4472 from the public domain.

4473 ——2ii. Certification from the licensed Texas engineer that the structure  
4474 or rooftop to which the facility will be attached has the structural  
4475 capability to accommodate such attachment.

4476 ——iii3. No application will be considered "filed" until it is deemed  
4477 administratively complete by the Village.

4478 **136.108. Stealth Wireless Communications Facilities.**

4479 (a1) Approval criteria for stealth wireless communications facilities:

4480 ————1i. For a proposed stealth wireless communications facility  
4481 to be approved, it shall meet with the approval criteria as indicated in  
4482 subsection 104.a. as well as the following:

4483 ————2ii. Setbacks. Stealth facilities shall meet the minimum  
4484 setback requirements for the zoning district where they are located for the  
4485 type of structure used.

4486 ————3iii. Height. Stealth wireless communications facilities shall  
4487 not exceed one hundred (100) feet in overall height, and shall be  
4488 compatible with existing adjacent structures, relative to height and design.

4489 ————4iv. Construction. No stealth wireless communications  
4490 facility shall be guyed or have lattice type construction.

4491 5v. Accessory Use. (intentionally omitted)

4492 ——6vi. Structural Integrity. The stealth facility shall be designed to  
4493 meet all current building code requirements (including wind loading).

4494 —7vii. Aesthetics. No stealth facility, whether fully enclosed within a  
4495 building or otherwise, shall have antennas, antenna arrays, transmission  
4496 lines, equipment enclosures or other ancillary equipment that is readily  
4497 identifiable from the public domain as wireless communications  
4498 equipment. Examples of stealth facilities include, but are not limited to,  
4499 flagpoles, light stanchions, clock towers, steeples, cupolas and trees. Any  
4500 equipment associated with the stealth facility that produces noise shall be  
4501 sited and/or insulated in such a fashion as to minimize the audio impact on  
4502 adjacent property.

4503 —8viii. Colocation. A proposed stealth facility over sixty (60) feet in  
4504 height shall be capable of accommodating at least two (2) wireless  
4505 communications facilities. Any applicant proposing to collocate on an  
4506 existing stealth facility shall follow the submittal requirements and be  
4507 subject to the approval criteria of this subsection rather than the collocation  
4508 subsection, where applicable.

4509 (b2) Submittal requirements for stealth wireless communications facilities:

4510 —————1i. For a proposed stealth wireless communications facility  
4511 application to be considered complete, it shall contain submittal materials,  
4512 indicated in subsection 104.b as well as a photo-simulated post  
4513 construction rendering of the proposed stealth facility, equipment  
4514 enclosures, and ancillary structures as they would look after construction  
4515 from the public domain.

4516 —————2ii. No application will be considered "filed" until it is  
4517 deemed administratively complete by the Village.

4518 —————(e3) Pre-Application Conference. A pre-application conference is required  
4519 for any new stealth wireless communications facility over 60 feet in height.

4520 —At the time a pre-application conference is held, the applicant shall demonstrate that  
4521 the following notice was mailed (via certified mail) to all other wireless service providers  
4522 licensed to provide service within the Village of Volente as indicated on the list of  
4523 wireless service providers provided by the Village administrator:

4524 —  
4525 —"Pursuant to the requirements of the Village of Volente Code of Ordinances, (name of  
4526 provider) is hereby providing you with notice of our intent to meet with the Village of  
4527 Volente staff in a pre-application conference to discuss the location of a free-standing  
4528 wireless communications facility that would be to (location) . In general, we plan to  
4529 construct a stealth facility \_\_\_ feet in height for the purpose of providing (type of wireless  
4530 service). . The Village of Volente wishes to encourage co-location of free-standing  
4531 wireless communications facilities, and so requires all applicants to determine whether  
4532 there are opportunities for co-locating with current or future wireless service providers. If  
4533 your company has plans to locate wireless facilities or equipment within two (2) miles of  
4534 our proposed facility, please consider the option of co-locating your facilities with our

4535 proposed facility.. Please inform the Village Administrator and us if you have any desire  
4536 for placing additional wireless facilities or equipment within two (2) miles of our proposed  
4537 facility and contact us so that the feasibility of co-location can be discussed.. Please  
4538 provide us with this information within twenty (20) business days after the date of this  
4539 letter. Your cooperation is sincerely appreciated.

4540 Sincerely, (pre-application applicant, wireless provider)"

4541 **3j.6.109 Expert Review.**

4542 ——(a)1. Due to the complexity of the methodology or analysis required to  
4543 review an application for a wireless communication facility, the Village council  
4544 will require a technical review by a third party expert, the costs of which shall  
4545 be borne by the applicant, which sum shall be in addition to site plan and  
4546 conditional use permit fees. Applicant shall submit a deposit as described in  
4547 Village of Volente Fee Ordinance towards the cost of such technical review, and  
4548 shall remit any outstanding balance to the Village for such review prior to  
4549 issuance of a building permit.

4550 ——(b)2. The expert review may address any or all of the following:

4551 1A. The accuracy and completeness of submissions;

4552 2B. The applicability of analysis techniques and methodologies;

4553 3C. The validity of conclusions reached;

4554 ——4D. Whether the proposed wireless communications facility  
4555 complies with the applicable approval criteria set forth in this code; and

4556 ——5E. Other matters deemed by the Village council to be relevant  
4557 to determining whether a proposed wireless communications facility  
4558 complies with the provisions of this code.

4559 ——(e)3. Based on the results of the expert review, the Village council may  
4560 require changes to the applicant's application or submittals.

4561 ——(d)4. The applicant shall reimburse the Village within fifteen (15)  
4562 working days of the date of receipt of an invoice for costs associated with the  
4563 third party expert's review of the application for fees exceeding the deposit.  
4564 Failure by the applicant to make reimbursement pursuant to this section shall  
4565 abate the pending application until paid in full.

4566 **36.110 —k. Abandonment.**

4567 ——(a)1. Towers and antenna shall be removed, at the owner's expense,  
4568 within one hundred eighty (180) days of cessation of use, unless the  
4569 abandonment is associated with a replacement antenna structure as provided  
4570 hereinabove, in which case the removal shall occur within ninety (90) days of  
4571 cessation of use.

4572 —(b)2. An owner wishing to extend the time for removal or reactivation  
4573 shall submit an application stating the reason for such extension. The Village  
4574 administrator may extend the time for removal or reactivation up to sixty (60)  
4575 additional days upon a showing of good cause. If the tower or antenna is not  
4576 removed in a timely fashion, the Village of Volente may give notice that it will  
4577 contract for removal within thirty (30) days following written notice to the  
4578 owner. Thereafter, the Village of Volente may cause removal at the expense of  
4579 the owner.

4580 —(e)3. Upon removal of the wireless telecommunication facility, the site  
4581 shall be returned to its natural state and topography and vegetated consistent  
4582 with the natural surroundings.

4583 **1.36.111 Application and Review Fees**

4584 —Application fees are due and payable by the applicant at the time of submission of  
4585 application materials as provided in Article 27 “ Fee Ordinance”.

4586  
4587 **m.36.112 Satellite Earth Stations.**

4588 —(a)1. Satellite earth stations that are greater than one (1) meter (39.37  
4589 inches) in diameter in residential districts and greater than two (2) meters in  
4590 diameter in all other zoning districts and which are greater than twenty (20) feet  
4591 above grade in residential and neighborhood service districts and thirty-five (35)  
4592 feet above grade in all other zoning districts shall be subject to receipt of a  
4593 conditional use permit; submittal requirements shall include those items  
4594 enumerated in subsection 104.g, together with the application fees in subsection  
4595 108 and 109 above. In addition, if the satellite earth station is to be attached to a  
4596 roof or building, a letter certifying the roofs and building's structural stability  
4597 shall be written and sealed by a licensed engineer, and shall be submitted to the  
4598 Village administrator, prior to any approval of a roof-mounted satellite earth  
4599 station. Roof-mounted satellite earth stations that comply with the provisions of  
4600 these regulations do not require additional yard setbacks or setbacks from  
4601 residential areas or dwellings.

4602 —(b)2. Satellite earth stations that are greater than one (1) meter (39.37  
4603 inches) in diameter in residential districts and greater than two (2) meters in  
4604 diameter in all other zoning districts and which are less than twenty (20) feet  
4605 above grade in residential and neighborhood service districts and thirty-five (35)  
4606 feet above grade in all other zoning districts shall be permitted so long as they  
4607 employ a stealth design, i.e. patio umbrella or faux boulder or are otherwise  
4608 surrounded by landscaping designed in accordance with Section 33.336 that  
4609 prevents the earth station from being seen on all four sides. No stealth designed  
4610 satellite earth station, whether fully enclosed within a building or otherwise,  
4611 shall have antennas, antenna arrays, transmission lines, equipment enclosures or  
4612 other ancillary equipment that is readily identifiable from the public domain as a  
4613 satellite earth station. Alternatively, a satellite earth station may be attached to a

4614 roof or building, provided that a letter certifying the roof's and building's  
4615 structural stability shall be written and sealed by a licensed engineer, and shall  
4616 be submitted to the Village administrator, prior to any approval of a roof-  
4617 mounted satellite earth station. Roof-mounted satellite earth stations that  
4618 comply with the provisions of these regulations do not require additional yard  
4619 setbacks or setbacks from residential areas or dwellings.

4620  
4621 **n.36.113 Amateur Wireless Facility.**

4622 An applicant proposing an amateur wireless facility in excess of forty (40) feet in  
4623 residential zoning districts or in excess of sixty-five (65) feet in all other zoning  
4624 districts shall be required to obtain a special permit.

4625 —(a)1. Application Requirements.

4626 ——1A. Site plan application in accordance with the site plan  
4627 requirements, Article 33.315 of the Site Development Ordinance of the  
4628 Village of Volente.

4629 ——2B. Applicant's copy of current, valid FCC license for amateur  
4630 radio operation.

4631 ——3C. Site plan sketch showing all proposed structures (e.g. support  
4632 structures, anchorage) and setbacks from such structures to property  
4633 boundaries.

4634 —(b)2.— Approval criteria for amateur wireless facility in excess of forty  
4635 (40) feet in residential zoning districts or in excess of sixty-five (65) feet  
4636 in all other zoning districts:

4637 ——1A. Said facility shall be accessory to a legal, principal use on site  
4638 (e.g. residence).

4639 ——2B. Structures, including towers, shall meet the setback  
4640 requirements for accessory uses for the zoning district in which the  
4641 proposed facility shall be located, but in all events shall be at least 110%  
4642 of the tower height.

4643 ——3C. Applicant shall commit in writing that the facility will be  
4644 erected in accordance with manufacturer's recommendations.

4645 ——4D. If more than two hundred twenty (220) voltage is present in the  
4646 ground grid or in the tower, a sign shall be attached to the tower and shall  
4647 display in large bold letters the following: "HIGH VOLTAGE--  
4648 DANGER."

4649 ——5E.: Applicant shall furnish evidence that the proposed facilities  
4650 meets or exceeds FCC Guidelines for radio frequency radiation exposure.

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**o.36.114 Dormant 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.

**p.36.115 AM/FM/TV/DTV Broadcasting Facilities.**

—(a)1. Approval Criteria.

—1A. 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.

—2B. 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.

—3C. 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.

—4D. 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.

—5E. 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

4689 —6F. Any facility shall be illuminated in accordance with FAA  
4690 requirements to provide aircraft obstruction lighting, where required. Any  
4691 lighting required by the FAA must be of the minimum intensity and  
4692 number of flashes per minute (i.e. the longest duration between flashes)  
4693 allowable by the FAA. No strobes or other lighting shall be permitted  
4694 unless required by the FAA.

4695 —7G. New antenna-supporting structures shall maintain a galvanized  
4696 gray finish or other accepted contextual or compatible color, except as  
4697 required by federal rules or regulations.

4698 —H8. The radio frequency emissions shall comply with FCC standards  
4699 for such emissions on an individual and cumulative basis with any  
4700 adjacent facilities. The applicant shall certify that any and all new services  
4701 shall cause no harmful interference to the existing Village of Volente  
4702 Public Safety Communications equipment. Any equipment which  
4703 produces noise shall be sited and/or insulated in such a fashion as to  
4704 minimize the audio impact on adjacent property, and shall not exceed sixty  
4705 (60) decibels (60 db) when measured from the nearest property line to  
4706 such equipment.

4707 —9I. Applicants shall provide for a fence or wall around the proposed  
4708 facility that meets the requirements of Article 33.337 of the Site  
4709 Development Ordinance. Alternative equivalent screening may be  
4710 approved through the site plan approval process in Article 33.315 of the  
4711 Site Development Ordinance. Any security lighting for on-ground  
4712 facilities and equipment shall be in compliance with Article 33.345 of the  
4713 Site Development Ordinance and shall minimize the potential attraction to  
4714 migratory birds.

4715 —10J. Landscaping and buffering shall be required around the  
4716 perimeter of development areas, as required by Article 33.336 of the Site  
4717 Development Ordinance except that the Village Council may waive the  
4718 required landscaping otherwise required under Article 33.336 of the Site  
4719 Development Code on one or more sides of the development areas or  
4720 allow the placement of required landscaping elsewhere on the  
4721 development area when the required landscape area is located adjacent to  
4722 undevelopable lands or lands not in public view.. Landscaping shall be  
4723 installed on the outside of the perimeter fence or wall. Existing vegetation  
4724 shall be preserved to the maximum extent practicable and may be used as  
4725 a substitute for or in supplement towards meeting the landscaping  
4726 requirements, subject to approval by the Village council. Where not  
4727 inconsistent with Article 33.336, landscaping shall be placed in a manner  
4728 so as to maximize the screening between residential areas and the wireless  
4729 telecommunications facility and minimize the view of the facility from  
4730 any residential areas and public roads and rights-of-way.

