

- g. Termination Order: If the Village determines that a person has violated this subsection (m), a permit, or enforcement order, the Village may:
  - (i) Order the person to terminate discharge to the POTW; and
  - (ii) Enforce termination of the discharge by severing the person's sewer connection.
  
- h. Termination of Water or Wastewater Service: If the Village determines that a person has violated this subsection (m), a permit, or enforcement order, the Village may issue a fine no less than \$200 per day per offence until the violation is remedied.
  
- i. Recovery of Economic Benefit. If the Village determines that a person has violated this subsection (m), a permit, enforcement order, or agreement, the Village may recover the economic benefit accrued to the person due to the person's non-compliance, including:
  - (i) The cost benefit resulting from the delay or avoidance of:
    - (a) Capital costs that would have been incurred for compliance; and
    - (b) Operation and maintenance costs that would have been incurred for compliance, including the cost of labor, utilities, chemicals, supplies, replacement parts, overhead, monitoring, permit fees, and other fixed or variable costs;
  - (ii) A reasonable investment rate of return on the cost benefit calculated under Subsection (i) above;
  - (iii) The value of a competitive advantage derived by the person attributable to the person's non-compliance, including increased profit or market share compared to competitors in compliance; and
  - (iv) Other economic benefit the Village may determine.
  
- j. Cumulative Remedies: The remedies authorized under this subsection (12) are cumulative unless specifically prohibited by state or federal regulation.
  
- k. Liability
  - (i) A person may be held liable for a violation of this subsection (m) if the person:

- (a) Commits or assists in the commission of a violation;
  - (b) Is an authorized representative under this subsection (m); or
  - (c) Is the owner, occupant, tenant, or manager of premises, property or a facility that is the source of a discharge in violation of this subsection (m).
- (ii) A person who violates this subsection (m) is liable to the Village for expenses, loss or damage incurred as a result of the violation.

l. Notice Of Violation:

- (i) The Village may serve a written or verbal notice of violation on a person staff determines has violated or is violating:
  - (a) This subsection (m);
  - (b) The conditions of a permit or order issued under this subsection (m); or
  - (c) Other pretreatment standard or requirement.
- (ii) A notice of violation shall describe the violation and state that, no later than the fourteenth (14<sup>th</sup>) day after receipt of the notice, a person shall provide to the Village with an explanation of the violation and a plan for the satisfactory correction and prevention, including specific actions for correction of the violation.
- (iii) A person who submits a proposed corrective plan under this subsection (12) is not relieved of criminal or civil liability for a violation of this subsection (m).

m. Voluntary Compliance:

- (i) The Village may accept from a person responsible for a violation under this subsection (m) a written assurance of voluntary compliance, or issue a consent order or similar document that establishes an agreement for voluntary compliance.
- (ii) An agreement under this subsection (m) shall:
  - (a) Describe the violation;
  - (b) Describe the specific action the person must take to correct the violation;

- (c) Specify the time period for the person to complete the corrective action;
  - (d) Be signed and dated by the person responsible for compliance; and
  - (e) Be judicially enforceable.
- (iii) The Village may take action to enforce compliance with an agreement under this subsection (m).
- n. Show Cause Hearing:
  - (i) The Village may order a person responsible for a violation of this subsection (m), a permit, or a pretreatment standard or requirement to appear before the Village and show cause why a proposed enforcement action should not be taken.
  - (ii) The Village shall serve notice to a person under this subsection (N) including:
    - (a) The time and place for a hearing;
    - (b) The nature of the violation;
    - (c) The proposed enforcement action;
    - (d) The reasons for the enforcement action; and
    - (e) A request that the person show cause why the proposed enforcement action should not be taken.
  - (iii) The Village must serve notice under this subsection (N) in person or by certified mail, return receipt requested, no later than the third (3<sup>rd</sup>) day before the hearing. Notice may be served on an employee, agent or other authorized representative of a person responsible for a violation.
  - (iv) The Village may take immediate enforcement action following the noticed hearing.
  - (v) The council is not required to hold a show cause hearing prior to taking action against a person for a violation of this subsection (M). Issuance of notice under this subsection (N) does not prevent the Village from pursuing emergency action if the Village

determines the action is required to prevent pass through, damage to the POTW or sanitary sewer, or interference with the POTW.

- o. **Compliance Order:**
  - (i) If the Village determines that a person has violated or continues to violate this subsection (m), a permit, enforcement order, or a pretreatment standard or requirement, the Village may issue an order to the person directing the person to correct the violation within a specified time period.
  - (ii) If a person does not comply within the time period provided, the Village may discontinue and disconnect water or wastewater service to the non-compliant premises unless the person installs and operates a treatment facility, device, or equipment sufficient to ensure compliance.
  - (iii) The Village may order other requirements necessary to protect the POTW or sanitary sewer including additional self-monitoring, reporting and waste management practices designed to minimize the amount of pollutants discharged to the POTW.
  - (iv) The Village shall not issue a compliance order that extends a compliance deadline established for a pretreatment standard or requirement established by federal law or by EPA order or regulation.
  
- p. **Cease and Desist Order:** If the Village determines that a person is violating this subsection (m), a permit, or enforcement order, or that past violations committed by the person are likely to recur, the Village may issue an order directing the person to:
  - (i) Immediately cease and desist the violations;
  - (ii) Immediately comply with requirements of this subsection (m), a permit, or enforcement order; and
  - (iii) Take necessary remedial or preventive action to address a present, continuing or threatened violation, including halting operations or terminating the wastewater discharge to the POTW.
  
- q. **Permit Cancellation:** The Village may cancel a permit for the following reasons:
  - (i) Abandonment of the permitted facility;

- (ii) Vacancy or nonuse of the permitted facility for ninety (90) days or more;
  - (iii) Cessation of operations that required a permit;
  - (iv) Transfer of the permitted facility to a new owner, occupant or manager; or
  - (v) Issuance of a new or modified permit.
- r. **Appeal Procedure:**
- (i) A person aggrieved by an administrative decision, interpretation or ruling by the Village under this subsection (m) may appeal by filing a written appeal with the Village no later than the thirtieth (30<sup>th</sup>) day after the issuance of the decision, interpretation, or ruling, and delivering a copy of the appeal to the Village.
  - (ii) An appeal under this subsection (R) shall include:
    - (a) The name and address of the person making the appeal;
    - (b) A statement of facts;
    - (c) A copy of the disputed ruling or evidence of a refusal to make a ruling; and
    - (d) The reason the ruling should be set aside or, if there was no ruling, the reason a ruling is required.
- s. **Informal Hearing on Appeal:**
- (i) No later than the sixtieth (60<sup>th</sup>) day after receipt of an appeal, the council may conduct an informal hearing.
  - (ii) If the council elects to conduct an informal hearing, the Village shall notify the person appealing of the time and place of the hearing and provide the person with a copy of any rules relating to an informal hearing.
  - (iii) At an informal hearing, the Village may:
    - (a) Allow the person who filed the appeal to make a presentation of the person's position and statement of facts; and

- (b) Consider the position and statement of facts presented by the Village.
  - (iv) The Village shall issue a written decision no later than the thirtieth (30<sup>th</sup>) after the date of an informal hearing. The decision of the council is final and is not subject to further administrative appeal.
  - (v) The Village may establish rules for conduct of an informal hearing, except that the Village may not require the use of formal adjudicatory techniques or rules of evidence.
  - (vi) An appeal filed under this subsection (S) does not stay an enforcement action pending the council's decision.
  - (vii) The Village may not grant a waiver or variance under this subsection (S) in a ruling on an informal hearing. The council's decision is limited to affirming or overruling the decision, interpretation, or ruling under appeal, or the application of a rule to the person who filed the appeal.
- t. Affirmative Defense to Prohibited Discharge of a Pollutant: It is an affirmative defense to prosecution for a violation of the prohibitions under this subsection (m) that the person did not know, or have reason to know, that the person's discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference, and:
- (i) Immediately before and during the pass through or interference, the person was in compliance with a local limit for the discharged pollutant causing the pass through or interference; or
  - (ii) No local limit exists for the pollutant that caused the pass through or interference, and the discharge:
    - (a) Did not change substantially in nature or constituents from an earlier discharge during which the POTW was in compliance with the NPDES or TPDES permits, and
    - (b) In the case of interference, the POTW was in compliance with applicable sludge use or disposal requirements.
- u. Affirmative Defense for Violation of Bypass Prohibition.
- (i) It is an affirmative defense to prosecution for violation of the prohibitions against bypass under this subsection (m), that:

- (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, and the person causing or allowing the bypass complied with the notice requirements;
    - (b) No feasible alternatives to the bypass existed, including the use of an auxiliary treatment facility, retention of untreated waste, or preventative maintenance during a normal period of equipment downtime.
  - (ii) A person may not assert an affirmative defense to prosecution for a bypass occurring during a normal period of equipment downtime or preventative maintenance, if the person should have, in the exercise of reasonable engineering judgment, installed adequate backup equipment to prevent a bypass.
- v. Affirmative Defense for Failure to Repair Wastewater Leak: It is an affirmative defense to prosecution for violation of the prohibitions against failure to repair a wastewater leak that:
  - (i) A person is a non-owner tenant of residential property;
  - (ii) The non-owner tenant's rental agreement or lease is for a term of twelve (12) months or less; and
  - (iii) The non-owner tenant delivered the notice to the owner of the property or the owner's agent or manager within three (3) days of receipt.
- w. Act Of God: It is an affirmative defense to prosecution in an action brought in state or municipal court for a violation of this subsection (m) that the violation was caused solely by an act of God, war, strike, riot, or other catastrophe.

G. Central Water and Wastewater Design Criteria: The design of central water and wastewater systems shall comply with the City of Austin, Texas Utility Criteria Manual, (latest edition).

H. On-Site Sewage Disposal Systems Design Criteria: The design of on-site sewage disposal systems shall comply with the Lower Colorado River Authority's On-Site Sewage Facility (OSSF) Rules, including those areas within the jurisdictional boundaries of the Village that are outside the jurisdictional areas of the Lower Colorado River Authority.