4731 —11K. The only signage that is permitted upon an antenna-supporting  
4732 structure, equipment enclosures, or fence (if applicable) shall be  
4733 informational, and for the purpose of identifying the antenna-supporting  
4734 structure, (such as ASR registration number) as well as the party  
4735 responsible for the operation and maintenance of the facility, its current  
4736 address and telephone number, security or safety signs, and property  
4737 manager signs (if applicable). If more than two hundred twenty (220)  
4738 voltage is necessary for the operation of the facility and is present in a  
4739 ground grid or in the tower, signs located every twenty (20) feet and  
4740 attached to the fence or wall shall display in large, bold, high contrast  
4741 letters (minimum height of each letter: four (4) inches) the following:  
4742 "HIGH VOLTAGE - DANGER."

4743 12L. Adverse Effects on Adjacent Properties.

4744 —a. New antenna-supporting structures shall be configured and located  
4745 in a manner that shall minimize adverse effects including visual impacts  
4746 on adjacent properties. The applicant shall demonstrate that alternative  
4747 locations, configurations, and facility types have been examined and shall  
4748 address in narrative and graphic form the feasibility of any alternatives  
4749 that may have fewer adverse effects on adjacent properties than the  
4750 facility, configuration, and location proposed.

4751 —b. The following attributes shall be considered from vantage points  
4752 at adjacent properties, roadways and occupied structures:

4753 1. Height and location; and

4754 2. Mass and scale; and

4755 3. Materials and color; and

4756 4. Illumination; and

4757 5. Existing and proposed vegetation and intervening structures.

4758 6. Overall aesthetics of the proposed structure.

4759 —An applicant shall demonstrate through the photo-simulation requirements  
4760 under subsection 36.114.c.10 herein below that the project design employs each  
4761 of these attributes in a manner that minimizes adverse effects to the greatest  
4762 extent feasible.

4763 —(b)2. — Submittal requirements for AM/FM/TV/DTV antenna-supporting  
4764 structure applications shall include:

4765 1A. A completed application form and any appropriate fees; and

4766 2B. Ten (10) sets ( 24" x 36") of signed and sealed site plans,  
4767 including tower elevations, and landscape plans if required, preliminary

4768 grading plans may be included on site plans or separately submitted in  
4769 equal quantities; and

4770 —C3. A property card for the subject property from Travis County Tax  
4771 Assessor's Office or a tax bill showing the ownership of the subject parcel;  
4772 and

4773 —D4. A form indicating that a property and/or antenna-supporting  
4774 structure's owner's agent has authorization to act upon their behalf (if  
4775 applicable); and

4776 —E5. A signed statement from the antenna-supporting structure's  
4777 owner or owner's agent and the applicant stating that the radio frequency  
4778 emissions comply with FCC standards for such emissions certifying that  
4779 both individually and cumulatively with any other facilities located on or  
4780 immediately adjacent to the proposed facility; and

4781 —6F. Proof of FCC authority to transmit and/or receive radio signals in  
4782 the Village of Volente, and Proof of FAA authority to construct facility at  
4783 specified height; and

4784 —G7. Prior to issuance of a building permit, a stamped or sealed  
4785 structural analysis of the proposed antenna-supporting structure prepared  
4786 by a licensed Texas engineer indicating the proposed and future loading  
4787 capacity of the antenna-supporting structure; and

4788 —H8. One (1) original and two (2) copies of a survey of the property  
4789 completed by a licensed Texas engineer or surveyor which shows all  
4790 existing uses, structures, and improvements; and

4791 —9I. A landscape plan in accordance with the provisions  
4792 of Article 33.336 of the Site Development Ordinance; and

4793 —10J. Photo-simulated post construction renderings of the proposed  
4794 antenna-supporting structure, equipment enclosures, and ancillary  
4795 structures as they would look after construction from locations to be  
4796 determined during the pre-application conference (but shall, at a minimum  
4797 include renderings from the vantage point of any adjacent roadways and  
4798 occupied or proposed non-residential or residential structures), as well as  
4799 photo-simulations of the antenna-supporting structure after it has been  
4800 fully developed with antenna structures (applicant may assume for the  
4801 purpose of the simulation that other antenna structures on the facility will  
4802 resemble their proposed structure in size and design), proposed exterior  
4803 paint and stain samples for any items to be painted or stained, exterior  
4804 building material and roof samples (all mounted on color board no larger  
4805 than 11" by 17" indicating light reflectance values (LRV); and

4806 —11K. A signed statement from the antenna-supporting structure owner  
4807 agreeing to allow the colocation of other wireless telecommunications

4808 and/or broadcasting equipment on the proposed antenna-supporting  
4809 structure; and

4810 —12L. If required by the United States Fish and Wildlife Service, a  
4811 letter indicating that the proposed antenna-supporting structure and  
4812 appurtenances are in compliance with all applicable federal rules and  
4813 regulations; and

4814 —13M. All other documentation, evidence, or materials necessary to  
4815 demonstrate compliance with the applicable approval criteria set forth in  
4816 this chapter, including where applicable:

4817 ——Aa. prior to issuance of a building permit, a statement by a  
4818 licensed professional engineer specifying the design structural  
4819 failure modes of the proposed facility; and

4820 ——Bb. antenna heights and power levels of the proposed  
4821 facility and all other facilities on the subject property.

4822 ——Cc. a statement from the applicant that demonstrates that  
4823 alternative locations, configurations, and facility types have been  
4824 examined; and addresses in narrative form the feasibility of any  
4825 alternatives that may have fewer adverse effects on adjacent  
4826 properties than the facility, configuration, and location proposed  
4827 including but not limited to:

4828 i. Height; and

4829 ii. Mass and scale; and

4830 iii. Materials and color; and

4831 iv. Illumination;

4832 v. Overall aesthetics; and

4833 vi. Information addressing the following items:

4834 —a1. the extent of any existing or proposed  
4835 commercial development within the geographic  
4836 search area of the proposed facility;

4837 —b2. the proximity of the structure to any  
4838 existing or proposed residential dwellings;

4839 —c3. the proximity of the structure to any  
4840 existing or proposed public buildings or facilities;

4841 —d4. the existence or proposal of tall and like  
4842 structures within the geographic search area of the  
4843 proposed structure;

4844 —14N. Title Report or A.L.T.A. Survey showing all easements on the  
4845 subject property, together with a full legal description of the property.

4846 —15O. A vicinity map delineating the location and classification of all  
4847 major public or private streets and rights-of-way, driveways, public  
4848 parking areas, pedestrian ways, trails and bikeways within 600 feet of  
4849 property boundary, including zoning district boundaries, on a 11” x 17”  
4850 sheet, together with a list of property owners within 1,000 feet of the  
4851 subject property and keyed to the map. The list must be from the most  
4852 current ownership information supplied by the Travis County Tax  
4853 Assessor's Office, together with two (2) sets of mailing labels for such  
4854 property owners. Applicant will also provide a notarized certification letter  
4855 stating the ownership list referenced herein is as accurate as possible.

4856 —16P. Any other information required by the Village administrator,  
4857 together with an application fee in the amounts set forth in Article 27 “Fee  
4858 Ordinance”.

4859 —17Q. No application will be considered "filed" until it is deemed  
4860 administratively complete by the Village.

4861 **q.36.116—Interference With Public Safety Communications.**

4862 In order to ensure that the Village's public safety communications equipment will  
4863 be free from objectionable technical interference, all applicants requesting a  
4864 permit for a wireless communications facility or an AM/FM/TV/DTV facility  
4865 under this section shall agree, in addition to any other requirements herein:

4866 (a)1. To demonstrate compliance with good engineering practices;

4867 —(b)2. To provide the Village a copy of all intermodulation studies  
4868 submitted to the FCC;

4869 —(c)3. Not to induce objectionable technical interference to the  
4870 Village's public safety communication equipment;

4871 —(d)4. To comply with FCC regulations regarding susceptibility to  
4872 radio frequency interference, frequency coordination requirements,  
4873 general technical standards for power, antenna, bandwidth limitations,  
4874 frequency stability, transmitter measurements, operating requirements, and  
4875 any and all other federal statutory and regulatory requirements relating to  
4876 radio frequency interference (RFI);

4877 —(e)5. In the case of collocation of telecommunications facilities  
4878 either in the same location or on the same tower as the Village's, to not  
4879 cause or permit to be caused by its transmissions or other activities on the  
4880 premises, objectionable technical interference of any kind whatsoever to  
4881 the broadcasting transmissions, reception, or electromagnetic  
4882 communications of the Village; and

4883 —(f)6. To pay for any studies requested by the Village administrator to  
4884 determine if the applicant's telecommunications facilities are causing  
4885 objectionable technical interference; and

4886 7—(g). Upon notification by the Village administrator, if the operations  
4887 of the applicant are causing objectionable technical interference, to  
4888 immediately undertake all steps necessary to determine the cause of and  
4889 eliminate such interference at the cost of the applicant. If said interference  
4890 continues for a period in excess of 48 hours after notice from the Village  
4891 administrator, the Village shall have the right to cause the applicant to  
4892 cease operating the equipment that is causing the objectionable technical  
4893 interference or to reduce the power sufficiently to ameliorate the  
4894 objectionable technical interference until the condition causing said  
4895 interference has abated.

4896  
4897 **r. Sec. 35.117— Civil and Criminal Penalties**

4898  
4899  
4900  
4901 —The Village shall have the power to administer and enforce the provisions of this  
4902 Ordinance as may be authorized by Texas statutory law. Any person violating  
4903 any provision of this Ordinance is subject to suit for injunctive relief as well as  
4904 prosecution for criminal violations.

4905  
4906 **Sees. 35.118 Criminal Prosecution**

4907  
4908  
4909 Any person violating any provision of this Ordinance shall, upon conviction, be  
4910 fined a sum not exceeding five hundred dollars (\$500). Each day that a provision  
4911 of this Ordinance is violated shall constitute a separate offense. An offense under  
4912 this Ordinance is a misdemeanor.

4913  
4914 **t. Sec. 36.119 Civil Remedies**

4915  
4916 Nothing in this Ordinance shall be construed as a waiver of the Village's right to  
4917 bring a civil action to enforce the provisions of this Ordinance and to seek  
4918 remedies as allowed by law, including, but not limited to the following:

4919  
4920 (1) injunctive relief to prevent specific conduct that violates the  
4921 Ordinance or to require specific conduct that is necessary for compliance  
4922 with the Ordinance, including removal of Wireless Communication  
4923 Facilities that violate this Ordinance at the expense of the facilities'  
4924 owner; and  
4925

4926 (2)2. -a civil penalty up to one hundred dollars (\$100) a day when it is  
4927 shown that the defendant was actually notified of the provisions of the  
4928 Ordinance and after receiving notice committed acts in violation of the  
4929 Ordinance or failed to take action necessary for compliance with the  
4930 Ordinance; and

4931  
4932 (3)3. -other available relief.  
4933

4934 u. Public

Sec. 36.120 Public Nuisance Nuisance

4935  
4936 Any violation of this Ordinance is hereby declared to be a nuisance. A Wireless  
4937 Communication

4938  
4939 Facility that is erected, constructed, relocated, expanded or structurally altered in  
4940 violation of this Ordinance, and which is not in conformance with this ordinance,  
4941 is hereby declared to be a public nuisance.  
4942

4943 v. Removal

Sec. 36.121 Removal

4944  
4945 Any Wireless Communication Facility violating this Ordinance must be removed  
4946 or brought into compliance within thirty (30) days of receipt of written notice  
4947 from the Village. If the person responsible for the facility fails to remove or alter  
4948 the structure so as to comply with the standards set forth in this ordinance within  
4949 thirty (30) days after such notice, the Village may undertake such removal or  
4950 alteration as is necessary to bring the structure into compliance and assess the  
4951 costs to the person responsible for the facility. The Village may cause any  
4952 Wireless Communication Facility which presents an immediate peril to persons or  
4953 property to be removed or altered immediately and without notice, and without  
4954 compensation to the facility's owner.  
4955

4956 (9) Cemeteries (except cemeteries are permitted use in zoning district  
4957 "OS").  
4958

4959  
4960 (10) (10) Schools - Public and Denominational.  
4961

4962 (11) (11) Alcoholic beverages-on premises and alcoholic  
4963 beverages-mixed drink for those specific uses and in the specific zoning  
4964 districts as provided by this article, including a bar, nightclub, tavern and  
4965 private club.  
4966

4967 (11)12. Including other uses as identified in the specific district or  
4968 definition of the use.  
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4970 (12)13. Bed and Breakfasts in residential zones.

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~~(13)~~14. Commercial in OS zone.

~~(14)~~15. Marinas.

16. Parking Lots.

17. Short Term Rentals: Short Term Rental is the rental of a residence for less than thirty (30) days. Where permitted in a district, a property owner who desires to rent his or her partial and/or entire residential structure for a period of less than thirty (30) days, whether leased directly or subleased through another party, shall comply with the following special criteria and conditions: \*\*\*\*\*Amended 01/20/2015 Ordinance 2015-O-02, \*\*\*\*\*Amended 10/21/2014 Ordinance 2014-O-11

a. All structures used for Short Term Rentals shall comply with all applicable regulations and ordinances of the Village of Volente;

b. All structures used for Short Term Rentals shall comply with LCRA and OSSF septic tank regulations and have the septic tank capacity to adequately dispose of the volumes of wastewater generated from the short term rental of the structure;

c. The Application for a Short Term Rental Conditional Use Permit shall include the following:

1. A written verification from the owner of the real property verifying the property will be used for Short Term Rentals;

2. A sworn affidavit by the owner of the property to be used for Short Term Rentals that that the applicant has sent written notification by regular first class mail via the United States Postal Service or email to all owners of real property within five hundred (500) feet of the property to be used for Short Term Rentals that the owner has applied for a permit for Short Term Rental use. Written notification shall include:

a. The name of the authorized agent and owner of the unit, and telephone numbers at which those parties may be reached on a twenty-four (24) hour basis;

b. The enforcement telephone number at which

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members of the public may report violations of the vacation rental program regulations or conditions of approval attached to a specific vacation rental permit;

c. The maximum number of occupants permitted to stay in the rental unit.

3. The maximum number of persons permitted at the Short Term Rental to stay overnight are two persons, over the age of 16, per bedroom with a maximum of three additional overnight guests.

4. The maximum number of persons permitted at the Short Term Rental in addition to the number of occupants for overnight occupancy shall not exceed ten (10) persons or the maximum number of persons permitted at the Short Term Rental under the provisions of the Uniform Fire Code.

5. The permit fee is one hundred and fifty dollars (\$150.00) for the original application with a fifty dollar (\$50.00) fee for each annual renewal permit application.

6. Once the Village Administrator determines that the application is administratively complete, he/she is authorized to issue the Owner of a Short Term Rental a permit for an initial period of one year. If the Village Administrator determines that the application is not administratively complete and the Applicant disagrees, the Planning and Zoning Commission shall determine whether the application is administratively complete.

7. If the Village Administrator refuses to issue the Owner a permit, the Owner can appeal the Village Administrator's decision to the Village Council.

d. Parking by renters or their guests shall be limited to one-side of the right-of-way directly contiguous to the Short Term Rental (provided the pavement is a minimum of twenty (20) feet from the side of the vehicle to the other side of the roadway), to the garage and to the driveway on the Short Term rental property. The parking shall not prevent or obstruct ingress and egress to the neighboring properties or to emergency and/or fire vehicles;

e. There shall be no signage or advertisement of the Short Term Rental Use displayed on the premises of the Short Term Rental property that is visible from the exterior of the

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house.

- f.  Holders of a Short Term Rental Use permit shall comply with and ensure that their tenants comply with all applicable City Ordinances and state laws regulating litter, waste disposal, noise, nuisance, and other regulations for the protection of the health, safety, and welfare of the public.
  
- g.  The address of a Short Term Rental, the phone numbers of the Owner, Agent, Fire Department and Village Office shall be prominently displayed on the inside of the front door of the Short Term Rental Unit.
  
- h.  Tenants of a property used for Short Term Rental Use shall not create a nuisance by way of noise, damage, odors, inconsiderate or offensive behavior, late night parties, illegal drug or alcohol use, public exposure, disturbance of the peace, disorderly conduct, or any other conduct that may constitute a private or public nuisance. Nuisance is defined as an activity that disturbs neighboring persons of ordinary sensibilities or that unreasonably interferes with the normal use and enjoyment of properties beyond the boundaries of the Short Term Rental property.
  
- i.  Permits authorizing the use of single family residential properties as Short Term Rental will be for a term of one year with an annual renewal unless the Owner of the Short Term Rental shall have been convicted of three or more violations of this ordinance by proceedings in the Village’s Municipal Court or in the Travis County Courts at Law or District Courts.
  
- j.  Any current permit will automatically terminate upon the third conviction of a violation of the provisions of this Ordinance by proceedings in either the Village of Volente Municipal Court or in the Travis County Courts at Law or District Courts. The Owner cannot apply for a new permit under this Ordinance for a period of one year following termination of a permit for three violations of the provisions of this Ordinance.
  
- k.  A permit under this Ordinance and/or Ordinance 2014-O-11 is not transferable upon sale of the Short Term Rental Property.

(15) —

(d) Procedure. Before authorization of any conditional use, public notice shall be

5112 given and public hearings shall be held as provided in *Chap. 211, Tex. Loc.*  
5113 *Gov't. Code*; provided that a conditional use permit for a period not to exceed  
5114 seven (7) calendar days may be given for a use set forth in subsection (c)(3) or  
5115 (c)(4) above after a public hearing is held by the council after having received a  
5116 report and recommendation from the Planning and Zoning commission  
5117 concerning the effect of the proposed use on the adjacent and neighboring  
5118 properties and neighborhoods.

5119  
5120 (1) Permit Required: No conditional use shall be established, operated or  
5121 maintained except as authorized by a conditional use permit issued in  
5122 accordance with the requirements of this section.

5123  
5124 (2) Application for Conditional Use Permit:

5125  
5126 (A) — (A) Application Requirements: An application for a conditional  
5127 use permit may be submitted by the property owner or by the  
5128 property owner's designated representative to the Village. The  
5129 application shall be accompanied by a concept plan prepared in  
5130 accordance with the requirements of the Village's site development  
5131 ordinance Section 33.315. If a zoning amendment is required or  
5132 requested in writing, such application shall accompany the  
5133 application for a conditional use permit.

5134  
5135  
5136 (B) Subdivision Approval: If the proposed conditional use requires a  
5137 division of land, an application for subdivision approval shall be  
5138 submitted in conjunction with the application for a conditional use  
5139 permit. Approval of the conditional use permit shall not become  
5140 effective until final approval of the subdivision application; provided,  
5141 that if the land is to be divided in phases, the approval of the  
5142 conditional use permit shall take effect upon final approval of the  
5143 phase of the subdivision containing the property on which the  
5144 conditional use is to be located.

5145  
5146 (3) Procedures for Conditional Use Permit:

5147  
5148 (A) — (A) Commission Recommendations: Upon receipt of the  
5149 recommendation from the Village Council, the Planning and Zoning  
5150 eCommission shall conduct a public hearing in order to formulate its  
5151 recommendations to the eCouncil on the conditional use permit  
5152 application except for Section (c) Item 17 Short Term Rental.  
5153 Following the Public -hearing, the Planning and Zoning eCommission  
5154 shall recommend approval, approval subject to modification, or denial  
5155 of the proposal to the Village Ceouncil. If the appropriateness of the

use cannot be assured at the location, the Planning and Zoning eCommission shall recommended denial of the application as being incompatible with existing uses or with other uses permitted by right in the zoning district. Amended 01/20/2015 Ordinance 2015-O-02

(B) Council Action: The Village eCouncil shall be the final decision-maker on applications for conditional use permits. Following a public hearing and in consideration of the commission’s recommendations, the council shall approve, modify or deny the proposal for a conditional use permit. If the appropriateness of the use cannot be assured at the location, the application for conditional use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the zoning district.

(4) Standards:

(A) Factors for Consideration: When considering applications for a conditional use permit, the Planning and Zoning eCommission in making its recommendation and the Village eCouncil in rendering its decision on the application shall, on the basis of the concept plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning and Zoning eCommission and the Village eCouncil shall specifically consider the extent to which:

- (i) The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan;
- (ii) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (iii) The proposed use meets all supplemental standards specifically applicable to the use as established in the applicable Village code of ordinances;
- (iv) The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:
  - a. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular

5201 and pedestrian safety and convenience, and access in  
5202 case of fire;  
5203  
5204 b. Off-street parking areas, loading areas, and pavement  
5205 type;  
5206  
5207 c. Refuse and service areas;  
5208  
5209 ~~\_\_\_\_\_~~ d. Utilities with reference to location, availability, and  
5210 compatibility;  
5211  
5212 e. Screening and buffering, features to minimize visual  
5213 impacts, and/or set-backs from adjacent uses;  
5214  
5215 f. Control of signs, if any, and proposed exterior lighting with  
5216 reference to glare, traffic safety, economic effect, and  
5217 compatibility and harmony with properties in the district;  
5218  
5219 g. Required yards and open space;  
5220  
5221 h. Height and bulk of structures;  
5222  
5223 i. Hours of operation;  
5224  
5225 j. Exterior construction material, building design, and building  
5226 façade treatment;  
5227  
5228 k. Roadway adjustments, traffic control devices or  
5229 mechanisms, and access restrictions to control traffic flow  
5230 or divert traffic as may be needed to reduce or eliminate  
5231 development-generated traffic on neighborhood streets;  
5232  
5233 l. Provision for pedestrian access, amenities and areas; and  
5234  
5235 (v) The proposed use is not materially detrimental to the public  
5236 health, safety, convenience and welfare, or results in material  
5237 damage or prejudice to other property in the vicinity.  
5238  
5239 (vi) The proposed use does not adversely impact natural resources,  
5240 water quality or wildlife habitat.  
5241

5242 (B) ———(B) Conditions: In approving the conditional use permit  
5243 application, the Planning and Zoning eCommission and/or the Village  
5244 Administration may recommend and the Village eCouncil shall  
5245 impose such conditions as are reasonably necessary to assure  
5246 compliance with these standards and the purpose and intent of this  
5247 article. Any conditions imposed shall be set forth in the ordinance  
5248 approving the conditional use, and shall be incorporated into or noted  
5249 on the concept site plan for final approval. The Village shall verify  
5250 that the site-concept plan incorporates all conditions set forth in the  
5251 ordinance authorizing the conditional use. The Village shall maintain  
5252 a record of such approved conditional uses and the site-concept  
5253 plans and conditions attached thereto.  
5254  
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5256  
5257 (C) Prohibition on Waivers and Variances: The foregoing standards of  
5258 development shall not be subject to variances that otherwise could  
5259 be granted by the board of adjustment, nor may conditions imposed  
5260 by the council subsequently be waived or varied by the board of  
5261 adjustment. In conformity with the authority of the council to  
5262 authorize conditional uses, the council may waive or modify specific  
5263 standards otherwise made applicable to the use by this article, to  
5264 secure the general objectives of this article; provided, however, that  
5265 the council shall not waive or modify any approval factor set forth in  
5266 subsection (4)(A) above.

5267  
5268 (5) Expiration and Extension: Termination of approval of a conditional use for  
5269 failure to commence development and extension of the time for  
5270 performance for a conditional use permit shall be governed by the  
5271 Village's site development ordinance.  
5272

5273 (6) Amendment: No proposed or existing building, premise or land use  
5274 authorized as a conditional use may be established, enlarged, modified,  
5275 structurally altered, or otherwise changed from that approved in the  
5276 conditional use permit, unless such amendment is authorized in  
5277 accordance with the standards and procedures set forth in this section,  
5278 and the conditional use permit and approved site plan are amended  
5279 accordingly.

5280  
5281 (7) Other Regulations: The board of adjustment shall not have jurisdiction to  
5282 hear, review, reverse, or modify any decision, determination, or ruling with  
5283 respect to the specific land use designated by any conditional use permit.  
5284

5285 **Sec. 30.134 Changes and Amendments to Zoning Ordinances and Districts, and**  
5286 **Administrative Procedures;**

5287

5288 (a) Declaration of Policy and Review Criteria:

5289 (1) The Village declares the enactment of this article governing the use and  
5290 development of land, buildings, and structures as a measure necessary to  
5291 the orderly development of the community. Therefore, no change shall be  
5292 made in this article or in the boundaries of the zoning districts except:

5293 (A) To correct any error in the regulations or map;

5294 (B) To recognize changed or changing conditions or circumstances in a  
5295 particular locality;

5296 (C) To recognize changes in technology, the style of living, or manner of  
5297 conducting business;

5298 (D) To change the property to uses in accordance with the approved  
5299 comprehensive plan; or

5300 (E) To make changes in order to implement policies within the  
5301 comprehensive plan.

5302 (2) In making a determination regarding a written requested zoning change,  
5303 the commission and the council shall consider the following factors:

5304 (A) Whether the uses permitted by the proposed change will be  
5305 appropriate in the immediate area concerned and their relationship to  
5306 the general area and the Village as a whole;

5307 (B) Whether the proposed change is in accord with any existing or  
5308 proposed plans for providing public schools, streets, water supply,  
5309 sanitary sewers, and other utilities to the area;

5310 (C) The amount of vacant land currently classified for similar  
5311 development in the vicinity and elsewhere in the Village, and any  
5312 special circumstances which may make a substantial part of such  
5313 vacant land unavailable for development;

5314 (D) The recent rate at which land is being developed in the same zoning  
5315 classification as the written request, particularly in the vicinity of the  
5316 proposed change;

5317 (E) How other areas designated for similar development will be, or are  
5318 unlikely to be, affected if the proposed amendment is approved; and

5319 (F) Any other factors which will substantially affect the public health,  
5320 safety, morals, or general welfare.

5321 (b) Authority to Amend Ordinance:

§322 (1) The council may from time to time, after receiving a final report and  
5323 recommendation thereon by the commission and after public hearings  
5324 required by law, amend, supplement, or change this article or the  
5325 boundaries of the zoning districts specified on the zoning district map.  
5326 Any article amendment or zoning district boundary amendment may be  
5327 requested by the council, the commission, or, in writing by the owner of  
5328 real property, or the authorized representative of an owner of real  
5329 property. Upon such request, the item(s) shall be posted on the next  
5330 commission agenda after proper application and notification has been  
5331 made.

§332 (2) Consideration for a change in any zoning district boundary line or special  
5333 zoning regulation may be initiated only by the property owner or his or her  
5334 authorized agent or by the commission or by the council on its own motion  
5335 when it finds that public benefit will be derived from consideration of such  
5336 matter. Proof of authorization by the property owner must be submitted  
5337 with the zoning application. In the event the ownership stated on an  
5338 application and that shown in Village records are different, the applicant  
5339 shall submit proof of ownership or verification that he or she is acting as  
5340 an authorized agent for the property owner.

§341 (3) No person who owes delinquent taxes, fees, delinquent paving  
5342 assessments, impact fees, or any other delinquent debts or obligations to  
5343 the Village or county or to a state, or federal entity and which are directly  
5344 attributable to a piece of property requested for zoning shall be allowed to  
5345 submit a zoning request or amendment until the taxes, assessments,  
5346 debts, or obligations directly attributable to said property and owed by the  
5347 owner or previous owner thereof shall have been first fully discharged by  
5348 payment, or until an arrangement in form satisfactory to the Village has  
5349 been made for the payment of such debts or obligations. It shall be the  
5350 applicant's responsibility to provide evidence or proof that the taxes have  
5351 been paid.

§352 (c) Application: Applications for zoning or for change to the existing provisions of  
5353 this article shall conform to Section 30.135 of the zoning regulations and any  
5354 other applicable provisions in the Village's Code of Ordinances.

5355 **Sec. 30.135 Nonconforming Uses and Structures:**

5356 (a) Intent of Provisions:

§357 (1) Within the districts established by this article or amendments thereto,  
5358 there may exist lots, tracts, structures, uses of land and structures, and  
5359 characteristics of use which were lawfully in existence and operating  
5360 before this article was enacted, amended or otherwise made applicable to  
5361 such lots, tracts, structures or uses, but which do not now conform to the  
5362 zoning regulations of the district in which they are located. It is the intent

5363 of this article to permit such nonconforming uses to continue, as long as  
5364 the conditions within this section and other applicable sections of this  
5365 article are met.