I. Groundwater Withdrawal Systems:

1. Responsibility:
  - a. In addition to complying with the requirements of 16 TEX. ADMIN. CODE Chapter 76, all well drillers, landowners and persons having a well, drilled, deepened, or otherwise altered, shall adhere to the provisions of this subsection (p) prescribing the proper drilling, completion, operation, maintenance, capping, and plugging.
  - b. Where a landowner or person having a well drilled, deepened, or otherwise altered, denies a well driller access to the well to complete the well to established standards and thereby precludes the well driller from performing his or her duties under the TEXAS WATER CODE, 16 TEX. ADMIN. CODE ch. 76, or this subsection (p), the well driller shall, within five (5) days provide to the Village a copy of the statement prescribed in 16 TEX. ADMIN. CODE § 76 .702(a)( 1), as may be amended. The landowner or person authorizing the well work shall complete the well to established standards within ten (10) days of notification by the Village.
  - c. Where a person or landowner having a well drilled, deepened, or altered denies a well driller access to the well that requires plugging or completion or otherwise precludes the well driller from plugging or completing the well that has encountered undesirable water or constituents, the well driller shall, within forty-eight (48) hours, provide to the Village a copy of the statement prescribed in 16 TEX. ADMIN. CODE § 76.702(e)(1), as may be amended.
2. Well Construction Permits: Any person having a well drilled, deepened, plugged or otherwise altered shall obtain a site development permit from the Village, in accordance with Division 2 of this article. NOTE: well permit fees should be scaled to make Glen Rose permits more expensive than Trinity to attempt to conserve the Glen Rose
3. Drilling by Unlicensed or Unregistered Well Driller Prohibited: No person may, within the jurisdictional boundaries of the Village, engage in the drilling, boring, coring, construction, alteration plugged or modification of an aquifer well unless the person first holds a well driller's license issued pursuant to the provisions of Chapter 51 or Chapter 1901, TEXAS OCCUPTIONS CODE.
4. Locations of New Wells:
  - a. Wells shall be located a minimum horizontal distance of fifty feet (50') from any watertight sewage and liquid-waste collection facility, except in the case of monitoring, dewatering, piezometer, and recovery wells, which may be located where necessity dictates.

- b. A well shall be located a minimum horizontal distance of one hundred fifty feet (150') from any concentrated sources of potential contamination such as, but not limited to, existing or proposed livestock or poultry yards, cemeteries, pesticide mixing/loading facilities, and privies, except in the case of monitoring, dewatering, piezometer, and recovery wells, which may be located where necessity dictates. A well shall be located a minimum horizontal distance of one hundred fifty feet (150') from an existing or proposed septic system absorption field, septic system spray area, or a dry litter poultry facility, and fifty feet (50') from any property line provided the well is located at the minimum horizontal distance from the sources of potential contamination listed in this subsection (p).
  - c. A well shall be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, the top of the casing shall extend a minimum of twelve inches (12") above ground level or thirty-six inches (36") above known flood prone areas and unprotected openings into a well casing that is above ground shall be sealed water tight.
5. Standards of Completion for Wells: Wells shall be completed in accordance with the following standards:
- a. In water table wells, the annular space shall extend from the land surface or well head to within three feet (3') of the top of the water level or twenty feet (20') from the land surface or well head, whichever is deeper.
  - b. In artesian wells, the annular space shall extend from the land surface or well head to at least ten feet (10') below the top of the aquifer formation or twenty feet (20') from the land surface, whichever is deeper.
  - c. Throughout the length of the entire annular space, there shall be a minimum of two inches (2") between the outside surface of the outermost well casing and the surface of the borehole such that the borehole diameter is a minimum of four inches (4") larger than the outside diameter of the outermost well casing.
  - d. The entire annular space shall be sealed with a grout, using one (1) of the following applicable methods:
    - (i) For water table wells, the grout shall be placed by:
      - (a) The tremie method;
      - (b) The positive displacement exterior method;
      - (c) The positive displacement interior method; or

- (d) The continuous injection method.
    - (ii) For artesian wells, the grout shall be placed by:
      - (a) The positive displacement interior method; or
      - (b) The continuous injection method.
  - e. The well driller or well owner shall within sixty (60) days of the completion of the well:
    - (i) Perform a constant discharge specific capacity test for a minimum of one (1) hour and report the results to the Village in gallons per minute per foot of drawdown. The report will include pumping rate, pumping time, and water level measurements obtained;
    - (ii) Perform a water level measurement and report the results to the Village;
    - (iii) Provide to the Village the location of the well in degrees, minutes, and seconds of latitude and longitude, to the nearest second in the North American Datum of 1983, and indicate the location of the well on a USGS 7.5 minute topographic map;
    - (iv) Provide to the Village any geophysical logs of the well from bottom to top, which include natural gamma ray and caliper logs, and the log shall be certified as true and correct for the identified well on its header by the logging technician; and
    - (v) For wells drilled through one (1) or more aquifers to deeper aquifers, the geophysical log shall demonstrate that all aquifers have been properly isolated from other aquifers.
  - f. Logging technicians shall submit a statement certifying that the log for the well identified on the log header is true and correct
  - g. The well driller shall not use any material containing lead in constructing a well.
  - h. The top of the casing shall extend a minimum of twelve inches (12") above the land surface.
  - i. In wells where a steel or PVC sleeve is used:

- (i) The steel sleeve shall be a minimum of 3/16 inches in thickness and/or the plastic sleeve shall be a minimum of Schedule 80 sun resistant or SDR 17 in 6-inch and 8-inch sun resistant;
  - (ii) The sleeve shall extend, at a minimum, as high as the casing above the land surface;
  - (iii) The sleeve shall be at least twenty-four inches (24") in length;
  - (iv) The sleeve shall extend at least twelve inches (12") below the ground surface, except when steel casing or a pitless adapter is used; and
  - (v) The sleeve shall be at least two inches (2") larger in diameter than the plastic casing being used.
- j. Pitless adapters may be used in wells provided that the adapter meets the Water System Council WSC PAS-97 standards and recommended installation procedures for sanitary water well systems.
  - k. All wells shall be completed so that aquifers or zones containing waters that differ in chemical quality are not allowed to commingle through the borehole casing, annulus, or a gravel pack and cause quality degradation of any aquifer or zone.
  - l. The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.
  - m. Each well driller drilling, deepening, or otherwise altering a well shall keep any drilling fluids, tailings, cuttings, or spoils contained in such a manner so as to prevent spillage onto adjacent property not under the jurisdiction or control of the well owner without the adjacent property owner's written consent.
  - n. Each well driller drilling, deepening, or otherwise altering a well shall prevent the spillage of any drilling fluids, tailings, cuttings, or spoils into any body of surface water.
  - o. A new, repaired, or reconditioned well or pump installation shall be properly disinfected before use with chlorine or other appropriate disinfecting agent under the circumstances. A disinfecting solution with a minimum chlorine concentration of fifty milligrams per liter (50mg/l), shall be placed in the well as required by the American Water Works Association (AWWA), pursuant to ANST/AWWA C654-87 and the United States Environmental Protection Agency (EPA).

- p. A half-inch (1/2") diameter water level access port with threaded seal shall be provided in the top of the cap or compression seal of the well. Wells with turbine pumps shall be installed with an air line or tube for a steel tape or other port for water level measurement.

6. Additional Standards of Completion for Aquifer Wells Encountering Undesirable Water or Constituents:

- a. In addition to the other requirements of this subsection (p), if a well driller encounters undesirable water or constituents and the well is not plugged the well driller shall see that the well drilled, deepened, or otherwise altered is forthwith completed in accordance with the following:
  - (i) When undesirable water or constituents are encountered in a water well, the undesirable water or constituents shall be sealed off and confined to the zone(s) of origin.
  - (ii) When undesirable water or constituents are encountered in a zone overlying fresh water, the well driller shall case the water well from an adequate depth below the undesirable water or constituent zone to the land surface to ensure the protection of water quality.
  - (iii) The annular space between the casing and the wall of the borehole shall be pressure grouted with grout from an adequate depth below the undesirable water or constituent zone to the land surface to ensure the protection of groundwater. Bentonite grout shall not be used if a water zone contains chloride water above 1,500 milligrams per liter (mg/l) or if hydrocarbons are present.
  - (iv) When undesirable water or constituents are encountered in a zone underlying a fresh water zone, the part of the well bore opposite the undesirable water or constituent zone shall be pressure grouted with grout to a height that will prevent the entrance of the undesirable water or constituents into the water well. Bentonite grout shall not be used if a water zone contains chloride water above 1,500 milligrams per liter (mg/l) or if hydrocarbons are present.
- b. The person who performs the well completion operation on well shall, within sixty days (60) after completing the well, submit to the Village a well completion report on a form authorized by the Village.

7. Additional Standards for Wells Producing Undesirable Water or Constituents:

- a. Wells completed to produce undesirable water or constituents shall in addition to the other requirements of this subsection (p), be cased to prevent the mixing of water or constituent zones.
  - b. Wells producing undesirable water or constituents shall, in addition to the other requirements of this subsection (p), be completed in such a manner that will not allow undesirable fluids to flow onto the land surface.
8. Construction Standards for Wells Drilled before the Effective Date of this Article:
- a. Wells drilled prior to the effective date of this article will, unless abandoned, be grand fathered without further notification unless the well is found to be a threat to public health and safety or to water quality. The following will be considered a threat to public health and safety or to water quality:
    - (i) The annular space around the well casing is open at or near the land surface;
    - (ii) An unprotected opening into the well casing exists;
    - (iii) The top of the well casing is below known flood level and is not appropriately sealed; or
    - (iv) Deteriorated well casings allowing commingling of aquifers or zones of water of different quality, allowing infiltration of surface water, or causing a public nuisance.
  - b. If the annular space around the well casing at the surface is not adequately sealed as set forth in this subsection (p), it shall be the responsibility of each well driller or pump installer to inform the landowner that the well is considered to be a deteriorated well and must be recompleted when repairs are made to the pump or well in accordance with this subsection (p), and the following standards:
    - (i) The well casing shall be excavated to a minimum depth of four feet (4') and the annular space shall be filled from ground level to a depth of not less than four feet (4') below the land surface with grout. In areas of shallow, unconfined groundwater aquifers, the grout need not be placed below the static water level. In areas of shallow, confined groundwater aquifers having artesian head, the grout need not be placed below the top of the water bearing strata.
    - (ii) If deteriorated well casing is allowing commingling of aquifers or zones of water of different quality or surface water and causing degradation of the aquifer, then the well shall be plugged or

repaired. Procedures for repairs shall be submitted to the Village for approval prior to implementation.

- (iii) If a well driller or pump installer finds any of the procedures described by this subsection (p) to be inapplicable, unworkable, or inadequate, alternative procedures may be employed provided that the proposed alternative procedures shall prevent injury and pollution and that the procedures shall be submitted to the Village for approval prior to their implementation and further provided that the Village will not approve an alternative method that is less protective of the aquifer than the methods stated elsewhere in this subsection (p).
- (iv) Well covers shall be capable of supporting a minimum of four hundred pounds (400lbs) and constructed in such a way that they cannot be easily removed by hand.

9. Modification of Wells: If a well constructed prior to the effective date of this article is modified, or repaired, the work shall include those changes necessary to make the well conform to this subsection (p):
  - a. Activities that will invoke this rule include installing additional casing, repairing existing casing, adjusting the well depth, or any work that may affect the integrity of the annular space seal.
  - b. Activities that will not invoke this rule include modifying or repairing pumping equipment or minor modifications to the well surface completion as long as these activities do not impact the integrity of the well casing or the annular space seal.
10. No Chemical Storage: No pesticides, herbicides, organic chemical compounds, inorganic chemical compounds or other hazardous or toxic substances shall be stored within twenty-five feet (25') of the bore of a well, with the exception of water treatment chemicals required for municipal wells and fuels and lubricants required to operate irrigation pumping equipment.
11. No Standing Water: No water shall be allowed to stand (pool) around the bore of a completed well.
12. No Debris: The ground, slab or well house floor shall remain clear of debris and shall be sloped away from well.
13. Village Access: With respect to any well, the well shall be made accessible to the Village for the purposes of compliance inspection, water quality testing, or water level measurement within forty-eight (48) hours of notification from the Village.