5366 (2) It is further the intent of this article that nonconforming uses shall not be  
5367 enlarged upon, expanded or extended, and shall not be used as a basis  
5368 for adding other structures or uses prohibited elsewhere in the same  
5369 zoning district.

5370 (3) Nonconforming uses are hereby declared to be incompatible with the  
5371 permitted uses in the zoning districts involved.

5372 (4) A nonconforming use shall terminate upon any sale or conveyance of the  
5373 property.

5374 (b) Nonconforming Status:

5375 (1) Any use, platted lot, tract, or structure which does not conform with the  
5376 regulations of this article on the effective date hereof or any amendment  
5377 hereto, except as expressly provided in subsection (3) below, shall be  
5378 deemed a lawful, non-conforming use, lot, tract or structure provided that:

5379 (A) Such use, platted lot, tract, or structure was lawful and was in  
5380 existence and was a conforming use, lot, tract structure under the  
5381 provisions of the City of Austin, Texas, Travis County, Texas and  
5382 Lower Colorado River Authority applicable ordinances in effect  
5383 immediately prior to the incorporation of the Village; or

5384 (B) Such use, platted lot, tract, or structure was lawful and was in  
5385 existence and was a non-conforming use, lot, tract or structure under  
5386 the provisions of the City of Austin, Texas, Travis County, Texas and  
5387 Lower Colorado River Authority applicable ordinances in effect  
5388 immediately prior to the incorporation of the Village;

5389 (C) Such use, platted lot, tract or structure was in existence at the time of  
5390 incorporation of the Village, was a legal use of the land at such time,  
5391 and has been in regular and continuous use since such time.

5392 (2) Any other use, platted lot, tract or structure which does not conform with  
5393 the regulations of the zoning district in which it is located on the effective  
5394 date of this article or any amendment thereto, and except as provided in  
5395 subsection (3) below, shall be deemed to be in violation of this article, and  
5396 the Village shall be entitled to enforce fully the terms of this article with  
5397 respect to such use, platted lot, tract, or structure.

5398 (3) The following types of platted lots or tracts shall be deemed in  
5399 conformance with the provisions of this article, notwithstanding the fact  
5400 that such lot or tract does not meet the standards of this article in the  
5401 zoning district in which it is located:

- §402 (A) Any vacant lot or tract that conformed to the City of Austin, Texas,  
 §403 Travis County, Texas or Lower Colorado River Authority applicable  
 §404 ordinances at the time that it was platted; or  
 §405 (B) Any lot occupied by a single-family dwelling use, on the effective date  
 §406 of this article, authorized under this article's zoning district regulations  
 §407 in which the lot is located.  
 §408 (4) A lot of record that is nonconforming may be occupied by a single-family  
 §409 dwelling.  
 §410 (c) Continuing Lawful Non-conforming Use of Land and Structures:  
 §411 (1) A nonconforming use or structure may continue to be used, operated or  
 §412 occupied in accordance with the terms of the City of Austin, Texas, Travis  
 §413 County, Texas or Lower Colorado River Authority regulations by which it  
 §414 was established.  
 §415 (2) A nonconforming structure occupied by a nonconforming use may be re-  
 §416 occupied by a conforming use, following abandonment of the  
 §417 nonconforming use.  
 §418 (d) Abandonment of Nonconforming Uses:  
 §419 (1) If a nonconforming use is abandoned, any future use of the premises shall  
 §420 be in conformity with the provisions of this article, as amended, prior to the  
 §421 time the use was abandoned.  
 §422 (2) A nonconforming use shall be deemed abandoned in the following  
 §423 circumstances:  
 §424 (A) The use ceases to operate for a continuous period of ninety (90)  
 §425 days; or  
 §426 (B) Where the use occupies a structure, the structure remains vacant for  
 §427 a continuous period of ninety (90) days; or  
 §428 (C) In the case of a temporary use, the use is moved from the premises.  
 §429 (e) Changing Nonconforming Uses:  
 §430 (1) A nonconforming use shall not be changed to another nonconforming use.  
 §431 (2) A nonconforming use may be changed to a conforming use; provided that,  
 §432 once such change is made, the use shall not be changed back to a  
 §433 nonconforming use.  
 §434 (3) A conforming use located in a non-conforming structure may be changed  
 §435 to another conforming use.  
 §436 (f) Expansion of Nonconforming Uses and Structures:

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- (1) A nonconforming use may be extended within the footprint of an existing structure provided that:
    - (A) The building was approved for expansion of such non-conforming use prior to the adoption or amendment of this article; and
    - (B) No alteration shall be made to the structure occupied by the nonconforming use, except those required by law to preserve the integrity of the structure; and
    - (C) The number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.
  - (2) A non-conforming use occupying a structure shall not be extended to occupy land outside the structure.
  - (3) A nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use became nonconforming, except to provide additional off-street parking or loading areas required by this article and by the applicable Village code of ordinances.
  - (g) Restoration of Nonconforming Structure:
    - (1) If more than sixty percent (60%) of the total appraised value of a nonconforming structure, as determined from the records of the Travis Central Appraisal District, has been destroyed, it may be rebuilt only in conformity with the standards of this article.
    - (2) If less than sixty percent (60%) of the total appraised value of a nonconforming structure is destroyed, it may be reconstructed to its original dimensions.
    - (3) If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use, the nonconforming use may be re-established subject to the limitations on expansion set forth in subsection (f) above.
    - (4) All restoration of non-conforming structures shall comply with the Village's construction codes.
  - (h) Right to Proceed Preserved: Nothing contained in this section is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to Texas Local Government Code, Section 43.002, or Sections 245.001 through 245.006.

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**DIVISION 5: ADMINISTRATION**

**SECTION 30.136 (A) PLANNING AND ZONING COMMISSION**

\*Amended Ordinance 2004-O-25

\*\*Amended Ordinance 2014-O-12

**a. Purpose.**

- 1. Planning and Zoning Commission is created to accomplish the following purposes:
- 2. To identify community needs and advise the Council of their short-range and long-range implications for the total development of the Village;
- 3. To recommend achievable community goals as a basis for long-range planning and development programs;
- 4. To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals;
- 5. To recommend to the Village Council the adoption, amendment and repeal of various provisions in the Village Master or Comprehensive Plan;
- 6. To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies;
- 7. To recommend to the Village Council the adoption, modification and repeal of provisions in the Village’s zoning ordinances;
- 8. To recommend to the Village Council the initial and changes to the zoning of the various parcels of land in the Village;
- 9. To recommend to the Village Council the adoption, modification and repeal of provisions in the Village’s subdivision ordinances;
- 10. To recommend to the Village Council the approval, approval with modification or rejection of various applications for subdivision and re-subdivision of land within the Village.
- 11. To recommend to the Village Council the provisions for such other ordinances as from time to time may be requested by the Village Council.

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12. To consider and make recommendations to the Village Council for a variance from the Site Development, Water Quality, and/or Subdivision requirements. A variance is defined as permission to depart from the specific provisions in the Site Development, Water Quality and/or Subdivision Ordinances by virtue of a unique hardship on a person's property. If a variance is recommend by the Planning and Zoning Commission, it acts as a recommendation to the Village Council to allow a variance from specific provisions in the Site Development, Water Quality, and Subdivision Ordinances, and may provide for alternative regulatory provisions to alleviate the unique hardship which would occur from compliance with the provisions of the applicable ordinance. The recommendation for granting a variance does not amend the Site Development, Water Quality and Subdivision ordinances, but it is a recommendation to the Village Council to grant a specific property where there are special circumstances and/or hardships justifying deviations from the standard provisions of the Site Development, Water Quality and Subdivision Ordinances. **\*\*Amended Ordinance 2014-O-12**

13. To consider and make recommendations to the Village Council, upon a request for a special exception from the Site Development, Water Quality and/or Subdivision requirements. A special exception may only be recommended to the Village Council for those regulations identified by the Village Council to be subject to special exceptions, and only upon a showing of the parameters established by the Village Council for granting the special exception. **\*\*Amended Ordinance 2014-O-12**

14. To consider and make recommendations to the Village Council upon an appeal of the determination or order of an administrative official on an issue that affects the Site Development, Water Quality and/or Subdivision rights of a person. Upon the filing of an appeal, all proceedings in the furtherance of the action being appealed are stayed. If facts show that the stay would cause imminent peril to life or property, the action may be stayed only if a restraining order is granted by a district court. **\*\*Amended Ordinance 2014-O-12**

15. To consider and make recommendations to the Village Council regarding non-conforming uses, including establishing an amortization period for the termination of those uses. In establishing amortization periods for a non-conforming use, the Commission may consider the amount the owner has invested in the property, the amount of recoupment of the investment during the amortization period, the availability and location of other sites, and the extent to which the non-conforming use adversely affects the neighboring property. **\*\*Amended Ordinance 2014-O-12**

16. In furtherance of their recommendations to the Village Council on amendment and repeal of various provisions in the Village Master or Comprehensive Plan the Planning and Zoning Commission with approval of the Village Council will conduct Community Surveys of the Village's residents. The Commission will make recommendations on the content of the Community Survey to the Village Council and gain their approval prior to conducting a Community Survey. **\*\*Amended Ordinance 2014-O-12**

**b. Membership and Appointment.**

The Planning and Zoning Commission shall be composed of five (5) qualified permanent and two alternate members. ~~voters who reside in the Village.~~ All the members shall be qualified voters who reside in the Village.\* The Village Council will consider for appointment to the Commission those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to attend meetings. The Village Council shall strive to appoint members who, by reason of their occupations and the areas of the Village in which they reside, will be broadly representative of the community.

**c. Appointment of Chair and Vice-Chair. **\*\*Amended Ordinance 2014-O-12****

~~The Mayor with the approval of the Village Council shall appoint the Chair and Vice-Chair.~~

**d. Terms of Office; Filling of Vacancies.**

The terms of two of the permanent and one of the alternate\* members shall expire on January 1st of each odd-numbered year and the terms of three of the permanent and one of the alternate\* members shall expire on January 1st of even-numbered years. Place numbers one through five shall identify the permanent\* members of the Commission. The alternate members shall not have place numbers but can substitute for any of the permanent members if he or she is unavailable to attend a Commission meeting\*. Commission members may be appointed to successive terms. A member of the Commission shall serve until his or her successor is appointed and installed. The Village Council shall fill vacancies for the uncompleted term of any vacant position. Newly appointed members shall be installed at the first regular commission meeting after their appointment.

**e. Removal of Commissioners.**

The Village Council may by majority vote remove a permanent or alternate \* Commissioner for lack of confidence, incompetence, corruption, misconduct, or malfeasance. Any permanent\* Commissioner who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Commission. This section shall not apply to a Commissioner who applied for and

received an excused absence from the Commission chairperson prior to the meeting(s) at issue. Any Commissioner who no longer resides within the corporate boundaries is deemed to have automatically vacated his/her position on the Commission.

**f. Motions at Meetings.**

1. A motion may be made by any member other than the presiding officer. The presiding officer may second a motion and may vote on all matters considered by the Commission.

2. A motion to approve any matter before the Commission or to recommend approval of any request requiring Village Council action shall require a majority vote of the members present and voting.

**g. Disqualification from Voting.**

A member shall disqualify himself/herself from voting whenever the member has a personal or monetary interest in a matter before the Commission that is substantially different from the interest of the other citizens of the Village, or if the value of the member's property will be affected in a substantially different manner than other properties within the Village.

**h. Rules of Procedure.**

1. Organization and officers.

A. Officers. **\*\*Amended Ordinance 2014-O-12**

i. From among its members the Commission shall elect the Vice Chair. The Chair, or in his/her absence, the Vice Chairperson shall preside at all meetings, and shall decide all points or order or procedure.

ii. In the absence of both the Chair and Vice-Chair, the Commission shall elect an Acting Chair.

iii. The Village Secretary shall be custodian of the minutes and other official records, shall attend to the correspondence of the Commission and shall cause to be given such notices as are required and in the manner prescribed by law.

B. Rules of Order. Roberts Rules of Order, as amended, shall be the Commission's final authority on all questions of procedure and parliamentary law not covered by these Rules of Procedure.

2. Meetings

(A) Quorum. A quorum shall consist of three members.

\$656 (B) Agenda. The Village Secretary shall prepare an agenda for  
\$657 each meeting of the Commission, and shall attach to each agenda  
\$658 a report of matters pending further action by the Commission. The  
\$659 Village Secretary shall post a copy of the agenda in the Village Hall  
\$660 as required by law for a period of three full calendar days, not  
\$661 counting the day of posting, but which may count the day of the  
\$662 meeting.

\$663  
\$664 C. Regular Meetings. The Commission shall conduct regular  
\$665 meetings once a month on the second Tuesday of every month  
\$666 at 7:00 PM. at a time and place determined by resolution  
\$667 adopted by the Commission.—The initial meeting of the  
\$668 Commission shall be called by the Village Council. **\*\*Amended**  
\$669 **Ordinance 2014-O-12**

\$670  
\$671 (D) Special Meetings. Special meetings for any purpose may be  
\$672 held: on the call of the Chair, or on request of two or more  
\$673 members and by giving written notice to all members  
\$674 deposited in the mail at least 72 hours before the meeting, or  
\$675 as may be scheduled by a majority of the Commission at any  
\$676 previous meeting. The convening authority shall determine  
\$677 the time and place of the special meeting.

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\$680 E. Public meetings. Any party in interest may appear in his/her  
\$681 own behalf or be represented by council or agent.

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\$683 3. Official Records.  
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\$685 A. Official Records. The official records shall be the minutes of  
\$686 the Commission, together with all findings, decisions and other  
\$687 official records of the Commission.

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\$689 B. Recording of Vote. The minutes of the Commission's  
\$690 proceedings shall show the vote of each member, or indicate a  
\$691 member's absence or failure to vote.

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\$693 C. Files-Retention. All matters coming before the Commission  
\$694 shall be filed in the Village's records. Original papers of all  
\$695 requests and proposals shall be retained as a part of the  
\$696 permanent record.

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\$698 D. Public Record. The official records and citizen requests  
\$699 filed for Commission action in regular or special meetings shall be  
\$700 on file in the Village Hall and shall be open to public inspection  
\$701 during customary working hours.

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4. Application Procedures.

A. Written Request Required. Every proposal submitted for Commission action shall be made in writing. Where appropriate, the Village shall provide application forms. The proposal shall be accompanied by all prescribed fees and shall be complete in all respects before the Village shall accept it for filing.

B. Schedules and Instructions. Every proposal or request for Commission action or recommendation shall be filed, processed and considered in accordance with this section.

C. Submission and Supporting Information. Information supporting a request or recommendation to approve or disapprove any proposal before the Commission shall be submitted through the Village Secretary in writing or to the Commission in public meeting.

D. Withdrawal of Proposal. When any applicant desires to withdraw his or her proposal, he or she may do so by filing a written request with the Village Secretary. Such request shall be effective upon the date of its official receipt, provided, however, that no such request shall be valid after notices have been mailed, except on action of the Commission. Withdrawal of a proposal at any stage of its processing shall terminate all consideration of it by the Village, and the case file shall be closed.

i. Duties and Powers.

The Planning and Zoning Commission is charged with the duty and invested with the authority to:

1. Inspect property and premises at reasonable hours when required to discharge its responsibilities under the laws of the State and of the Village.
2. Formulate and recommend to the Village Council for its adoption a comprehensive plan for the orderly growth and development of the Village and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the Village.
3. Formulate a zoning plan as may be deemed best to carry out the goals of the comprehensive plan; hold public hearings and make recommendations to the Village Council relating to the creation, amendment, and implementation of zoning regulations and districts as

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provided in the Texas Local Government Code, as amended.

4. Exercise all the powers of a commission as to the approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats as provided in the Texas Local Government Code.
5. Study and make recommendations on the location, extension, planning, vacating, and closing of public rights-of-way, parks and other public places.
6. Formulate and recommend to the Village Council policies and regulations consistent with the adopted comprehensive plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the Village.
7. Review and make recommendations concerning annexation of land into the Village.
8. Hear evidence and determine the matters set forth in Section 23.301 of this Ordinance. **\*\*Amended Ordinance 2014-O-12**

**Sec.30.136 (B) Administrative Procedures for Changes and Amendments to Zoning Regulations and Districts:**

(a) Application:

- (1) Each application for zoning, conditional use permit, or for an amendment or change to the existing provisions of this article shall be made in writing on an application form available at the Village, filed with the Village, and shall be accompanied by payment of the appropriate fee. The application shall also be accompanied by additional information materials, such as plans, maps, exhibits, legal description of property, architectural elevations, information about proposed uses, as deemed necessary by the Village, in order to ensure that the written request is understood. A concept plan shall be submitted as prescribed in the Village's site development ordinance, along with any application for a conditional use permit.
- (2) All zoning applications shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of a land owner's agent to file the change request.
- (3) All applications for zoning changes and amendments shall be accompanied by a traffic impact analysis, which scope and content shall comply with the Village's site development ordinance.

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(4) Official Submission Date and Completeness of Application:

- (A) For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application, that contains all elements and information required by this article, is first submitted to the Village. No application shall be deemed officially submitted until the Village determines that the application is complete and a fee receipt is issued by the Village. Failure by the Village to make a determination of completeness within ten (10) calendar days following the date on which the application was first received by the Village, shall result in the application being deemed complete, and the "official submission date" shall become the tenth (10<sup>th</sup>) calendar day following initial receipt of the application by the Village.
- (B) Zoning related applications which do not include all required information and materials will be considered incomplete, shall not be accepted for official submission by the Village, and shall not be scheduled on a commission agenda until the proper information is provided to the Village.

(b) Public Hearing and Notice:

- (1) For zoning or re-zoning requests involving real property, or for conditional use permits, the commission shall hold at **least one (1) public hearing on each application.** For proposed changes to zoning district boundaries including re-zoning requests, **notice of the commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing before the fifteenth (15<sup>th</sup>) day before the date of the hearing date of the public hearing.** Written notice of the public hearing to occur before the commission shall also be sent to all owners of property, as indicated by the most **recently approved Village tax roll,** that is located within the area of application and within **two hundred feet (200')** of any property affected thereby, said written notice to be sent before the tenth (10<sup>th</sup>) day before the hearing date. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, with first class postage paid, in the United States Mail.
- (2) For requests involving proposed changes to the text of this article, notice of the commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing before the fifteenth (15<sup>th</sup>) day before the date of the public hearing. Changes in the text of this article which do not change zoning district boundaries, or which do not involve specific real property, do not require written notification to individual property owners.

§835 (3) The Village may, at its option, establish additional rules and procedures  
5836 for public notification of proposed zoning changes or development  
5837 proposals such as site plans, plats and developer agreements, which may  
5838 include, but not be limited to, the posting of a sign(s) on any property that  
5839 is proposed for a zoning change or development by the applicant or its  
5840 agent(s). Adherence to such rules and procedures, if so established by  
5841 the Village, shall be the responsibility of the applicant and shall be  
5842 required as part of a zoning change.

§843 (4) Parliamentary procedures shall be established by the council.

§844 (c) Failure to Appear: Failure of the applicant or representative to appear before  
5845 the commission or the council for more than one (1) hearing without an  
5846 approved delay by the council, shall constitute sufficient grounds for the  
5847 commission or the council to table or deny the application unless the Village is  
5848 notified in writing by the applicant that the applicant will be unable to appear, at  
5849 least seventy-two (72) hours prior to the hearing.

§850 (d) Commission Consideration and Recommendation:

§851 (1) The commission shall function in accordance with the applicable  
5852 provisions in the Village's code of ordinances.

§853 (2) The commission shall hold a public hearing on a zoning or re-zoning  
5854 request, or application for conditional use permit, or a proposed text  
5855 amendment to this article. After all public input has been received and the  
5856 public hearing closed, the commission shall make its recommendations on  
5857 the proposed zoning request application, and concept plan, if submitted,  
5858 stating its findings, its overall evaluation of the request, and its  
5859 assessment regarding how the request relates to the Village's  
5860 comprehensive plan. The commission may, on its own motion or at the  
5861 applicant's written request, defer its recommendations until it has had an  
5862 opportunity to consider other information or proposed modifications to the  
5863 request which may have a direct bearing thereon. If the commission  
5864 elects to table the request, such tabling shall specifically state the time  
5865 period of the tabling by citing the meeting date whereon the request will  
5866 reappear on the commission's agenda.

§867 (3) When the commission is ready to act upon the zoning request, it may  
5868 recommend approval of the request as it was submitted by the applicant,  
5869 approval of the request subject to certain conditions, or disapproval of the  
5870 request. The commission's recommendation will be automatically  
5871 forwarded to the council for a second (2<sup>nd</sup>) public hearing thereon.

§872 (4) If the commission recommends denial of the zoning change request, it  
5873 shall provide written reasons to the applicant for the denial, if requested by  
5874 the applicant. The commission chairperson shall inform the applicant of  
5875 the right to request reasons for the denial.

- §876 (e) Council Consideration and Approval:
- §877 (1) Applications Forwarded From the Commission to the Council: Every  
5878 application or proposal shall be automatically forwarded, along with the  
5879 commission's recommendation to the council for setting and holding of  
5880 public hearing thereon following appropriate public hearing notification  
5881 as prescribed in subsection (b) above.
- §882 (2) Council Action on Zoning, Rezoning, Conditional Use Permit and Text  
5883 Amendment Requests: After a public hearing is held before the council  
5884 regarding the zoning application, the council may approve the request in  
5885 whole or in part, deny the request in whole or in part, table the  
5886 application to a future meeting, specifically citing the council meeting to  
5887 which it was tabled, or it may refer the application back to the  
5888 commission for further study.
- §889 (A) Council approval of a zoning application forwarded with a  
5890 commission recommendation of approval or approval subject to  
5891 certain conditions shall be by affirmative vote of the majority of the  
5892 council members present and voting.
- §893 (B) Council approval of a zoning application forwarded with a  
5894 commission recommendation of denial shall be by affirmative vote  
5895 of at least seventy-five percent (75%) of the entire council  
5896 membership.
- §897 (C) If the council approves the request, then subsection (e)(4) below  
5898 will apply.
- §899 (D) If the council denies the request, then no other zoning application  
5900 may be filed for all or part of the subject tract of land, or for that  
5901 portion of this article, or in the case of a text amendment request  
5902 submitted by a property owner or citizen, for a waiting period of six  
5903 (6) months following the denial. In the instance that the request  
5904 was initiated by the council and involved a proposed amendment to  
5905 the text of this article, then there is no waiting period before the  
5906 request can be reconsidered.
- §907 (E) The council may, at its option, waive the six (6) month waiting  
5908 period if, after due consideration of the matter at a scheduled and  
5909 posted meeting, it is determined that denial of the request was  
5910 based upon erroneous or omitted information, or if substantial new  
5911 information pertaining to the request is discovered.
- §912 (3) Protests: For zoning requests involving real property, an affirmative vote  
5913 of at least seventy-five percent (75%) of all members of the council shall  
5914 be required to approve any change in zoning when written objections are  
5915 received from land owners of twenty percent (20%) or more of the land  
5916 area covered by the proposed change, or of the land area within two

5917 hundred feet (200') of the subject property, in compliance with the  
5918 provisions of Section 211.006 of the Texas Local Government Code. If a  
5919 protest against such proposed amendment, supplement or change has  
5920 been filed with the Village, duly signed and acknowledged by the owners  
5921 of twenty percent (20%) or more, either of the area of the land included in  
5922 such a proposed change or those immediately adjacent to the area thereof  
5923 extending two hundred feet (200') therefrom, such amendments shall not  
5924 become effective except by an affirmative vote of at least seventy-five  
5925 percent (75%) of all members of the council.

5926 (4) Final Approval and Ordinance Adoption: Upon approval of the zoning  
5927 request by the council, the applicant shall submit all related material with  
5928 revisions, if necessary, to the Village for the preparation of the amending  
5929 ordinance. The zoning request shall be deemed approved at the time the  
5930 council makes a decision to approve the request as submitted or with  
5931 certain conditions. However, the amending ordinance will not be prepared  
5932 or formally adopted until a correct description and all required exhibits  
5933 have been submitted to the Village.

5934 **Sec.30.137 Ordinance Interpretation.** In the interpretation and application of the  
5935 terms and provisions of this article, the following regulations shall govern:

5936 (a) Liberally Construed: In the Village's interpretation and application, the provisions  
5937 of this article shall be regarded as minimum requirements for the protection of  
5938 the public health, safety, comfort, convenience, prosperity, and welfare. This  
5939 Village shall be regarded as remedial and shall be liberally construed to further  
5940 its underlying purposes.  
5941

5942 (b) Highest Standards Govern: Whenever a provision of this article and any other  
5943 provision of this article, or any provision in any other law, ordinance, resolution,  
5944 rule or regulation of any kind contains any restrictions covering the same subject  
5945 matter, whichever restrictions are more restrictive or impose higher standards or  
5946 requirements shall govern.  
5947

5948 (c) Resolution of Conflicting Interpretations: Where there arises a question  
5949 concerning the meaning or intent of a provision of this article, a written decision  
5950 setting forth the manner in which said provision shall be interpreted and  
5951 administered is encouraged. In the event any interested party takes exception to  
5952 such a decision the matter may be appealed to the board of adjustment.  
5953

5954 (d) Written Decisions Binding: Any final written decision made as provided in  
5955 subsection (c) above shall be archived and shall govern interpretation of this  
5956 article until such time as an amendment of this article shall nullify such decision,  
5957 or the decision is over-ruled or rescinded by the council.  
5958

5959 (e) State Law: The terms, provisions and conditions of this article shall be  
5960 interpreted and applied in a manner consistent with state law and *Chapter 211 of*  
5961

5962 *the Texas Local Government Code*

5963  
5964 (f) Comprehensive Plan: All zoning applications shall conform to the  
5965 comprehensive plan for the Village and be consistent with all of the elements  
5966 thereof.

5967  
5968 (1) Where the proposed zoning application is inconsistent with one (1) or more  
5969 of the elements of the comprehensive plan, the applicant may petition the  
5970 Village for amendment to the particular element or elements of the  
5971 comprehensive plan either prior to, or concurrent with, submitting a zoning  
5972 request. Inconsistency with the provisions of the comprehensive plan shall  
5973 be grounds for disapproval of the zoning application by the Village.

5974  
5975 (2) Where the proposed zoning is for a zoning district or category provided for  
5976 in this article but that is not included on the comprehensive plan existing on  
5977 the date of this article, or not existing on the date of such application, the  
5978 applicant shall propose an amendment to the comprehensive plan and  
5979 provide information and documentation in support of such amendment.

5980  
5981 (g) Consistency with Village Ordinances: All development projects within the  
5982 corporate limits of the Village shall be in conformance with the Village's Village  
5983 code of ordinances. Where the proposed development requires a zoning  
5984 classification or approval other than that currently applying to the property to be  
5985 developed, the developer shall make appropriate application to secure the  
5986 necessary zoning classification or approval required for the proposed  
5987 development would comply with this article.

5988  
5989  
5990 **Sec.30.138 Fees:** To defray the costs of administering this article, the applicant seeking  
5991 zoning approvals shall pay to the Village, at the time of submittal, the prescribed fees as  
5992 set forth in the current administrative fee ordinance approved by the council.

5993  
5994 **Sec.30.139 Amendments:** The council may, from time to time, adopt, amend and make  
5995 public rules and regulations for the administration of this article. This article may be  
5996 enlarged or amended by the council after public hearing, due notice of which shall be  
5997 given as required by law.

5998  
5999 **Sec.30.140 Violations:** Except as otherwise provided for in this article, it shall be  
6000 unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel,  
6001 tract or block of land within the Village's territorial jurisdiction, unless such lot, parcel, tract  
6002 or block of land conforms with this article.

6003  
6004 **Sec.30.300 Enforcement:**

6005  
6006 (a) Administrative Action: The Village shall enforce this article by appropriate  
6007 administrative action, including but not limited to the rejection of plans, maps,

6008 plats and specifications not found to be in compliance with this article and good  
6009 engineering practices, and the issuance of stop work orders.