14. Recompletions:

- a. The landowner shall have the continuing responsibility of ensuring that a well does not allow the commingling of undesirable water or constituents with fresh water or the unwanted loss of water through the well bore to other porous strata.
- b. If a well is allowing the commingling of undesirable water or constituents with fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well recompleted in accordance with the applicable rules, then the casing in the well shall be perforated and grouted in a manner that will prevent the commingling or loss of water. If such a well has no casing then the well shall be cased and grouted, or plugged in a manner that will prevent such commingling or loss of water.
- c. The Village may require the landowner to take proper steps to prevent the commingling of undesirable water or constituents with fresh water, or the unwanted loss of water.

15. Well Pits:

- a. No new well pits shall be allowed.
- b. No person shall modify existing well pits. Any person modifying a well shall eliminate existing well pits and the well driller shall extend the casing a minimum of twelve inches (12") above ground level and a minimum of thirty-six inches (36") above the known flood level, and unprotected openings into the well casing that are above ground shall be sealed water tight and an air vent extended a minimum of thirty-six inches (36") above the known flood level. Any flooring and the walls of the pit shall be broken and removed and the pit shall be filled with compacted earth.

16. Water Distribution and Delivery Systems:

- a. A buried discharge line between the pump discharge and the pressure tank or pressure system in any installation, including a deep well turbine or a submersible pump, shall not be under negative pressure at any time. With the exception of jet pumps, a check valve or an air gap shall be installed in a water line between the well casing and the pressure tank. Either a check valve, or an air gap, as applicable, shall be required on all irrigation well pumps whenever a pump is installed or repaired. All wells shall have either a check valve, or an air gap as applicable.
- b. Wells shall be vented with watertight joints except as provided by subsection (A) above.

- (i) Watertight joints, where applicable pursuant to the provisions of this subsection (p), shall terminate at least three feet (3') above the known flood level or one foot (1') above the established ground surface or the floor of a pump room or well room, whichever is higher.
- (ii) The casing vent shall be screened and point downward.
- (iii) Vents may be offset provided they meet the provisions of this subsection (p).
- (iv) Toxic or flammable gases, if present, shall be vented from the well. The vent shall extend to the outside atmosphere above the roof level at a point where the gases will not produce a hazard.

17. Pump Installation:

- a. During any repair or installation of a water well pump in a well, the licensed pump installer shall make a reasonable effort to maintain the integrity of the well surface completion to protect groundwater quality.
- b. A new, repaired or reconditioned well, or pump installation or repair on a well used to supply water for human consumption shall be properly disinfected.
- c. The pump shall allow entry into the well casing for measurement of water levels.
- d. The pump and piping shall include a means to collect a water sample.

18. Alternative Minimum Standards:

- a. If the party having a well drilled, deepened, plugged, or otherwise altered, or the well driller, or the party plugging the well, finds any of the requirements or procedures prescribed by this subsection (p) inapplicable, unworkable, or inadequate, combinations of the prescribed requirements or procedures or alternative procedures may be employed, provided that the proposed alternative requirements or procedures shall prevent injury and pollution to the aquifer. The Village will not approve an alternative method that is less protective of the aquifer than the methods stated elsewhere in this subsection (p).
- b. Proposals to use combinations of prescribed requirements or procedures or alternative requirements or procedures shall be submitted to the Village for approval prior to their implementation.

- c. If the Village approves such proposed alternative requirements or procedures, it shall not relieve the party from the obligation to comply with other applicable requirements of federal, state, or local law.

19. **Well Reports:**

- a. Every well driller who drills, deepens, or otherwise alters a well, shall be properly licensed and shall make and keep a legible and accurate State Well Report on a form approved by the Village.
- b. Every well driller shall deliver or transmit by first-class mail a photocopy of the State Well Report, and any other forms required by the Village, to the Village and a copy to the owner or person for whom the well was drilled, deepened or otherwise altered within sixty (60) days from the completion or cessation of drilling, deepening, or otherwise altering a well.

20. **Reporting Undesirable Water or Constituents:**

- a. Each well driller shall inform, within twenty-four (24) hours, the landowner or person having an well drilled, deepened, or otherwise altered or their agent when undesirable water or constituents have been encountered.
- b. Within thirty (30) days of encountering undesirable water or constituents, the well driller shall submit the information to the Village, and to the landowner or person having the well drilled, deepened, or otherwise altered, on forms approved by the Village:
  - (i) A statement signed by the well driller indicating that the landowner or person having the well drilled, deepened, or otherwise altered, has been informed that undesirable water or constituents have been encountered; and
  - (ii) A copy of the Undesirable Water or Constituents Report required pursuant to 16 TEX. ADMIN. CODE § 76.701, as may be amended.

21. **Advance Notice and Field Inspections:** To ensure compliance with this subsection (p), the Village may initiate field inspections, investigations, or observation of any well, or any drilling, capping, plugging, completion, operation, alteration, maintenance, abandonment, or any other operations covered by this subsection (p). To effectuate this subsection (p), the well driller shall provide notice to the Village at least two (2) working days prior to the initiation of any well drilling, deepening, altering, capping, plugging or completion operations.

22. Injection Wells Prohibited; Certain Exceptions: No person shall:
- a. Construct, install, drill, equip, alter, or complete an injection well that transects or terminates in the aquifer; or
  - b. Alter a well to become an injection well that transects or terminates in the aquifer.
23. Well Plugging and Capping:
- a. It is the responsibility of the landowner and person having a well drilled, deepened, or otherwise altered, to cap or have capped, under the standards set forth in 16 TEX. ADMIN. CODE § 76.1004, as may be amended, any well that is open at the surface.
  - b. It is the responsibility of the landowner and person having a well drilled, deepened, or otherwise altered, to plug or have plugged, under the standards set forth in of this subsection (24), a well that is an abandoned well or a deteriorated well. Such plugging shall be completed within one hundred eighty (180) days from the date on which the landowner or other person learns of the well's abandonment or deteriorated condition, or by the date specified in any permit to plug the well issued by the Village.
  - c. It is the responsibility of each well driller to inform the landowner and person having a well drilled, deepened, or otherwise altered that the well shall be plugged by the landowner, licensed driller, or a licensed pump installer, under the standards set forth in this subsection (24), if the well is an abandoned well or a deteriorated well.
  - d. It is the responsibility of the licensed driller, landowner and person having a well drilled, deepened, or otherwise altered to see that any well which encounters undesirable water or constituents is plugged.
  - e. The person that completes, caps or plugs a well shall, within thirty (30) days after capping or plugging is complete, submit to the a copy of the State Plugging Report pursuant to 16 TEX. ADMIN. CODE § 76.700(2), as may be amended.
  - f. It is the responsibility of the well driller of a newly drilled well and the pump installer to place a cover over the boring or casing of any well that is to be left temporarily unattended with the pump removed. Well covers shall be capable of supporting a minimum of four hundred pounds (400lbs) and constructed in such a way that they cannot be easily removed by hand.

24. Standards for Plugging Wells: Wells which are required to be plugged under the standards set forth in this subsection (p) shall be plugged in accordance with the following requirements:

- a. Preparation of Aquifer Wells to be Plugged: Before plugging, the well driller shall measure the depth and check to ensure that there are no obstructions within the well that may interfere with plugging operations. The well driller shall pull, perforate, or drill out screens, casings and liner pipes whenever practicable to assure placement of an effective seal. The well driller shall pull all reasonably removable casing, and a minimum of at least the upper five feet (5') of casing, liner pipe, brick, stone, metal, or other materials in all wells to prevent the passage of water along the casing and entering the water-bearing strata. The well driller shall pull rather than cut the top joint of all plastic casings. If it is deemed not practicable to pull the top joint of a steel casing, the steel casing joint may be cut. The well driller shall disinfect the well and fill materials by using a disinfecting solution with a minimum chlorine concentration of fifty milligrams per liter (50mg/l), placed in the well. The well driller shall place the fill material in the well after the water in the well has been disinfected. Grouts do not require disinfecting.
- b. The well owner shall provide to the Village a geophysical log of the well from bottom to top before plugging operations begin. The geophysical log shall be used to determine the condition of the well and whether protective measures in addition to those specified in this subsection (25) should be used to ensure the well is plugged sufficiently to protect the aquifer. The geophysical log shall include: natural gamma ray log and caliper log. Based upon the review of the geophysical log, the Village reserves the right to request additional well data or impose more stringent plugging standards than those specified elsewhere in this subsection (p).
- c. If a well is to be plugged, the entire well, including the annular space and casing, shall be pressure filled with grout via a tremie pipe from bottom up to the land surface in accordance with the following applicable procedures:
  - (i) For wells with no artesian flow of water:
    - (a) The well driller shall completely fill the well, including the annular space and casing, with the grout appropriate for the well plugging circumstance.
    - (b) The well driller shall not use sand or stone aggregate except for those wells for which a well record or geophysical log is on file with the Village. Use of sand or stone aggregate shall be considered a special case and the method of filling

and sealing such wells shall be subject to written approval by the Village prior to sealing. Under these conditions, the Village may allow the use of sand or stone aggregate to fill through the water-producing horizon below the base of the casing, if there is limited vertical movement of water in the formation and such movement will not adversely affect the quality and quantity of water in producing wells. Where sand or stone aggregate fill is allowed by the Village, the well driller shall place the grout appropriate for the well plugging circumstance immediately above the sand or stone aggregate fill, extending up to within two feet (2') of the ground surface. When used, stone aggregate shall not be more than one-third (1/3) of the diameter of the well or two inches (2"), whichever is smaller.

- (c) The well driller shall fill the uppermost two feet (2') of the borehole with clay or an impermeable material appropriate to the intended use of the land. In cases where bentonite grout is used to fill the well, the top two feet (2') of grout shall consist of cement as an atmospheric barrier.
  - (d) In the event the casing cannot be pulled or drilled out, the well driller shall use the grout appropriate for the well plugging circumstance to fill the remaining length of the casing.
- (ii) For flowing artesian wells:
- (a) The well driller shall pressure cement such well with neat cement mixed with a minimum quantity of water that will permit handling. In order to place the cement, the well driller shall restrict the flow of water from the well.
  - (b) Stone aggregate not more than one-third (1/3) of the diameter of the hole, or two inches (2"), whichever is smaller, may be placed through the water-bearing horizon if its extent is known.
  - (c) The well driller shall place a well packer, cast-iron plug, or temporary bridge at the bottom of the confining formation immediately overlying the artesian water-bearing horizon to seal off the flow. Temporary bridges shall consist only of inorganic materials, except that patented devices containing expandable neoprene, plastic, and other elastomers, and specifically designed for use in well construction will be acceptable. Heavy drilling mud may also be used to offset

pressure in a flowing artesian well if the mud does not consist of recycled material.