- 6010  
6011 (b) Court Proceedings: Upon the request of the council, the Village Attorney shall  
6012 file an action in the district courts to enjoin the violation or threatened violation of  
6013 this article, or to obtain declaratory judgment relief, and to seek and recover court  
6014 costs and attorney fees, and/or to recover damages in an amount sufficient for  
6015 the Village to undertake any construction or other activity necessary to bring  
6016 about compliance with the provisions of this article.

6017  
6018  
6019 **DIVISION 6: GENERAL PROVISIONS**

6020  
6021 **Sec.30.301 Construction:** The terms and provisions of this article shall not be  
6022 construed in a manner to conflict with *Chapter 211 of the Texas Local Government Code*  
6023 and if any term or provision of this article shall appear to conflict with any term, provision  
6024 or condition of *Chapter 211*, such article term or provision shall be read, interpreted and  
6025 construed in a manner consistent with and not in conflict with such Chapter, and, if  
6026 possible, in a manner to give effect to both. The standard and accepted rules of statutory  
6027 construction shall govern in construing the terms and provisions of this article.

6028  
6029 **Sec.30.302 Amendment and Repeal:** All ordinances or parts thereof conflicting or  
6030 inconsistent with the provisions of this article as adopted and amended herein, are hereby  
6031 amended to the extent of such conflict. In the event of a conflict or inconsistency between  
6032 this article and any other code or ordinance of the Village, the terms and provisions of this  
6033 article shall govern.

6034  
6035 **Sec.30.303 Severability:** If any provision of this article or the application of any  
6036 provision to any person or circumstance is held invalid, the invalidity shall not affect other  
6037 provisions or applications of the ordinance which can be given effect without the invalid  
6038 provision or application, and to this end the provisions of this article are declared to be  
6039 severable.

6040  
6041 **Sec.30.304 Effective Date:** This article shall take effect immediately from and after its  
6042 passage and publication of its enacting ordinance in accordance with the provisions of  
6043 *Chapter 52 of the Texas Local Government Code*.

6044  
6045 **Sec.30.305 Open Meetings:** It is hereby officially found and determined that the  
6046 meeting at which the enacting ordinance of this article is passed was open to the public  
6047 as required and that public notice of the time, place and purpose of said meeting was  
6048 given as required by the Open Meetings Act, *Chapter 551 of the Texas Government*  
6049 *Code*.

6050  
6051 **Sec.30.306 Penalty:** Any person who shall violate any of the provisions of this article,  
6052 or shall fail to comply therewith, or with any of the requirements thereof, within the Village  
6053 limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the

6054 sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a  
6055 separate offense. Such penalty shall be in addition to all the other remedies provided  
6056 herein.

6057  
6058

6059 **PASSED AND APPROVED on the 19<sup>th</sup> day of October 2004.**

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6069 **ATTEST:**

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**JAN YENAWINE,  
MAYOR OF THE VILLAGE OF VOLENTE**

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**JENNIFER ZUFELT,  
CITY SECRETARY**

**ORDINANCE NO. 2006-O-70**

**AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, REZONING AN APPROXIMATE 297 ACRE TRACT OF LAND (A PORTION OF WHICH IS CONTINGENTLY REZONED) WITHIN THE VILLAGE OF VOLENTE AS A PLANNED DEVELOPMENT DISTRICT (“PDD”); ESTABLISHING ZONING REGULATIONS FOR THE PDD; ADOPTING PROCEDURES AND REQUIREMENTS FOR FINAL ZONING APPROVAL AS A PDD; APPROVING THE PRELIMINARY DEVELOPMENT PLAN FOR THE PDD; AND PROVIDING DEFINITIONS, SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES**

**WHEREAS**, the purpose and intent of a Planned Development District is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property in the Village of Volente (“Village”) consistent with Article 30 of the Village’s Code of Ordinances and the Village’s Comprehensive Plan;

**WHEREAS**, the Rules adopted for a PDD are designed: (i) to allow development which is harmonious with nearby areas; (ii) to enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance; (iii) to provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs; (iv) to encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods; (v) to facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment; (vi) to provide an enhanced residential and/or work environment for those persons living and/or working within the district; and (vii) to require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development.

**WHEREAS**, the Village Planning and Zoning Commission and the Village Council have worked with Grason Volente Investments Ltd and the Volente Group of Texas, Ltd (“Landowners”) on development issues for the approximate 297 acre tract of land (“Property”) a portion of which is to be contingently rezoned as a PDD under this Ordinance. This 297 acre tract is a portion of an approximate 1,109 acre tract (“Parent Tract”)

**WHEREAS**, the Village Council finds that the proposed PDD and the Preliminary Development Plan for the PDD, if the contingencies set forth in this Ordinance are met, are consistent with the provisions of the comprehensive plan for the Village of Volente and are designed to achieve the purposes set forth in Sections 211.003 and 211.004 of the Texas Local Government Code and Chapter 30 of the Village’s Code of Ordinances regulating zoning within the Village.

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

1. **Legislative Findings.** The statements contained in the “whereas clauses” are adopted as the legislative findings of the Village Council in contingently re-zoning the Property as a Planned Development District (PDD).
  
2. **Contingent Re-Zoning of the Property.** The portion of the Property described by metes and bounds on Exhibit “B”, attached hereto and incorporated herein for all purposes within the current boundary of the Village of Volente, is rezoned as a Planned Development District (PDD). The portion of the Property in the PDD outside of the current boundaries of the Village of Volente is contingently rezoned as a Planned Development District (PDD). The outer boundaries of the PDD shall be as shown on the map attached as Exhibit “A”, which is incorporated herein for all purposes.
  
3. **Contingencies to be Met.**
  - (a) **City of Austin.** The Village’s corporate boundaries must be changed to conform to the boundaries of the PDD in order for the PDD as shown on the Preliminary Development Plan to be entirely within the corporate boundaries of the Village. The Village and the Landowners will file an application with the City of Austin either (i) to adjust the Village’s corporate boundaries with Austin’s ETJ to include the entirety of the PDD, and/or (ii) to obtain a release of the remainder of the Parent Tract owned by GrasonVolente Investments Ltd. contiguous to the Village’s corporate boundary (“Conservation Area”) from Austin’s ETJ to Volente’s ETJ. If Austin agrees to adjust its ETJ boundaries to be consistent with the Preliminary Development Plan, GrasonVolente Investments Ltd. will request all areas currently outside of the Village’s boundaries but within the boundaries of the PDD to be annexed into the Village of Volente. The Village agrees to annex these areas in accordance with the timeframes established in Chapter 43, Tex. Loc. Gov’t. Code. At the time those areas are annexed into the Village, the Village will disannex any land currently within the Village’s boundaries but outside of the boundaries of the PDD and the newly annexed areas will be deemed rezoned to this PDD. If Austin agrees to release the remainder of the Parent Tract from its ETJ, GrasonVolente Investments Ltd. will request that the released area be annexed into the Village.
  
  - (b) **United States Department of Fish and Wildlife.** The Landowners will negotiate with the United States Department of Fish and Wildlife (“Fish and Wildlife”) to amend the Section (10)(a)(1)(B) permit number PRT-8068 to be consistent with the PDD (“Minor Amendment”). It is anticipated that Fish and Wildlife will approve the Minor Amendment by March 15, 2007. If the Minor Amendment is approved by Fish and Wildlife, the Landowners understand and agree that the Village may request Fish and Wildlife to release up to an additional two acres in the Conservation Area, contiguous to the three acre park, to be used as additional land within the park. The Landowners agree to cooperate with those negotiations and redefine the PDD boundaries, if

necessary, to move land currently within the PDD and the Conservation Area out of the PDD to offset any additional lands released from the Conservation Area in order for such land to be used as additional parkland, so long as the Landowners are not required to bear any expense or cost related to this effort by the Village and there is no reduction in lot count or lot size mix.

(c) **Travis County.** If acceptable to Travis County, the Landowners agree to deed in fee simple the land within the Conservation Area to Travis County, dedicated and covenanted to be used solely and in perpetuity as a preserve for endangered species in accordance with the Fish and Wildlife permit, except the wastewater disposal plant and other utility sites may be deeded to the Volente Municipal Utility District at the Landowner's discretion. If acceptable to Travis County, the Landowners agree that restrictive covenants limiting the land use of the Conservation Area will provide that such restrictions are enforceable by the Village. The Landowners further agree that if the Village, prior to the Conservation Area being deeded to Travis County, requests that the Landowners voluntarily request annexation of the Conservation Area into the Village (provided the City of Austin has released the land within the Conservation Area to the Village's ETJ), the Landowners will request annexation of the land into the Village. The Landowners further agree that the Landowners and/or the Municipal Utility District will negotiate with Travis County an agreement to provide funding to cover all or a portion of the costs associated with maintaining the Conservation Area. In the event Travis County does not agree to accept the Conservation Area, the Landowners and the Village agree that the Conservation Area may be deeded to another mutually agreeable governmental entity.

(d) **MUD Consent Agreement.** The Landowners and the Village will negotiate and sign an amended MUD Consent Agreement within thirty days after the adoption of this Ordinance.

4. **Deviations from standards in the Village's Code of Ordinances.** The following regulatory standards are substituted for the regulatory standards set forth in the Village's zoning and site development ordinances for development of land within the PDD. If an alternative regulatory standard is not contained within this Ordinance, the regulatory standard in the Village's Code of Ordinances in effect on October 11, 2006, is applicable and must be complied with in accordance with the provisions of Chapter 245 of the Tex. Loc. Gov't. Code.

(a) **Land Use.** The land uses within the Property shall consist of the following uses:

*(1) Residential and Related Uses within Development Area.*

(a) Except for utilities, drainage and temporary construction easements and primitive hiking trails within the Open Space, all development and construction shall occur within the development area, as shown on the Development Area of Project – Land Uses map attached as Exhibit "F" to the Preliminary Development Plan (the "Development Area").

(b) Volente Peak density shall be limited to 297 residential single family units, as well as improvements and facilities necessary for a high quality residential development, including roadways, utilities, landscaping and entry features, homeowner amenity facilities, private common areas, home sales centers and other related improvements.

(c) The lot and street layout may be changed within the Development Area when the Final Development Plan is submitted to the Village by the Volente Peak Landowners and the Village agrees to accommodate such a change to allow the development of a maximum of 297 single family lots, provided the Landowners comply with the Village's regulatory land use standards, including the standards contained within this Ordinance, and such changes are necessitated by engineering, topographical, or environmental problems encountered in designing the roadways and configuring the lots during the final development plan

(2) Open Space.

(a) A minimum of 800 acres of open space, as shown on the Project Open Space map attached to the Preliminary Development Plan as Exhibit "G" (the "Open Space"), shall remain undeveloped and managed in a natural condition except for the limited uses permitted and described under the USFW 10A permit (as amended) (including without limitation the water facilities, wastewater facilities, and the drip irrigation area (as shown on the Conceptual Water Distribution Location and Water Distribution System and Conceptual Wastewater Collection System attached as Exhibits "I" and "J" of the Preliminary Development Plan; drainage ways conveying storm water; drainage/water quality ponds and primitive hiking trails (as shown on Project Conceptual Master Plan attached as Exhibit "D" to the Preliminary Development Plan or as otherwise approved by the Village Engineer).

(b) Utility, drainage and access easements for utilities and temporary construction access may be granted over the minimum of 800 acres of open space, provided USFW has granted approval of any such easement and its location.

(3) Boundary Adjustment.

The Village and the Landowners will request that the City of Austin consent to approve a boundary adjustment to reflect the accurate boundary of the Project as shown on the Project Conceptual Master Plan attached as Exhibit "D" to the Preliminary Development Plan. If for any reason the boundary adjustment is not approved by the City of Austin, the Landowners shall have the option to conform the Final Development Plan to the existing Village boundaries, provided the Village Planning and Zoning Commission and the Village Council have reviewed the modified PDD and the Village Council has voted to amend the PDD.

(4) One-Acre PDD Lots.

(a) One-Acre PDD lots shall be located in the area shown on the Development Area of the Project – Land Uses map attached as Exhibit “F” to the Preliminary Development Plan.

(b) One-Acre PDD Lots shall comply with all development restrictions and regulations set forth in the Code except as follows:

(1) General setback restriction: No permanent structures may be located within setbacks, except that air conditioner pads may encroach into setbacks.

(2) The front yard setback shall be 30 feet from the front property line.

(3) The side yard setback shall be 25 feet from the interior side yard property line.

(4) The street side yard setback shall be 30 feet from the street side property line.

(5) The rear yard setback shall be 25 feet from the rear yard property line.

(6) The minimum lot square footage area shall be 43,560 square feet.

(7) The minimum lot depth shall be 175 feet.

(8) The minimum lot width shall be 120 feet, except that the minimum lot width on a lot fronting a cul-de-sac shall be 70 feet. Lot widths shall be measured at the front setback line.

(9) The maximum height limit shall be 35 feet, as measured under the Village’s current guidelines and regulations.

(5) One-Acre “Wide” PDD Lots.

(a) One-Acre “Wide” PDD lots shall be located in the area shown on the Development Area of the Project – Land Uses map attached as Exhibit “F” to the Preliminary Development Plan.

(b) One-Acre “Wide” PDD Lots shall comply with all development restrictions and regulations set forth in the Code except as follows:

(1) General setback restriction: No permanent structures may be located

within setbacks, except that air conditioner pads may encroach into setbacks.

(2) The front yard setback shall be 30 feet from the front property line.

(3) The side yard setback shall be 25 feet from the interior side yard property line.

(4) The street side yard setback shall be 50 feet from the street side property line.

(5) The rear yard setback shall be 25 feet from the rear yard property line.

(6) The minimum lot square footage area shall be 43,560 square feet.

(7) The minimum lot depth shall be 175 feet.

(8) The minimum lot width shall be 200 feet, except that the minimum lot width on a lot fronting a cul-de-sac shall be 70 feet. Lot widths shall be measured at the front setback line.

(9) The maximum height limit shall be 35 feet, as measured under the Village's current guidelines and regulations.

(6) One-Half Acre PDD Lots.

(a) One-Half Acre PDD lots shall be located in the area shown on the Development Area of the Project – Land Uses map attached as Exhibit “F” to the Preliminary Development Plan.

(b) One-Half Acre PDD Lots shall comply with all development restrictions and regulations set forth in the Code except as follows:

(1) General setback restriction: No permanent structures may be located within setbacks, except that air conditioner pads may encroach into setbacks.

(2) The front yard setback shall be 30 feet from the front property line.

(3) Each one-half acre lot shall have side yard setbacks totaling 30 feet with no side setback being less than 10 feet from the interior side yard property line.

(4) The street side yard setback shall be 15 feet from the street side

property line.

(5) The rear yard setback shall be 25 feet from the rear yard property line.

(6) The minimum lot square footage area shall be 21,780 square feet.

(7) The minimum lot depth shall be 120 feet.

(8) The minimum lot width shall be 100 feet, except that the minimum lot width on a lot fronting a cul-de-sac shall be 70 feet. Lot widths shall be measured at the front setback line.

(9) The maximum height limit shall be 35 feet, as measured by the Village's guidelines and regulations.

(7) Impervious Coverage.

The impervious coverage available for street construction and construction on residential lots within the 297 acre Volente Peak Project shall not exceed 25%. Impervious coverage for residential lots shall be as follows:

(a) Residential lots one acre or greater in area shall have an impervious coverage allowance of 11,000 square feet.

(b) Residential lots less than one acre in area shall have an impervious coverage allowance of 7,000 square feet.

(c) Impervious cover for lot types other than residential uses shall be as specified on the Preliminary Development Plan.

(d) Impervious cover for lot types shall be included in the Deed Restrictions.

(e) Amenity Lots. Private amenity lots that serve the residents of Volente Peak are permitted and are located as shown on the Project Conceptual Master Plan attached as "Exhibit "D" to the Preliminary Development Plan.

(8) Regulatory Compliance. All construction and development within the Project shall comply with the following provisions, subject to the Village Council's approval of preliminary and final plats:

(a) Slope Construction Limitation.

Construction shall not occur on slopes in excess of 25%, except as follows:

(1) Street and utility construction may occur on slopes averaging 25% and greater in areas within utility easements and right-of-ways necessary for access to the Development Area and driveway access from lots to the streets, subject to the Fire Chief's reasonable approval and as shown on the preliminary plat.

(2) Home and related residential lot improvements, including driveways:

(a) Driveway construction may occur on slopes averaging from 25% up to 40% within the driveway envelope, only if necessary to provide access from a road to a home, provided Best Management Practice erosion controls approved by the Village Engineer are used. Such construction shall be approved on a case by case basis and shall be inspected by a qualified third party recommended by the Village Engineer and paid for by the Landowner(s).

(b) Residential construction may occur on slopes averaging from 25% to 35% within the building envelope provided Best Management Practice erosion controls approved by the Village engineer on a case by case basis are used. Such construction must be inspected by a qualified third party, recommended by the Village engineer and paid for by the Landowner(s). The lots where construction will occur on slopes from 25% to 35% will be identified on the final plat(s).

(c) Residential construction may occur on slopes averaging from 35% to 40% within the building envelope on no more than 12 lots, provided Best Management Practice erosion controls approved by the Village engineer on a case by case basis are used. Such construction must be inspected by a qualified third party, recommended by the Village engineer and paid for by the Landowner(s). The lots where construction will occur on slopes of 35% to 40% will be identified on the final plat(s).

(b) Platting Process and Approvals.

The preliminary platting, final platting and construction process for lots within Volente Peak shall occur pursuant to the following procedures (per Village Engineer):

(1) Submittal of Preliminary Plat for entire development. Determine development phasing.

(2) Submittal of Final Plat, PDD Final Development Plan and NPS Plan for first phase. Infrastructure construction plans will be included with these submittals. Construction plans must be approved by the Village Engineer prior to Village Council approval of the PDD Final Development Plan, Final Plat, and NPS Permit.

(3) Construct Infrastructure for first phase. After the infrastructure is accepted by the Village, the Final Plat may be recorded (options also exist for the developer to post fiscal security to allow recordation of final plats before infrastructure is constructed and/or accepted).

(4) Submittals for Building Permits in compliance with the Village's ordinances.

(5) For subsequent phases of the development, repeat steps 2 through 4.

*(c) NPS Pollution Control Permits*

The Village's NPS Pollution Control Ordinance requires that the Village issue a NPS Pollution Control Permit with a Site Development Permit. The NPS permit would be approved with a PDD Final Development Plan. The NPS ordinance also requires the Village to issue an Annual Operating Permit for the water quality controls when the subdivision infrastructure is accepted (see Section 32.127 of the NPS Pollution Control Ordinance). For multi-phase developments, the permit shall automatically be reissued with each new phase so that there is only one NPS permit and one annual operating permit for the entire development.

*(d) Concrete Survey Monuments*

In place of the concrete survey monuments to locate boundaries set forth in Final Plats of the Village's Subdivision Ordinance, the monuments may be in a manner as generally accepted in the surveying industry and as reasonably approved by the Village Engineer (typically this requires iron rods or some other type of permanent marker placed at all boundary and lot corners).

*(e) Entry Monuments and Signs.*

The Owners shall be permitted to construct on land within the Property entry monuments and walls, plantings, irrigation and lighting at the entrances to the Project on F. M. 2769 and Lime Creek Road. The design of such improvements shall be of a first class quality and shall have adequate provisions, as reasonably determined by the City Attorney, for the ongoing operation and maintenance of such improvements. Such

monuments and signs shall conform to the Village's sign ordinance and outdoor lighting ordinance.

*(f) Water Quality Buffer Zones.*

All Water Quality Buffer Zones within the Development Area shall follow the LCRA's Buffer Zones-Option 2 in the Travis County guidelines as set forth in the February 2006 LCRA Highland Lakes Watershed Ordinance.

*(g) Working Days and Hours.*

Working Days shall include Monday through Friday (7a.m. to 7 p.m.) and Saturday (7a.m. to 5 p.m.).

*(9) Water Quality Controls.*

An overall plan for water quality controls required for this development with supporting engineering data shall be submitted as part of the preliminary plat process. Construction plans required for water quality controls shall be submitted with the phase of development for which the controls are needed.

*(10) Traffic Impact Analysis and Roadway Improvements.*

The Preliminary traffic impact analysis ("TIA") is attached as Exhibit "P" to the Preliminary Development Plan. A final TIA will be submitted at the Preliminary Plat phase.

The Village and the Owners of Volente Peak recognize the desire to insure that safe vehicular travel exists within the Village. Accordingly, and in addition to recommendations by the Project TIA, The Owners of Volente Peak shall construct a deceleration lane on F.M. 2769, if allowed by TxDOT, and a turn lane on Lime Creek Road, such that through traffic may continue as turning movements occur at the entrances into the Project. Such improvements shall be constructed at the time the access to such entrance is made and the design of such deceleration lane and turn lane shall be approved by the Village Engineer and TXDOT, as appropriate.

*(11) Circular Driveways.*

On lots with frontage greater than 90 feet, circular driveways with two access points to the street are permitted provided that during the building permit approval process, it is determined that such circular driveways do not create a traffic hazard, as reasonably determined by the Village Engineer.

(b) **Water, Wastewater and Drainage**

(1) Conceptual Water Distribution System.

The conceptual water distribution system for the Project is set forth in the Concept Water Distribution Locations and Water Distribution System map set forth in Exhibit "I" of the Preliminary Development Plan. The Municipal Utility District proposes to enter into a water supply agreement with an entity to provide water to the development. All easements within the Project necessary for such construction and operation shall be granted for such water distribution system.

(2) Conceptual Wastewater Distribution System.

The conceptual wastewater collection system for the Project, including the treatment plant, a drip irrigation system and lines serving such plant and irrigation system are set forth in the Concept Wastewater Collection System map set forth in "Exhibit J" of the Preliminary Development Plan. TCEQ has controlling authority over the approval of the wastewater treatment system. The Owners have applied for a non-discharge permit and, as long as the TCEQ's criteria are satisfied, the Village shall approve the wastewater system approved by TCEQ. The Owners will submit plans for the wastewater system for review and comment from the Village Engineer, but ultimate approval authority will remain with TCEQ. Construction plans for internal collection facilities within the Project will require review and approval by the Village, TCEQ and Volente M.U.D.

(3) Conceptual Drainage and Water Quality System.

The conceptual drainage and water quality system for the Project is set forth in the Concept Drainage Plan map set forth in Exhibit "K" of the Preliminary Development Plan. The conceptual drainage and water quality system is based on an overall project design with surface flows where possible.

(4) On-site Detention and Structural Controls

On-site detention and structural control requirements to treat storm runoff for pollutant removal, based on the average lot density of one unit/acre shall be performed in accordance with Engineer's letters, attached in Exhibit "Q" to the Preliminary Development Plan. After construction, the Owner shall assign ownership and maintenance responsibilities of all water quality and drainage facilities to the MUD, (per Engineers' letters), attached in Exhibit "Q".

(5) Surface Drainage.

To minimize impact to the natural features of the Property, surface flows are specifically permitted across the Open Space and the Volente Peak valley (with

appropriate dissipaters as approved by the Village Engineer to prevent erosion) per Exhibit "Q".

(c) **Cut and Fill**

*(1) Cut/Fill Limitations.*

(a) For the purposes of this section, cut shall mean the portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Cut-and-Fill shall mean the process of earth moving by excavating part of an area and using the excavated material for adjacent embankment or fill areas.

(b) Cut/fill limitations for streets and utilities within easements shall not exceed twenty feet (20') in cut and 20' in fill within public rights-of-way and utility easements where reasonably necessary for access and proper and safe design of roadways and utilities. Cut or fill on driveways shall not exceed the cut or fill of the street frontage immediately adjacent to the driveway, provided that no driveway fill may exceed 15 feet in height. Lots fronting street cut or fill in excess of 10 feet shall be identified on the Final Plat. Cut or fill over ten feet (10') shall be mitigated to minimize the aesthetic, engineering and erosion potential from such cut and fill; mitigation measures include natural materials such as stone cladding, dry stack walls, planter walls, planter pockets, landscaping and terracing or other measures approved by the Village Engineer. Slope stability analysis shall be submitted by a licensed geotechnical engineer for cuts or fills greater than 10'. Structural retaining walls greater than 5' in height shall be designed by a licensed structural engineer. A license agreement must be negotiated for maintenance of improvements within the R.O.W.

(c) Cut/fill limitations for residential lots, excluding driveways, shall not exceed a total of ten feet (10') of cut and a total of 10 feet of fill within building envelope where necessary. Building foundations are not considered cut or fill. Cut or fill over five feet (5') shall be mitigated to minimize the aesthetic, engineering and erosion potential from such cut or fill; mitigation measures include natural materials such as stone cladding, drystack walls, planter walls and planter pockets, landscaping and terracing or other measures reasonably approved by the Village Engineer. A maximum of 2 feet (2') of the vertical face building foundation may remain exposed. Slope stability analysis shall be submitted by a licensed geotechnical engineer for cuts or fills greater than 10 feet. Structural retaining walls greater than 5 feet in height shall be designed by a licensed structural engineer.

(d) **Birds and Trees**

*(1) Annual Bird Survey.*

Any surveys of endangered birds and bird habitat performed as part of the USFW 10A permit will be provided to the Village. No other endangered species mapping is required.

*(2) Tree Preservation.*

The Village and the Owners of Volente Peak have sought to preserve thousands of trees in a natural setting through the dedication of approximately 800 acres minimum of Open Space.

Protected trees, as currently defined in the Village's Code of Ordinances, outside of rights-of-way and easements, are allowed to be removed subject to the following requirements: Replacement trees shall be planted at a caliper ratio of 1:1 with 1.5" caliper or greater size. The first \$1,500 worth of protected trees removed from a residential lot in the Development Area is required to pay cash in lieu of planting replacement trees to the Village. Mitigation fees shall be paid at time of Building Permit. After the initial \$1,500 in mitigation, it is the Applicant's discretion whether additional required mitigation is provided by planting replacement trees or payment of cash in lieu of replacement. The payment schedule for cash in lieu of tree replacement shall be as follows: Protected trees: \$500 for minimum caliper protected tree as defined by the Village ordinance plus \$100 per inch beyond the minimum protected amount of the removed tree.

At the time of final plat approval for a phase, the Landowners shall pay the Village a protected tree removal mitigation fee in the amount of \$5,000/acre for the land located within rights-of-way and drainage/water quality/public utility easements as shown on the final plat.

(e) **Streets, Cul-de-Sacs, Easements, Driveway Slopes and Sidewalks**

*(1) Location and Dimensions of Streets.*

The location and dimensions of the streets within the Project are shown on the Concept Mobility Improvements attached as Exhibit "H" to the Preliminary Development Plan.

*(2) Cul-de-Sac Locations and Lengths.*

The location and length of the cul-de-sacs are shown on the Project Conceptual Master Plan, attached as Exhibit "D" to the Preliminary Development Plan and are hereby approved. Turnarounds, required for emergency vehicle turning

movement, are approved as shown on Project Conceptual Master Plan Exhibit "D", subject to the Fire Chief's approval.

*(3) Easement Sizes.*

To facilitate the preservation of the Open Space and the clustering of the development, utility and drainage easements within the Project shall be sized as necessary for their intended purposes, but in no case less than 15 feet in width. All drainage easements will be sized to convey the fully developed 100-year storm event.

*(4) Driveway Slopes.*

Where required due to topographical restraints within the Development Area, driveways within the R.O.W. may not exceed a 14% slope.

*(5) Sidewalks.*

Sidewalks shall not be required within the Project.

**(f) Lighting**

The "low impact" lighting and glare standards set forth in Section 3.345 of the Site Development Ordinance will be met, except that submission of an outdoor lighting plan for individual residential lots will be submitted at time of building permit. The street and infrastructure lighting shall be submitted for approval with the construction plans of each subdivision phase.