- (d) The well driller shall place the neat cement grout in one (1) continuous operation from the top of the packer, plug or bridge to within five feet (5') below the land surface.
  - (e) The well driller shall fill the uppermost five feet (5') of the borehole with clay or an impermeable material appropriate to the intended use of the land.
  - (f) In the event the casing cannot be pulled or drilled out, the well driller shall use the grout appropriate for the well plugging circumstance to fill the remaining length of the casing.
- d. In lieu of the procedure in subsection (C) above, any zone(s) contributing undesirable water or constituents, or the fresh water zone(s) within the well, shall be isolated with grout plugs and the remainder of the well bore filled with bentonite grout (ten pounds (10lbs) per gallon mud or more with a marsh funnel viscosity of 50 seconds or equivalent) to form a base for a grout plug extending from a depth of not less than two feet (2') to the land surface, or if the section(s) of well bore to be filled with bentonite grout has one hundred feet (100') or less of standing water the section(s) may be filled with a solid column of three-eighths inch (3/8") or larger granular sodium bentonite hydrated at frequent intervals while strictly adhering to the manufacturer's recommended rate and method of application. If a bentonite grout is used, it should be set sufficiently to support the two-foot (2') thick grout plug. The top two feet (2') above any bentonite grout or granular sodium bentonite shall be filled with cement as an atmospheric barrier.
- e. Well drillers may petition the Village in writing for an alternative method of plugging a well. The petition should state in detail the alternative method proposed and all conditions applicable to the well that would make the alternative method preferable to those methods stated elsewhere in this subsection (25). The Village will not approve an alternative method that is less protective of the aquifer than the methods stated elsewhere in this subsection (p).

25. Permits to Plug a Well:

- a. Any person seeking to plug a well or otherwise required to have a well plugged pursuant to this subsection (p) shall file an application for a site development permit to plug a well with the Village and obtain such a permit before plugging the well.

- b. The well for which the permit is issued shall be plugged within ninety (90) days of the issuance of the permit.
- c. The Village will grant an application for a site development permit to plug a well if the following elements are established:
  - (i) The applicant paid the application fee;
  - (ii) The well head is physically located within the boundaries of the Village;
  - (iii) The applicant is legally entitled to plug the well;
  - (iv) The proposed plugging shall not negatively affect the aquifer or other permittees or groundwater users;
  - (v) The well will be plugged consistent with the requirements of this subsection (p) and any applicable local, state, or federal laws.
- d. When issuing a site development permit to plug a well, the Village may approve the plugging method and materials proposed to be used by the applicant or may prescribe modified or alternative plugging methods or materials which are consistent with the requirements of this subsection (p).
- e. Once a permit to plug a well has been issued, the permit holder shall not engage in any plugging activity without first providing to the Village advance written notice of the date and time at which plugging operations will begin. Such notice shall be submitted to the Village not less than two (2) business days prior to the commencement of plugging activities. Representatives of the Village shall be entitled to attend and observe all plugging activities, and may order plugging operations to cease if they find that plugging is not being conducted in compliance with requirements of this subsection (p) or the terms of the site development permit to plug a well.

**Sec.33.346 Performance Standards**

- A. All uses and all site development shall conform in operation, location, and construction to the performance standards as administrated by county, state and federal agencies, and shall conform in operation, location, and construction to appropriate performance standards for noise, smoke and particulate matter, odorous matter, fire or explosive hazard material, toxic and noxious matter, vibration, and glare.
- B. All federal and state pollution, noise, and requirements for toxic waste disposal shall be observed.

- C. Noise: Reserved
- D. Smoke and Particulate Matter: Reserved
- E. Odorous Matter: Reserved
- F. Fire or Explosive Hazard Material:
  - 1. No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the fire department.
  - 2. The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Village fire code or are approved by the fire department.
- G. Toxic and Noxious Matter: Reserved
- H. Vibration: Reserved

**Sec.33.347 Lighting and Glare Standards**

- A. Purpose and Intent:
  - 1. Outdoor lighting shall be required for safety and personal security in areas of public assembly and traverse for multiple family developments, as well as municipal, commercial, industrial, and institutional uses where there is outdoor public activity during hours of darkness. Glare and light trespass control shall be required to protect inhabitants from the consequences of stray light shining in inhabitants' eyes or onto neighboring properties. Light pollution control shall be required to minimize the negative effect of misdirected upward light. The glare, light trespass, and light pollution requirements of this section shall apply to all uses, including residential, and all jurisdiction including public, private and municipal.
  - 2. It is the purpose of this section to create standards for outdoor lighting design, installation, operation, and maintenance practices and systems that will: minimize glare, light trespass, light pollution and urban sky glow; improve safety and security; curtail the degradation of the overall nighttime visual environment; and conserve energy and resources while maintaining nighttime utility and productivity by:

- a. Using fixtures with good optical control to distribute light in the most effective and efficient manner;
- b. Using minimum quantity of light to meet the lighting criteria;
- c. Using shielded outdoor light fixtures where required and wherever feasible;
- d. Energizing light fixtures only when necessary, by means of automatic timing devices;
- e. Requiring that certain outdoor light fixtures be turned off between 8:30 p.m. and sunrise;
- f. Using low-pressure sodium outdoor fixtures wherever feasible, when color rendition is not a factor.

**B. Definitions Applicable to this Section:**

1. ***Automatic Timing Device:*** A device, which automatically turns on and off outdoor light fixtures or circuits. Photo-controls are not considered automatic timing devices for purposes of this section.
2. ***Cut-Off Angle (Of A Luminaire):*** The angles, measured from nadir (straight down), between the vertical axis and the first line of sight at which the lamp (bulb) is not visible.
3. ***Cut-Off Luminaire:*** A luminaries (fixture) in which two and one-half percent (2.5%) or less of the lamp lumens are emitted above a horizontal plane through the luminaire lowest part and ten percent (10%) or less of the lamp lumens are emitted at a vertical angle eighty degrees (80°) above the luminaire lowest point.
4. ***Fixture (Luminaire):*** The assembly that holds the lamp(s) in a lighting system. It includes the elements designed to give light output, control, such as a reflector or refractor, the ballast, housing and attachment parts.
5. ***Footcandle (FC):*** A unit of measure of illuminance amounting to one (1) lumen per square foot.
6. ***Full Cut-Off:*** A luminaire which cut offs all upward transmission of light above a ninety degree (90°), horizontal plan from the base of the fixture, as certified by a photometric test report.

7. **Fully Shielded:** An outdoor luminaire that is shielded or constructed so that no light is emitted, either directly from the lamp or indirectly from the fixture, above the cutoff angle of the fixture, as certified by a photometric test report.
8. **Glare:** Glare can be disabling, discomforting and/or simply a nuisance. There are three types of glare:
  - a. **Disability Glare (Veiling Luminance):** Reduces visibility by reducing the contrast of the primary image on the retina.
  - b. **Discomfort Glare:** Does not necessarily reduce the ability to see an object but produces a sensation of discomfort. It is caused by high contrast or a non-uniform distribution of luminance within the field of view.
  - c. **Nuisance or Annoyance Glare:** Has not yet been quantified although research is ongoing. For now, it may be defined as glare that causes complaints, such the “light shining in my window” phenomenon.
9. **IES, Illuminating Engineering Society of North America:** A professional organization that provides recommended lighting standards to the lighting industry.
10. **Illuminance:** The quantity of light (in lumens) arriving at a surface divided by the area of the illuminated surface (in square feet), measured in footcandles.
11. **Light Pollution:** Artificial light which causes a detrimental effect on the environment, astronomical research, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties. Also, the night sky glow caused by the scattering of artificial light in the atmosphere.
12. **Light Source:** The lamp (bulb), and lens, diffuser, or reflective enclosure.
13. **Light Trespass:** Light projected onto a property from a fixture not located on that property.
14. **Luminaire:** A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power source.
15. **Lumen:** The measure of the quantity or output of the lamp. One footcandle is one lumen per square foot.
16. **Luminous Tube Lighting:** Gas-filled tubing, which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, which may be neon, argon or other.

17. **Mounting Height:** The height of the fixture or lamp above the ground.
18. **Person:** Any individual, tenant, lessee, owner, or any commercial entity, or legal entity of any kind, including but not limited to a firm, business, partnership, joint venture, or corporation.
19. **Outdoor Lighting:** Light from electrically powered outdoor illuminating devices or reflective surfaces, lamps or similar devices, permanently installed or portable, used for illumination or advertising.
20. **Outdoor Lighting Fixture:** Any type of fixed or movable lighting equipment that is designed or used for illumination outdoors. The term includes billboard lighting, streetlights, searchlights and other lighting used for advertising purposes, and area lighting. The term does not include lighting equipment that is required by law to be installed on motor vehicles or lighting required for the safe operation of aircraft.
21. **Shielding:** A technique or method of construction which causes light emitted from an outdoor light fixture to be projected below an imaginary plane passing through the luminaire.
22. **Uniformity Ratio:** The maximum to minimum Illuminance requirement within a given area. For example; with a 4:1 ratio, the average level of illumination should be no more than four (4) times the lowest level of illumination.
23. **Urban Sky Glow:** The undesirable brightening of the night sky due to manmade lighting.

C. General Requirements:

1. Outdoor lighting systems shall be installed, operated and maintained in conformance with the provisions of this section, the National Electric Code and the applicable construction codes. This includes outdoor lighting for office, commercial, industrial, residential, utility and public use buildings and structures, landscape lighting, business display and service areas, street lighting, recreational areas, and all parking lots, including lots for multi-family residential use.
2. The council shall have the express authority to require outdoor lighting users to comply with the provisions of this section wherein their reasonable discretion is warranted for public safety or welfare.
3. Outdoor lighting installed prior to the effective date of this article are exempt from the provisions of this article for a period of five (5) years, except:

- a. Any luminaire, which is improperly installed or is aimed improperly shall be adjusted and brought into compliance with this section within ninety (90) days;
  - b. Lighting systems or luminaires, which are determined by the council to create safety or health hazard can be ordered at any time by the Village to be removed or modified.
4. Inoperative luminaires shall be brought into full compliance upon replacement including source, cut-off fixture type and aiming. The new or replacement outdoor lighting fixture shall be a cut-off luminaire if the rated output of the lamp or light source is greater than 1,800 lumens.
  5. All outdoor lighting systems existing or hereafter installed and maintained upon private property within commercial, residential, industrial or multi-family zones shall be turned off between midnight and sunrise except when used for:
    - a. Commercial and industrial uses, such as in sales, assembly and repair areas where such use continues after midnight. But only for so long as such use continues;
    - b. Security purposes or to illuminate walkways, roadways, equipment yards and parking lots; and
    - c. Recreational use where a scheduled game or organized competition is in progress at 10:00 p.m., on Monday, Tuesday, Wednesday, Thursday, or Friday, but only until the game is completed, or midnight p.m., whichever comes first.
  6. All outdoor lighting shall have the Illuminance, measured in footcandles, and uniformity ratios in accordance with the current Recommended Lighting Levels and Practices of Illuminating Engineering Society of North America (IESNA).
  7. Ground mounted flood lighting shall illuminate only the task. Use controlled angle lighting, and use the minimum Illuminance authorized under IESNA design standards to restrict light trespass and light pollution.