**5. MUD**

*(a) MUD Governance.*

The MUD shall be governed solely by state law, TCEQ regulations and the Agreement Concerning Creation and Operation of the Volente Municipal Utility District and Lands of the District, as amended.

*(b) Compliance with the Provisions of the MUD Consent Agreement*

The MUD shall comply with the provisions to the Consent Agreement, as amended, entered into with the Village.

**6. Compliance with the requirements of the Fire Chief and the Travis County Fire Marshall's office.**

The Landowners will submit the preliminary plat for a recommendation of approval by the Fire Chief of the Volente Volunteer Fire Department and the

Travis County Fire Marshall's Office prior to submitting the preliminary plat to the Village for its approval.

7. **Benefits to the Village from the Approval of the PDD.**

(a) *Open Space.*

A critical feature of this PDD is the permanent preservation of approximately 800 acres minimum of Open Space. As a condition of this PDD and prior to the recordation of the first plat for lots within the Development Area, the Owners of Volente Peak will convey the Open Space, subject to the terms and easements outlined in this PDD, to BCCP approved management entity (Travis County is the preferred entity).

(b) *Community Amenities/Parkland*

Two private parks, (Park Lot 'A' & Park Lot 'B' as shown on Exhibit 'N') privately owned and maintained by the Volente Peak Homeowner Association (HOA) or MUD, shall be made accessible to Village residents, provided a \$25.00 membership fee is paid on an annual basis by each Village residence desiring to utilize the facilities. The HOA shall regulate the terms of this membership and reserves the right to modify the terms from time to time, including a maximum 5% increase in fee rate per year. Village residents are subject to the park rules.

(c) *Park to be Dedicated to the Village*

Approximately 3.0 acres of land, as shown on the Project Conceptual Master Plan, attached as Exhibit "D" of the Preliminary Development Plan shall be dedicated to the Village for use as parkland. Such dedication shall be part of the approval of the first final plat within Volente Peak. Parkland and usable open space dedications, as set forth in Exhibit "D", complies with the parkland and usable space requirements of the PDD Enabling Ordinance (Section 30.124 (A)(e)).

(d) *Waterlines for the Village's future use*

The Owners of the Volente Peak MUD have agreed to size the distribution water lines running to F.M. 2769 and Lime Creek Road (see Conceptual Water Distribution Location and Conceptual Distribution System attached as "Exhibit I" of the Preliminary PDD Plan) for an additional 600 living unit equivalents of service to provide potable water to points at F.M. 2769 and Lime Creek Road for possible future distribution to the Village, as shown on "Exhibit I" of the PDD standards. These lines will be terminated with fire hydrants, which may be utilized by the Emergency Services District. If the Village should ever need such potable water, it may enter into water supply agreements with water providers and the MUD shall allow such water to pass through its systems at a cost not to

exceed the wholesale rate charged by the MUD's water provider plus a surcharge to account for the Villages' share of operations and maintenance of the pass through lines and water losses. The Volente MUD and the Village may negotiate adjustments to the surcharge from time to time based upon the MUD's actual operational costs for passing water through to the Village. At no cost to the Village and if the Village makes such a request, the Volente MUD shall dedicate to the Village by plat or separate instrument an approximate 100 foot by 100 foot area adjacent to the MUD's water storage tank(s) for use as the Village's future water storage tank site and shall provide valved stubouts for all future connection points to the Village meters and tank.

(e) *Monetary Contributions to Improve the Parkland Dedicated to the Village*

The Landowners shall contribute the sum of \$200,000.00 to the Village, designated for park improvements, to be paid when the Village Council approves the final plat for the first phase of the PDD.

8. **Preliminary PDD Plan.** The Preliminary PDD Plan and Exhibits "A-Q" attached hereto and incorporated herein for all purposes are approved.
9. **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 article are declared to be severable.
10. **Effective Date:** This Ordinance shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code.*
11. **Open Meetings:** It is hereby officially found and determined that the meeting at which the enacting ordinance of this article is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code.*

PASSED AND APPROVED on the 23<sup>rd</sup> day of October, 2006.

  
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JAN YENAWINE, MAYOR OF THE  
VILLAGE OF VOLENTE

ATTEST:

  
JENNIFER ZUFELT, CITY SECRETARY

**ORDINANCE NO. 2009-O-111**

**AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, AMENDING ORDINANCE NO. 2006-O-70; AMENDING ZONING REGULATIONS, PROCEDURES AND REQUIREMENTS FOR A PLANNED DEVELOPMENT DISTRICT (“PDD”) OF APPROXIMATELY 297 ACRES OF LAND WITHIN THE VILLAGE OF VOLENTE; AND PROVIDING SEVERABILITY, EFFECTIVE DATE, AND OPEN MEETINGS CLAUSES**

**WHEREAS**, the purpose and intent of a Planned Development District is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property in the Village of Volente (“Village”) consistent with Article 30 of the Village’s Code of Ordinances and the Village’s Comprehensive Plan; and

**WHEREAS**, the Village Planning and Zoning Commission and the Village Council have continued to work with Grason Volente Investments Ltd and the Volente Group of Texas, Ltd (“Landowners”) on development issues for the approximate 297 acre tract of land (“Property”) a portion of which was contingently rezoned as a PDD under Ordinance No. 2006-O-70; and

**WHEREAS**, the Village Council finds that the Landowners’ and Village’s proposed amendments to the PDD and the Preliminary Development Plan for the PDD are consistent with the provisions of the comprehensive plan for the Village of Volente and are designed to achieve the purposes set forth in Sections 211.003 and 211.004 of the Texas Local Government Code and Chapter 30 of the Village’s Code of Ordinances regulating zoning within the Village;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS, THAT THE FOLLOWING AMENDMENTS TO ORDINANCE NO. 2006-O-70 ARE HEREBY ENACTED:**

1. **Section 2 is hereby amended to read in its entirety as follows:**
  - (2) **Rezoning of the Property.** The outer boundaries of the PDD shall be as shown on the map attached as Exhibit “A” to Ordinance No. 2006-O-70, which is incorporated herein for all purposes.
2. **Section 3 is deleted.**
3. **Section 4(a)(3) is deleted.**
4. **Sections 4(a)(8)(2) is amended to read in its entirety as follows, in order to add Village Council approval requirement:**
  - (2) Home and related residential lot improvements, including driveways:

(a) Driveway construction may occur on slopes averaging from 25% up to 40% within the driveway envelope, only if necessary to provide access from a road to a home, provided Best Management Practice erosion controls approved by the Village Engineer and the Village Council are used. Such construction shall be approved on a case by case basis and shall be inspected by a qualified third party recommended by the Village Engineer and approved by the Village Council and paid for by the Landowner(s).

(b) Residential construction may occur on slopes averaging from 25% to 35% within the building envelope provided Best Management Practice erosion controls approved by the Village engineer and approved by the Village Council on a case by case basis are used. Such construction must be inspected by a qualified third party, recommended by the Village engineer and approved by the Village Council and paid for by the Landowner(s). The lots where construction will occur on slopes from 25% to 35% will be identified on the final plat(s).

(c) Residential construction may occur on slopes averaging from 35% to 40% within the building envelope on no more than 12 lots, provided Best Management Practice erosion controls approved by the Village engineer and the Village Council on a case by case basis are used. Such construction must be inspected by a qualified third party, recommended by the Village engineer and approved by the Village Council and paid for by the Landowner(s). The lots where construction will occur on slopes of 35% to 40% will be identified on the final plat(s).

**5. Section 4(c)(1)(b) and (c) are amended to read in their entirety as follows, in order to add Village Council approval requirement:**

(b) Cut/fill limitations for streets and utilities within easements shall not exceed twenty feet (20') in cut and 20' in fill within public rights-of-way and utility easements where reasonably necessary for access and proper and safe design of roadways and utilities. Roadside slopes may exceed 3:1 and be up to vertical with use of structural retaining walls with a maximum height of 20 feet upon the recommendation of a geotechnical or structural engineer. Cut or fill on driveways shall not exceed the cut or fill of the street frontage immediately adjacent to the driveway, provided that no driveway fill may exceed 15 feet in height. Lots fronting street cut or fill in excess of 10 feet shall be identified on the Final Plat. Cut or fill over ten feet (10') shall be mitigated to minimize the aesthetic, engineering and erosion potential from such cut and fill; mitigation measures include natural materials such as stone cladding, dry stack walls, planter walls, planter pockets, landscaping and terracing or other measures approved by the Village Engineer and the Village Council. Slope stability analysis shall be submitted by a licensed geotechnical engineer for cuts or fills greater than 10'. Structural retaining walls greater than 5' in height shall be designed by a licensed structural engineer. A license agreement must be negotiated for maintenance of

improvements within the R.O.W.

(c) Cut/fill limitations for residential lots, excluding driveways, shall not exceed a total of ten feet (10') of cut and a total of 10 feet of fill within building envelope where necessary. Building foundations are not considered cut or fill. Cut or fill over five feet (5') shall be mitigated to minimize the aesthetic, engineering and erosion potential from such cut or fill; mitigation measures include natural materials such as stone cladding, drystack walls, planter walls and planter pockets, landscaping and terracing or other measures reasonably approved by the Village Engineer and approved by the Village Council. A maximum of 2 feet (2') of the vertical face building foundation may remain exposed. Slope stability analysis shall be submitted by a licensed geotechnical engineer for cuts or fills greater than 10 feet. Structural retaining walls greater than 5 feet in height shall be designed by a licensed structural engineer.

**6. Section 7(c) is amended to read in its entirety as follows, in order to change the date for dedication of Parkland to the Village:**

*(c) Park to be Dedicated to the Village*

Approximately 3.0 acres of land, as shown on the Project Conceptual Master Plan, attached as Exhibit "D" of the Preliminary Development Plan shall be dedicated to the Village for use as parkland on or before July 31, 2012. Such dedication shall be part of the approval of the first final plat within Volente Peak. Parkland and usable open space dedications, as set forth in Exhibit "D", complies with the parkland and usable space requirements of the PDD Enabling Ordinance (Section 30.124(A)(e)).

**7. Section 7(d) is amended to read in its entirety as follows, in order to modify the provisions for waterlines for the Village's future use for firefighting purposes:**

*(d) Waterlines for the Village's future use*

The Owners of the Volente Peak MUD have agreed to size the distribution water lines running to F.M. 2769 and Lime Creek Road (see Conceptual Water Distribution Location and Conceptual Distribution System attached as "Exhibit I" of the Preliminary PDD Plan) for an additional 600 living unit equivalents of service to provide potable water to points at F.M. 2769 and Lime Creek Road for possible future distribution to the Village, as shown on "Exhibit I" of the PDD standards. These lines will be terminated with fire hydrants, which may be utilized by the Emergency Services District ("ESD"). Water delivered to the ESD or the Village if it ever assumes the fire fighting functions for the Village and its citizens shall not be considered water delivered to the Village. If the Village should ever need such potable water, it may enter into water supply agreements with water providers and the MUD shall allow such water to pass through its systems at a cost not to exceed the wholesale rate charged by the MUD's water

provider plus a surcharge to account for the Village's share of operations and maintenance of the pass through lines and water losses. The surcharge shall be a pro rata portion of costs of operations, maintenance and water losses based on the volume of water delivered to the Village as compared to the volume of water delivered to the District. The Volente MUD and the Village may negotiate adjustments to the surcharge from time to time based upon the MUD's actual operational costs for passing water through to the Village. At no cost to the Village and if the Village makes such a request, the Volente MUD shall dedicate to the Village by plat or separate instrument an approximate 100 foot by 100 foot area adjacent to the MUD's water storage tank(s) for use as the Village's future water storage tank site and shall provide valved stubouts for all future connection points to the Village meters and tank.

**8. Section 7(c) is amended to read in its entirety as follows, in order to provide for a due date for the monetary contribution for parkland and for accrual of interest on the contribution if it is not paid by the due date:**

*(e) Monetary Contributions to Improve the Parkland Dedicated to the Village*

The Landowners shall contribute the sum of \$200,000.00 to the Village, designated for park improvements, to be paid on or before August 1, 2012 ("Due Date"). If the \$200,000.00 amount ("Principal") is not paid by the Due Date, the Principal shall bear interest at the rate of the price index for the base year.

(1) "base year" means the full calendar year starting one year before the Due Date.

(2) "price index" means the consumer price index published by the Bureau of Labor Statistics of the United States Department of Labor, U.S. City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers.

(3) "price index for the base year" means the average of the monthly price indexes for each of the twelve (12) months of the base year.

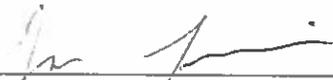
The Principal plus interest shall be paid on or before the final plat is recorded for Phase I.

**9. 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 article are declared to be severable.

10. **Effective Date:** This Ordinance shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code*.

11. **Open Meetings:** It is hereby officially found and determined that the meeting at which the enacting ordinance of this article is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code*.

**PASSED AND APPROVED** on the 2<sup>nd</sup> day of December, 2009, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the Village Council of the Village of Volente, Texas.

  
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JAN YENAWINE, MAYOR OF THE  
VILLAGE OF VOLENTE

ATTEST:

  
\_\_\_\_\_  
JENNIFER ZIFELT, CITY SECRETARY

**ORIGINAL**

**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 HIERARCHY; 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 PENALTIES 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.**

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**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, cellular, 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 colocated 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 scaled 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 collocation 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 collocation 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 subsection 104.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.

#### **36.111 Application 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.

### **36.113 Amateur 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.

### **36.114 Dormant 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 of Article 33.336 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.

### **36.116 Interference 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**

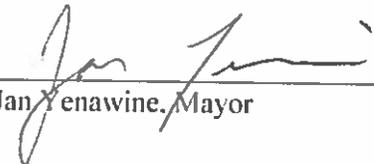
This Ordinance shall take effect after passage and the required posting and publication of this Ordinance.

**Sec. 36.164 Public Notice and Meeting**

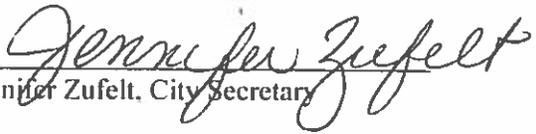
It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on this the 18<sup>th</sup> 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