D. Approved Materials and Methods of Installation:

1. The provisions of this section are not intended to prevent the use of any design, material, or method of installation, even if not specifically prescribed by this section provided such alternate has been approved by the Village.
2. Outdoor lighting shall comply with the following:
  - a. Wall packs are prohibited unless fully shielded.

- b. Luminaires shall be fully shielded with full cut-off with the exception of sources less than 1800 lumens.
- c. Fully shielded luminaires shall have a cut-off angle of no more than eighty degrees (80°), as measured from nadir.
- d. Mounting Height: Outdoor pole mounted and building mounted luminaires (excluding roadway and street lighting) in parking lots shall not exceed eighteen feet (18') and twelve feet (12') respectively (including base), as measured from the immediate adjacent grade to the top of the fixture. Mounting height shall include pedestal height.
- e. Outdoor recreational field pole mounted lighting shall be treated on an individual basis.

E. Energy Conservation and Maintenance Issues:

- 1. Light Sources: The efficiency of a light source is measured in lumens per watt, also called efficacy. The most efficient light source is the low pressure sodium lamp and the least efficient is the incandescent. Sources also vary significantly in lamp life, color temperature, meaning the apparent color of the source, and color rendition, meaning the color objects appear when illuminated. Selection of a source shall take into consideration all of these factors. The following is a list of the most commonly used light sources ranked in order of most efficient to least efficient:
  - a. Low pressure sodium;
  - b. High pressure sodium;
  - c. Metal Halide;
  - d. Fluorescent;
  - e. Tungsten Halogen (also called quartz);
  - f. Mercury Vapor;
  - g. Incandescent.
- 2. Maintenance:
  - a. Documentation shall be filed with the Village with the site development permit application detailing maintenance program including relamping and cleaning schedule.

- b. Pole-mounted luminaires can become misaligned if the support pole is nudged by a vehicle, or rendered useless if the pole is knocked over. When laying out pole locations, especially aluminum standards, poles shall be placed on pedestals or mounted away from vehicular traffic. Adherence to the Texas Department of Transportation's setback requirements for poles adjacent to vehicular travelways is required. Break-away pole bases shall not be used near pedestrian traffic because falling poles could inflict injuries and property damage. In parking areas, poles shall be mounted on concrete pedestals at least thirty-six inches (36") high to avoid damage from bumpers.
- c. The mounting heights of outdoor poles specified in subsection (d)(2)(D) above shall include the height of pedestal.
- d. Bollards should be installed on low bases, or surrounded by edging to reduce the chance that lawn maintenance equipment will come into contact with them. Rugged, vandal-proof luminaire construction shall be required for use in public settings.
- e. Installations that Complement Maintenance: During installation several steps shall be taken to facilitate the future maintenance process:
  - (i) Mount the ground-based equipment where it is accessible for easy inspection and maintenance.
  - (ii) Clearly label all switching devices such as breakers, contacts, and switches, as to the circuits and equipment they control.
  - (iii) Except under rare circumstances, run luminaire feeds underground. Avoid using overhead wiring.
  - (iv) Securely fasten and tighten all luminaire components and aiming devices.
  - (v) Thoroughly test the equipment to ensure it is operating as specified.

F. Light Trespass:

- 1. Light trespass or obstructive light typically falls into two (2) categories:
  - a. Adjacent property receives unwanted light (high illuminance levels).
  - b. Excessive brightness occurs in the normal field of vision (nuisance glare).

2. The following are general requirements to assist in controlling light trespass problems:
  - a. Inspect areas adjacent to the lighting design location to identify and consider any potential problems involving residences, roadways, and parking areas.
  - b. Select luminaires with tightly controlled candela distributions, using sharp-cutoff reflectors and refractors.
  - c. Contain light within the design area by carefully selecting, locating, and mounting the luminaires.
  - d. Use well-shielded luminaires or select equipment that can be shielded. If a potential problem is found after installation, then design shields shall be added.
  - e. Keep floodlight aiming angles low so that the entire beam always falls within the intended lighted area during and after the design and installation process.
3. Outdoor lighting systems shall not produce unwanted light onto adjacent property as measured from the property line. Employ full cut-off, shielding, appropriate aiming, and mounting height as needed to prevent light trespass. If, after all corrective action has been taken, there is illumination crossing the property boundary, under no circumstance shall the illumination be greater than 0.05 footcandles, as measured at a location five feet (5') inside the residential zoned or used property.

G. Illumination Levels and Design Standards: All outdoor lighting shall have illuminance (footcandles) and uniformity ratios in accordance with the current appropriate recommended lighting levels and practices of the Illuminating Engineering Society of North America (IESNA).

H. Submission of Lighting Plan:

1. Applications for a building permit or similar permit shall include submission of a Lighting Plan. The Lighting Plan shall clearly demonstrate compliance with this section.
2. This same information is also required whenever new type of outdoor lighting system, luminaire or light source is proposed to replace an existing device, or there are other proposed changes such as light pole location or number of luminaires.
3. Submission information shall include but is not limited to:

- a. Name, Address, Telephone Number, email address and date of application.
- b. Site plan showing structure on site, block and plat designation and street address.
- c. Ten (10) sets of scaled plans and specifications for project.
- d. Electrical drawing fully detailed identifying and describing each outdoor light fixture on the site.
- e. Schedule of luminaires and Light Source. Include manufacturer's cut sheets with physical descriptions, photometric data with peripheral attachments such as reflectors, refractors, optics, mounting heights and details.
- f. Proposed hours of operation of each outdoor light fixture.
- g. Lighting Controls Submission.
- h. List design criteria used for (i) maintained horizontal illumination in footcandles, (ii) Maximum footcandles, (iii) Minimum footcandles, (iv) average footcandles, and (v) Uniformity ratio.
- i. Show lighting impact to adjacent property.
- j. Iso-footcandle curves or computer-generated photometric grid analyses showing footcandle readings every ten feet (10').
- k. Location and height of pole mounted and building mounted luminaires. (No Wall Packs unless fully shielded).

I. Variances:

1. The commission may recommend and the council may modify, waive or vary the standard set forth herein in a particular case, and may impose conditions on such a modification, waiver or variation which it deems appropriate to further the purposes of these outdoor lighting regulations, in either of the following circumstances:
  - a. Upon finding that strict applications of this section would not forward the purposes of this section or otherwise serve the public interest, or that alternatives proposed by the applicant would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.

- b. Upon finding that an outdoor luminaire, or system of outdoor luminaires, required for outdoor recreation cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use, as determined by recommended practices adopted by the Illumination Engineering Society of North America for that type of field and activity or other evidence if a recommended practice is not applicable.
2. Cost or inconvenience to the applicant will not be a reason for granting a variance.

J. Prohibitions:

1. The use of search lights, except by civil authorities, for public safety, is prohibited.
2. The use of tracer lights or lights that flash, pulse, rotate or simulate motion is prohibited.
3. The use of laser source light or similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

K. Exemptions:

1. The following outdoor lighting and related acts shall be exempt from the requirements of this section:
  - a. Construction, agricultural, emergency or holiday decorative lighting, provided that the lighting is temporary, and is discontinued within seven (7) days upon completion of the project or holiday for which the lighting was provided.
  - b. Lighting of the United States of American or Texas flag expressing constitutionally protected speech.
  - c. Security lighting controlled by sensors, which provides illumination for fifteen minutes (15 min) or less.
  - d. The replacement of an inoperable lamp or component, which is in a luminaire that was installed prior to the date of adoption of this article.
  - e. The replacement of a failed or damaged luminaire, which is one of a matching group serving a common purpose.
2. Gas lighting is exempt.

L. IES Outdoor Lighting Illuminance Levels:

Parking Lot Levels of Activity	Maintained Horizontal Illuminance (FC)					
	General Parking and Pedestrian			Vehicle Use Area Only		
	Ave.	Min.	U-Ratio	Ave.	Min.	U-Ratio
<b>High Activity</b>	3.6	0.9	4:1	2.0	0.67	3:1
Major League athletic events						
Major cultural or civic events						
Regional Shopping Centers (retail space of 300,000 square feet or greater)						
Fast food facilities (only with customer seating capacity of 40 or greater)						
Entertainment theaters						
Automotive dealerships						
<b>Medium Activity</b>	2.4	0.6	4:1	1.0	0.33	3:1
Community shopping centers (retail space of 5,000 to 299,999 square feet)						
Cultural, civic or recreational events						
Office Parks						
Hotels and motels						
Restaurants other than fast food						
Hospital parking						
Transportation parking (airports, commuter lots, etc.)						
Residential complex parking						
<b>Low Activity*</b>	0.8	0.2	4:1	0.5	0.13	4:1
Neighborhood shopping (Retail space of less than 5,000 square feet)						

Industrial employee parking						
Educational facility parking						
Church parking						

\* Low values are appropriate wherever there is a requirement to maintain security at any time in areas where there is a low level of nighttime activity.

Roadway Lighting	Maintained Horizontal Illuminance (FC)	
	Ave.	U-Ratio
Freeway Class A	0.6 – 0.8	3:1
Freeway Class B	0.4 – 0.6	3:1
Expressway	0.6 – 1.3	3:1
Major Road	0.6 – 1.6	3:1
Collector Road	0.4 – 1.1	4:1
Local Road	0.3 – 0.8	6:1

Other outdoor lighting	Maintained Horizontal Illuminance (FC)	
	Dark Surroundings*	Bright Surroundings
Light Surface	5	15
Medium Light Surfaces	10	20
Medium Dark Surfaces	15	30
Dark Surfaces	20	50
Loading and Unloading Platforms	20	
Fueling Service Stations		
Approach	1.5	3
Driveway	1.5	5
Pump Island	20	30
Service Areas	3	7
Storage Yards		
Active	20	
Inactive	1	

\* Dark surrounding refers to areas that are located within, adjacent to, or near rural or residential uses.

Retail Outdoor Lighting	Illumination Level of Surrounding Area		
	<u>High</u>	<u>Medium</u>	<u>Low</u>
Maintained Horizontal Illuminance (Average Foot-Candles)			
Marketing Area	30	20	10
Feature Display	60	40	20
Auto Lots			
Circulation	10	7	5
Merchandise	50	30	20
Feature Display	75	50	35

Building Exteriors	Maintained Horizontal Illuminance (Ave. FC)
Entrances	5
Active (pedestrian and/or conveyance)	1
Inactive (normally locked, infrequently used)	5
Vital location or structures	5
Building surrounds	1

Recommended Maintained Illuminance Levels for Pedestrian Ways (taken from Table 2 IESNA DG-5-94: Recommended Lighting for Walkways and Class 1 Bikeways).

Walkway and Bikeway Classification	Minimum Average Horizontal Illuminance Levels on Pavement* (lux/footcandles)	Average Vertical Illuminance Levels for Special Pedestrian Security ** (lux/footcandles)
<b>Sidewalks (Roadside) and Type A Bikeways:</b>		
Commercial Areas	10/1	20/2
Intermediate Areas	5/0.5	10/1
Residential Areas	2/0.2	5/0.5
<b>Walkways Distant from Roadways and Type B Bikeways:</b>		
Walkways and Bikeways	5/0.5	5/0.5
Pedestrian Stairways	5/0.5	10/1
Pedestrian Tunnels	20/2	55/0.5
* Uniformity ratios should not be greater than 10:1 maximum to minimum.		
** For pedestrian identification at a distance. Values are specified at 1.8 meters (6 feet) above the walkway.		
Scotopically rich light should be used.		

Illuminance Levels for Floodlighting Buildings and Monuments:

Area Description	Average Target Illuminance (vertical) (lux/floodcandles)
Bright Surroundings and Light Surfaces	50/5

Bright Surroundings and Medium Light Surfaces	70/7
Bright Surroundings and Dark Surfaces	100/10
Dark Surroundings and Light Surfaces	20/2
Dark Surroundings and Medium Light Surfaces	30/3
Dark Surroundings and Medium Dark Surfaces	40/4
Dark Surroundings and Dark Surfaces	50/5

Illuminance Levels and Uniformities for Car Dealership General Lighting:

Area	Maximum Illuminance On Pavement (lux/floodcandles)	Maximum to Minimum Ratio
Adjacent to roadway	50-100/5-10	5:1
Other Rows	25-50/2.5-5	10:1
Entrances	25-50/2.5-5	5:1
Driveways	10-20/1-2	10:1

Note: For lighting feature displays, see the latest version of RP-2 Recommended Practice for Lighting Merchandising Areas.

M. General Characteristics of Commonly Used Light Sources\*:

This table shows the wide range of parameters available for lamp products. A specific example has been chosen for each source type.

Sources Type and Color Temp.	Lamp Watts	Initial Lumens	Efficacy (LPW)	Lumen Maintenance	Life Hours	CRI
Standard Incandescent Filament, 2700 K	100	1690	17	85	750	100
Tungsten Halogen (Reflector), 2850 K	90	13003	14	95	2500	100
Tungsten Halogen						
(Low Voltage, Reflector), 3000 K - 3200 K	50	9003	18	95	4000	100
Fluorescent T-5 4ft.4, 3000 K - 4100 K	28	29005	104	95	16,000	82
High Output Fluorescent						
T-5 4ft.4, 3000 K - 4000 K	54	50005	93	95	16,000	82
Fluorescent T-8 4ft.4, 3000 K - 4100 K	32	2850	89	85	20,000	75
Slimline Reduced						
Wattage 8 ft. 3000 K - 5000 K	60	5900	98	80	12,000	82
High Output Reduced						
Wattage 8 ft. 3000 K - 6700 K	95	8000	84	75	12,000	62
Compact Fluorescent						
(Long Twin), 3000 K - 4100 K	39	3150	81	85	20,000	82
Compact Fluorescent						
(Double), 2700 K-6500 K	26	1800	70	85	10,000	82
Mercury Vapor, 3000 K – 5700 K	175	7950	45	60	24,000	15
Metal Halide, Low Wattage						
3000 K – 3800 K	100	9000	90	85	15,000	70
Metal Halide, High Wattage						
3000 K – 4000 K	400	36,000	90	80	20,000	65
Ceramic Metal Halide (Clear), 3000 K	100	9300	93	806	10,000	85
High Pressure Sodium,						
Low Wattage						
1900 K7	70	6400	91	90	24,000	22
High Pressure Sodium						
High Wattage (Diffuse), 2100 K7	250	26,000	104	90	24,000	22
Low Pressure Sodium						
(Monochromatic), 1800 K7	90	12,750	140	90	16,000	<2
See manufacture's catalogs for specific data.						
Efficacy for lamp is shown in lumens per watt. Ballasting is required for all lamps except standard incandescent and tungstenhalogen.						
As defined in the IESNA Lighting Handbook for each light source.						
The important performance parameters for reflector lamps are beam spread and maximum center beam intensity (commonly called candlepower)						
Exact lamp length is 1149 mm.						
Lumen output measured at 350C (950F) ambient.						
Computed from Manufacture's approximate lumen output data: initial and mean (mean at 40 percent of lamp rated average life).						
These light sources are deficient in blue and green light, which is not reflected in their rated efficacies. Light sources with wides pectral distributions that include blue and green light are more efficient in low light settings that monochromatic sources or sources with little blue or green light.						
Refer to Section 2.3 for EPRI LRO/TAC statement on spectral composition.						

**Sec.3.348 Mailboxes**

- A. Residential subdivisions and non-residential developments may be provided with Neighborhood Mailbox Units at locations approved by the local postmaster and the Village.
- B. A letter from the local postmaster approving the proposed location of Neighborhood Mailbox Units shall be presented with the Preliminary Plat or Final Plat of a proposed residential subdivision or with the Site Development Permit application of a non-residential development.
- C. Postal delivery areas shall be provided with associated off-street parking spaces of a number acceptable to the Village based on the number of houses served.

**Sec.33.349 Exterior Building and Structural Design and Construction Standards**

- A. Compatibility: The exterior architecture of buildings and structures shall be compatible with the unique Hill Country character of the region.
- B. Definitions: For the purpose of this section, the following definitions shall apply:
  - 1. **Masonry Construction**: Shall include all construction of stone material, brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction. The standards for masonry construction types are listed below:
    - a. **Stone Material**: Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all-weather stone. Cut stone and dimensioned stone techniques are acceptable.
    - b. **Brick Material**: Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be Severe Weather (SW) grade, and Type FBA or FBS or better. Unfired or underfired clay, sand, or shale brick are not allowed.
    - c. **Concrete Masonry Units**: Concrete masonry units used for masonry construction shall meet the latest version of the following applicable specifications: ASTM C90, Standard Specification for Hollow Load Bearing Concrete Masonry Units; ASTM C145, Standard Specification for Solid Load Bearing Masonry Units; ASTM C129, Standard Specification for Hollow and Solid Nonload Bearing Units. Concrete masonry units shall have an indented, hammered, split face finish or other similar

architectural finish as approved by the council. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.

d. **Concrete Panel Construction:** Concrete finish, pre-cast panel, tilt wall, or cementitious composition reinforced panel construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable unless painted.

2. **Glass Wall Construction:** Glass walls shall include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.

C **Design Standards:** The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new, altered or repaired construction occurring within the Village.

1. **General:** Each building and structure shall be designed to use, to the greatest extent feasible, building materials that are compatible with the environment of the hill country, including rock, stone, brick, or wood.

2. **Residential:**

a. All residential buildings and structures shall be in accordance with the Village's construction codes.

b. **RESERVED**

c. **RESERVED**

d. **Exemptions:**

(i) Barns on property of one (1) acre or more, provided that such barns are used solely for agricultural purposes as distinguished from commercial or industrial purposes, shall be exempt from provisions of this section.

(ii) Mobile homes otherwise lawfully existing under the provisions of this article shall also be excluded from provision of this section.

(iii) Historic structures.

(iv) Structures in existence before the effective date of this article, and any addition to those structures that does not exceed 50% of the heated and cooled square footage of the structure as measured immediately prior to the effective date of this article.

3. Non-residential:

a. All nonresidential structures and buildings, including parking structures, shall be of exterior fire resistant construction in accordance with the Village's construction codes.

b. The following materials are permitted materials for exterior construction:

- (i) Limestone,
- (ii) Rustic wood,
- (iii) Stucco,
- (iv) Granite,
- (v) Marble,
- (vi) Other stone,
- (vii) Glass, permitted as thirty percent (30%) or less of the exterior walls,
- (vii) Brick,
- (xi) Painted wood,
- (x) Concrete,
- (xi) Synthetic materials,
- (xii) Adobe (brick),
- (xiii) Metal,
- (xiv) Use of other exterior construction materials may be permitted by the commission at the time of site plan approval

c. Elevated Water Storage Tanks and Pump Stations: All water storage facilities which serve the public shall be designed and painted to compliment natural surroundings. All water storage facilities shall be placed, to the extent possible, so as to have minimal negative impact on surrounding areas and shall be painted earth tone, natural colors. The

council may authorize alternate color selections as a variance if such color(s) are more acceptable with surrounding areas.

- d. Temporary Construction Building: Temporary buildings and temporary building material storage areas to be used for construction purposes shall be permitted for a specific period of time in accordance with a building permit issued by the Village and subject to periodic renewal by the Village for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices or buildings and material storage areas shall be removed at the satisfaction of the Village.

D. Procedure for Determining Alternative Exterior Materials and Colors:

- (1) All written requests for alternative exterior building materials shall be noted and described on the site plan. If requested by the Village, a sample(s) of the proposed exterior finish material(s) may be required to be submitted with the site plan.
- (2) The commission may recommend and the council may approve an alternative exterior material(s) if it is determined to be equivalent or better than the exterior materials cited in this section as part of the approval of the site plan.
- (3) Consideration for exceptions to the above requirements shall be based only on the following:
  - a. Architectural design and creativity;
  - b. Compatibility with surrounding developed properties.
- (4) The request shall be reviewed and recommended by the commission, and shall be approved or disapproved by the council.
- (5) Exterior Design Standards: The architectural character of the built environment shall complement the natural landscape and not dominate it. Building masses shall be broken up to provide, through change in texture and color, horizontal and vertical relief and shall relate harmoniously on a pedestrian, human scale. Vertical proportions which exaggerate building height shall be avoided.

The level of detailing and finish of wall facades shall be consistent on all sides of a building. Front, rear and side wall planes visible from any roadway or any adjoining properties shall be detailed with architectural elements which provide shadow lines and which provide visual depth unless screened with landscaping.

- a. Facade Articulation and Color/Texture Variation: For the purpose of this subsection (d), a "break" shall be defined as an interruption of the building

wall plane with either a recess or an offset at an angle of between ninety degrees (90°) and forty-five degrees (45°) to the wall plane.

- (i) Horizontal Articulation: No building facade shall extend greater than two (2) times the wall's height without having a minimum "break" and color/texture change of twenty-five percent (25%) of the wall's height, and such "break" and color/texture change shall continue for a minimum distance equal to at least twenty-five percent (25%) of the maximum length of either adjacent plane. The maximum distance without a break shall not exceed fifty feet (50').
- (ii) Vertical Articulation: No horizontal wall shall extend for a distance greater than two (2) times the height of the wall without changing height through an articulation, or variation, of the roofline by a minimum of twenty-five percent (25%) of the wall's height, and such roofline change shall continue for a minimum distance equal to at least twenty-five percent (25%) of the maximum length of either adjacent plane.
- (iii) Street-level storefronts and building entrances shall be open and inviting to pedestrians. All in-line buildings shall have a street-to-building zone of at least twenty-five feet (25') to be used for sidewalks, including a minimum ten foot (10') landscaped buffer strip and pedestrian spaces including benches and other seating facilities.
- (iv) A minimum of fifteen square feet (15sf) of recessed entryway shall be provided for businesses in buildings less than 15,000 square feet. Buildings over 15,000 square feet shall have a minimum of one hundred square feet (100sf) of recessed doorways to help delineate a building's entrance and add variety to the streetscape.

Facade offsets shall be shown, along with calculations verifying that the building wall plane elevations meet the requirements of this subsection (d), on a building facade (elevation) plan, and shall be submitted for commission review and recommendation and for approval by the council along with the site plan

E. Design and Material Requirements for Water Quality and Nonpoint Source Pollution Control Facilities:

- (1) All aboveground facilities and structures used for water quality management and nonpoint pollution control, including retention and detention ponds, shall be designed using natural materials consistent with the comprehensive plan.

- (2) Alternative materials may be used in the design of above ground facilities if recommended by the commission and approved by the council at the time of site plan approval.

**Sec.33.350 Boat Docks –Reserved**

**Sec.33.351 Electric Cable, Telephone, And Telecommunications Utilities**

All electric, cable, telephone and telecommunications utilities shall be underground utilities unless otherwise recommended by the commission and approved by the council as a variance.

**Sec.33.352 [Reserved]**

**DIVISION 5: PUBLIC SITES AND OPEN SPACES**

**Sec. 33.353 Areas for Public Use**

The applicant for site development approval shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or services so as to conform with the recommendations contained in the Village's comprehensive plan; park, recreation and open space master plan; and other applicable plans. Any provision for schools, parks or other public facilities shall be indicated on the preliminary and final plats, and shall be subject to recommendation by the commission and approval by the council.

**Sec. 33.354 Protection of Drainage and Creek Areas**

All creeks and drainage areas shall be protected in their natural condition. All development adjacent to creeks and drainage areas shall be in accordance with the Village's non-point source pollution control ordinance.

**Sec. 33.355 Property Owners or Homeowners Associations - Reserved**

**Sec. 33.356 Park Land & Public Facility Dedication**

**A. Areas for Public Use:**

1. The applicant for site development approval shall give consideration to suitable useable sites for parks, playgrounds and other areas for public use so as to conform to the recommendations of the comprehensive plan. Any provision for parks and public open space areas shall be indicated on the preliminary and final plat, and shall be subject to recommendation of the commission and approval by the council.
2. No person shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainage way within areas for public use, without first obtaining written permission of the Village and any other agency having jurisdiction.

**B. Park Land Dedication:**

1. Any person offering a preliminary or final plat for development of any area zoned and to be used for single-family or multi-family residential purposes within the Village shall include, on such preliminary and final plat, dedication for public park purposes, calculated at the rate of not less than five percent (5%) of the developable acreage in the development. The location and size of public parks within the Village shall be in all instances recommended by the commission and approved by the council. That determination shall be based upon existing circumstances at the time, and shall be in accordance with the comprehensive plan.
2. The preliminary and final subdivision plat shall clearly show the area proposed to be dedicated as parkland under the provisions of this section.
3. In instances where the council has concluded, in its sole discretion, that park land is unacceptable, unavailable or unsuitable for public park purposes in a development, money in lieu of land shall be paid into a "park dedication fund" to be established by the Village. Such money shall be in the amount of One thousand two hundred and fifty dollars (\$1250.00) per lot in the tract after subdivided.
4. The park dedication fund will be administered by the council to best benefit the development and the general welfare of the citizens of the Village, provided that the establishment of park sites shall be within the discretion of the council.
5. The dedicated land required hereby shall be well-drained, relatively level in areas that are proposed for active park uses and suitable for appropriate leisure activities, such as hiking, mountain biking and wildlife observance. However, most areas within the Village shall be for passive open space enjoyment. All parkland offered for dedication under this section shall meet the requirements for location and for physical land characteristics outlined in the comprehensive plan. Areas having environmentally sensitive ecosystems, attractive views, topographical interest or unique natural features shall be preferred and encouraged

for parkland dedication. Areas which are relatively featureless, barren of natural trees and vegetative cover, have slopes in excess of ten percent (10%) and which are not physically attractive in some other way, are not acceptable for public use. Drainage areas may be accepted if the channel is to essentially remain in its natural state, and if any proposed pathways, landscaping, irrigation systems, and other improvements are constructed in accordance with Village standards and in keeping with the "Hill Country" atmosphere of the area.

6. Park lands may be located within the open space areas required by Section 3.355 of this article if the open space complies with the requirements of this section and if recommended by the commission and approved by the council.
- C. **Public Park Access:** Park land shall be easily accessible to the public and open to public view and use so as to benefit area residents, enhance the visual character of the Village, protect public safety, and minimize conflicts with adjacent land uses. A proposed subdivision adjacent to a public park or open space area shall not be designed to restrict reasonable access into the park or restrict reasonable public use of the park. Street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas. Proposed access and public availability, both physical and visual, of parkland shall be reviewed and recommended by the commission and approved by the council.

### **Sec.33.357 Open Space Requirements**

- A. All subdivisions shall provide and dedicate for public use useable open space which equals or exceeds five percent (5%) of the gross area of subdivision, excluding the gross areas of rights-of-ways (b) All lots shall be located within six hundred feet (600') of a useable open space area as measured along the centerline of a street or dedicated access easement. The commission may recommend and the council may allow this distance to be increased as a variance to up to one thousand two hundred feet (1200') if the slope of the subdivision is irregular or if significant land features, trees or vegetation on the site can be preserved by increasing the distance.
- B. Individual useable open space areas shall be at least ten thousand square feet (10,000sf) in size. Useable open space shall be a minimum of fifty feet (50') wide, and shall have no slope greater than twenty-five percent (25%). (d) Pools, tennis courts, walkways, trails, patios and similar outdoor amenities may be located within up to twenty-five percent (25%) of the areas designated as useable open space. At the time of site plan and subdivision approvals, the commission may recommend and the council may approve as a variance, disturbance of the useable open space that exceeds the twenty-five percent (25%) maximum disturbance by amenities if it is determined that the provision of such amenities complies with the comprehensive plan. Areas occupied by enclosed buildings, except for gazebos and pavilions, driveways, parking lots, overhead utility lines, drainage channels, water quality structures, drainage structures, and antennas shall not be included in compliance with the useable open space requirements of this section.

- C. At least one (1) individual useable open space area shall have street or public access easement frontage of at least thirty-three percent (33%) of the area's perimeter to ensure that the area is readily accessible to the public.
- D. All individual useable open space areas shall be connected by streets or public access easements to ensure that all useable open space areas are readily accessible to the public.

**Sec.33.358 RESERVED**

## **DIVISION 6:**

### **IMPROVEMENTS REQUIRED PRIOR TO APPROVAL OF CONSTRUCTED SITE DEVELOPMENT**

#### **Sec. 33.359 Improvements, In General**

- A The requirements of this section as set forth below are designed and intended to ensure that, for all developments of land within the scope of this article, all improvements as required herein are installed properly and:
  - 1. The Village can provide for the orderly and economical extension of public facilities and services;
  - 2. All purchasers of property within the subdivision and site development shall have a usable, buildable parcel of land; and
  - 3. All required improvements are constructed in accordance with Village standards.
- B. **Adequate Public Facilities Policy:** The land to be divided or developed shall be served adequately by essential public facilities and services. No site development or subdivision shall be recommended by the commission or approved by the council unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, water quality facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being developed or off-site. This policy may be defined further and supplemented by other ordinances adopted by the Village. Wherever the subject property abuts adjoining undeveloped land, or wherever required by the Village to serve the public health, welfare and safety, public facilities shall be extended to adjacent property lines to allow connection of these public improvements by adjacent property owners when such adjacent property is subdivided or developed.

- C. Public improvements that may be required by the Village for the approval of the site development by the Village shall include, but are not limited to, the following:
1. Water and wastewater facilities;
  2. Storm water drainage, collection or conveyance facilities;
  3. Water quality controls;
  4. Streets;
  5. Street lights;
  6. Street signs;
  7. Fire lanes, fire hydrants, fire protection water supply lines;
  8. Off-street parking and vehicle use areas;
  9. Required screening fences and walls;
  10. Walkways, sidewalks, and hike-and-bike trails;
  11. Traffic control devices;
  12. Electric utilities; and
  13. Appurtenances to the above, and any other public facilities required as part of the proposed site development.
- D. All aspects of the construction and implementation of public improvements shall comply with the Village's current construction codes, this article and any other applicable Village codes and ordinances.
- E. Changes or Amendments to Construction Codes and Manuals: The Village's construction codes and manuals will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the Village's construction codes and manuals may be amended by separate ordinance.

### **Sec.33.360 Public Improvements Construction Standards**

The construction of all public improvements, whether publicly owned or privately owned, shall comply with the technical construction requirements of the latest editions of the following standards, regardless of whether or not the public improvements fall under the jurisdiction of the referenced entity which has promulgated the standard:

- A. American Concrete Institute “Manual of Concrete Practice”;
- B. American Institute of Steel Construction “Manual of Steel Construction”;
- C. American Society for Testing and Materials “Annual Book of ASTM Standards”, all volumes;
- D. City of Austin, Texas:
  - 1. Building Criteria Manual;
  - 2. Drainage Criteria Manual;
  - 3. Environmental Criteria Manual;
  - 4. Fire Protection Criteria Manual;
  - 5. Standard Specifications;
  - 6. Standards;
  - 7. Transportation Criteria Manual;
  - 8. Utilities Criteria Manual;
- E. Federal Highway Administration “Manual on Uniform Traffic Control Devices”;
- F. Lower Colorado River Authority
  - 1. “Non-Point Source Pollution Control Technical Manual”;
  - 2. “On-Site Sewage Facilities” rules;
- G. Texas Department of Transportation “Standard Specifications for Construction of Highways, Streets and Bridges”;
- H. Village ordinances and construction codes;
- I. All applicable state and federal regulations, including, but not limited to:
  - 1. Clean water regulations
  - 2. Clean air regulations;
  - 3. Endangered species regulations;

4. Safe drinking water regulations;
5. Accessibility regulations;
6. Safe working site regulations.

In so much that any provision(s) of the regulations referenced in this section conflict, the most stringent regulation shall govern.

#### **Sec.33.361 Monuments**

In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than one-half inch (1/2") in diameter and eighteen inches (18") deep, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch (1/2") and eighteen inches (18") deep, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block corners shall be installed prior to the final inspection of the subdivision by the Village. Lot corners shall be installed prior to issuance of a building permit.

#### **Sec.33.362 Street Lights**

All street lighting shall be in keeping with the "Hill Country" atmosphere of the Village, and shall be in conformance with lighting requirements of this article. In order to minimize light pollution and the overspill of lighting onto residential properties, and in order to preserve the integrity of nighttime darkness, which is valued by Village residents, and the visibility of stars and heavenly bodies, no street lights shall be required in any residential subdivision or residential development in the Village except what street lights may be required for the health, welfare and safety of the Village.

#### **Sec.33.363 Street Names and Signs**

- A. Street names must be submitted to the Village, to the U.S. Postal Service, and to applicable emergency service providers (including 911) for review and approval in accordance with the Village's guidelines for the naming of streets. Proposed street names shall be submitted for review along with, and as a part of, the preliminary plat application, and shall become fixed at the time of approval of the preliminary plat. On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the Village, or some other similar eventuality. If additional street names are needed for

the final plat, then they shall be submitted for review and approval by the Village, the U.S. Postal Service, and applicable emergency service providers (including 911) along with the final plat application. A fee may be established by the Village for the changing of street names after approval of the preliminary plat.

- B. Surnames of people or the names of corporations or businesses shall not be used as street names, unless recommended by the commission and approved by the council. The Village will maintain a list of existing street names, and "reserved" street names that have been approved on a preliminary plat, and will update the list as new streets are platted.
- C. New street names shall not duplicate existing street names either literally or in a subtle manner, shall not be so similar as to cause confusion between names, and shall not sound like existing street names when spoken. For example, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Cascade Drive vs. Cascading Drive; Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive; Oak Drive vs. Doak Drive vs. Cloak Drive; Lantern Way vs. Land Tern Way.
- D. New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical, unless otherwise recommended by the commission and approved by council.
- E. The property owner shall provide payment for street name signs for the development. The cost of each street name sign installation shall include the cost of the sign assembly, pole and the time for installation. Payment by the property owner will be due prior to approval of the engineering plans by the Village.
- F. Street name signs shall be installed in accordance with the Village's guidelines before issuance of a building permit for any structure on the streets approved within the subdivision or development.

#### **Sec.33.364 Street and Alley Improvements**

- A. All on-site streets and alleys shall be constructed by the developer at the developer's expense, unless otherwise allowed by this article. If the subdivision or site development are adjacent to a planned or future or substandard arterial or collector street, as shown on the Village thoroughfare plan, and derives access, whether direct or indirect, from said roadway, then the developer shall be required to design and construct a reasonable portion of the roadway as well as any required median openings and left turn lanes needed to serve the subdivision or site improvements. The council may approve the Village to, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision or site development derive principal access from another improved roadway and if delaying construction or improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

- B. All streets and alleys shall be constructed in accordance with Section 3.358 of this article and with the City of Austin, Texas Transportation Criteria Manual and Standard Specifications, (latest editions).
- C. In addition to the above mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with Section 228 of the Highway Safety Act, as currently amended, and with the Americans With Disabilities Act (ADA), as amended.
- D. All signs and barricades shall be in conformity with ADA standards, and with specifications for uniform traffic control devices, as adopted by the Texas Department of Transportation and the Texas Department of Public Safety.
- E. Approval is required prior to the installation of any driveway connecting to a public street. The Village shall approve all driveway cuts in a site development permit.

**Sec.33.365 Retaining Wall Requirements, Construction Regulations, and Design Criteria**

- A. Retaining Wall Construction: All retaining wall construction shall be in compliance with the provisions of the construction codes and with Section 3.358 of this article, and shall be approved by the Village in a site development permit or in a building permit, as appropriate.
- B. Retaining Wall Maintenance: Retaining walls shall be maintained by the owner of the property where such retaining wall is located.
- C. Retaining walls shall not be constructed within any portion of a utility easement.

**Sec.33.366 Screening and Landscaping Construction Regulations**

- A. Screening:
  - 1. Where subdivisions are platted so that the rear or side yards of single-family or two-family residential lots are adjacent to an arterial thoroughfare; or a collector street; or are separated from a thoroughfare by an alley; or back up to a collector or residential street, the developer shall provide, at his or her sole expense, screening according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s), including columns and decorative features. All forms of screening shall conform to the requirements of Village ordinances and policies that govern sight distance for traffic safety.

2. Screening Alternatives: Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the construction codes and this article.
3. A maintenance easement five feet (5') in width shall be provided on the private lot side and adjacent to the screening wall or device.
4. The screening wall shall be installed prior to the final approval of the subdivision or of site development. Landscape materials may be installed after the subdivision or site development is accepted, upon authorization of the Village, but in no case later than six (6) months following approval of the subdivision or site development.
5. All plants, such as trees, shrubs and ground covers, shall be living and in sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the "American Standard for Nursery Stock," by the American Association of Nurserymen, as may be amended.
6. Screening 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.
7. Required wall heights, including spans between columns, shall be from at least six feet (6') and no more than eight feet (8'). Decorative columns, pilasters, stone caps, and other features may exceed the maximum eight-foot (8') height by up to eighteen inches (18") for a total maximum height of nine and one-half feet (9.5') for these features, provided that such taller elements comprise no more than ten percent (10%) of the total wall length in elevation view.
8. Screening fences, walls and devices shall not be constructed within any portion of a utility easement, water quality easement, drainage easement, or public access easement unless specifically authorized by the Village and other applicable utility provider.

**B. Entryway Features:**

1. Site development of subdivisions in excess of ten (10) platted lots may provide a low maintenance landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed on private property and within an easement identified for such use, and shall observe all sight visibility requirements. Limited portions of the feature or landscaping may be placed within the right-of-way if recommended by the commission and approved by the council. Most of the feature or landscaping shall be located on private property so that long-term maintenance responsibility shall be borne by the property owner or an approved homeowners association.

2. **Design Requirements:** The entryway feature shall include low maintenance, living landscaped materials as recommended by the commission and approved by the council. The design of the entryway feature shall also include an automatic underground irrigation system, and may also include subdivision identification, such as signage located on the wall. All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the "American Standard for Nursery Stock," by the American Association of Nurserymen, as may be amended. Any walls or structures used in the entryway feature shall conform to the Village's regulations pertaining to maximum height within the front yard of residential lots required by this article wherever the adjacent lot sides onto the arterial street and the wall will be located within the front yard setback area.
  3. The design of the entry shall be reflected on the landscape and irrigation plans submitted along with the engineering plans and the preliminary plat, and shall be recommended by commission and approved by the council.
  4. The maintenance of the entryway shall be the responsibility of the applicant for a period of at least two (2) years or until building permits have been issued for eighty percent (80%) of the lots in the subdivision, whichever date is later. Following that period of time, maintenance responsibility shall be borne by the private property owner(s) upon whose lot(s) the entryway feature is located, or by a homeowners association. If, at some point in time, the maintenance responsibility shifts to the Village, the Village shall have the right to upgrade, reduce or eliminate entirely, at its sole option, the landscaping and other amenities in order to simplify or minimize the amount of time and effort that maintenance of the entryway will require.
- C. **Landscaping:** All landscaping shall be in conformance with the landscaping provisions (Sec. 3.336) of this article.

### **Sec.33.367 Water and Wastewater Construction Regulations**

- A. The construction of all water and wastewater systems shall be in conformance with Section 3.358 of this article, and with the City of Austin, Texas Utility Criteria Manual and Standard Specifications, (latest editions).
- B. No final plat shall be approved for any subdivision within the Village until the applicant has made adequate provision for a water system and a sanitary sewer system or on-site septic system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided or developed.
- C. **Water supply:** Water satisfactory for human consumption shall be available to each lot in the proposed subdivision or developed site from a source on the land, a community

source, or a public utility source, in adequate and sufficient supply for the intended uses on each lot within the subdivision or developed site.

- D. Water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate domestic water supply and to furnish fire protection to all lots and sites shall be provided. Water lines shall extend to the property line, in order to allow future connections into adjacent undeveloped property, and a box for the water meter(s) for each lot shall be installed either in the right-of-way or immediately adjacent to the right-of-way in an easement.
- E. Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structure when connections are made.
- F. Fire protection shall be provided in accordance with the construction code.

**Sec.33.368 Storm Drainage and Water Quality Controls Construction Regulations:**

Storm drainage systems shall be constructed in accordance with Section 3.358 of this article and with the City of Austin, Texas Drainage Criteria Manual and Standard Specifications, (latest editions). Water quality controls shall be constructed in accordance with the Village's non-point source pollution control ordinances and with the City of Austin, Texas Environmental Criteria Manual, Drainage Criteria Manual, and Standard Specifications, (latest editions).

**Sec.33.369 Building Construction Regulations:**

All structural and building construction shall comply with the Village's construction codes and with Section 3.358 of this article.

**DIVISION 7:**

**REQUIREMENTS FOR VILLAGE ACCEPTANCE AND APPROVAL OF  
PUBLIC IMPROVEMENTS**

**Sec.33.370 Withholding Village Services and Improvements Until Approval**

The Village hereby defines its policy to be that the Village will withhold all Village services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of and all other Village services from all additions until all of the street, utility, storm drainage and

other public improvements, as well as lot improvements, such as retaining walls and grading and installation of improvements required for proper lot drainage and prevention of soil erosion, on the individual residential lots, are properly constructed according to the approved engineering plans and construction permits and to Village standards, and until such public improvements are either dedicated to and accepted by the Village or approved by the Village.

### **Sec.33.371 Guarantee of Public Improvements**

- A. **Property Owner's Guarantee:** Before approving the final plat of a subdivision located all or partially within the Village or its extraterritorial jurisdiction, the council must be satisfied that all required public improvements will be constructed or have been constructed in accordance with the approved engineering plans and construction permits and with the requirements of this article.
  
- B. **Improvement Agreement and Guarantee:** The council may waive the requirement that the applicant complete all public improvements prior to approval of the final plat, and may permit the property owner to enter into an improvement agreement with the Village by which the property owner covenants to complete all required public improvements no later than two (2) years following the date upon which the final plat is approved. The council may also require the property owner to complete or dedicate some of the required public improvements prior to approval of the final plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the Village.
  
- C. **Security:** Whenever the Village permits an applicant to enter into an improvement agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the Village council, a performance bond or letter of credit or other security acceptable to the council, as security for the promises contained in the improvement agreement. Security shall be in an amount equal to one hundred percent (100%) of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the council.
  
- D. **Performance Bond:** If the council authorizes the applicant to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:
  - 1. All performance bonds shall be in the forms and amounts acceptable to the council;
  - 2. All performance bonds shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as

published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;

3. All performance bonds shall be executed by an agent, and shall be accompanied by a certified copy of the agent's authority;
4. All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.

If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within twenty (20) calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the council.

- E. Letter of Credit: If the council authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:
1. Be irrevocable;
  2. Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) years; and
  3. Require only that the Village present the issuer with a sight draft and a certificate signed by an authorized representative of the Village certifying to the Village's right to draw funds under the letter of credit.
- F. As portions of the public improvements are completed in accordance with Village ordinances and the approved engineering plans and construction permits, the applicant may make application to the Village to reduce the amount of the original security. If the Village is satisfied that such portion of the improvements has been completed in accordance with Village standards, council may, but is not required to, cause the amount of the letter of credit to be reduced by such amount that council deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.
- G. Upon acceptance or approval by the Village of all required public improvements, the council shall authorize a reduction in the security to 10% of the original amount of the security if the applicant is not in breach of the improvement agreement. The remaining security shall be security for the applicant's covenant to maintain the required public improvements and to warrant that the improvements are free from defects for two (2) years thereafter. If the required security for maintenance and warranty is provided by the contractors or by others, the Village will release the entire amount of the developer's security

### **Sec.33.372 Temporary Improvements**

The applicant shall build and pay for all costs of temporary improvements required by the Village, and shall maintain those temporary improvements for the period specified by the Village. Prior to construction of any temporary facility or improvement, the applicant shall file with the Village a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed..

### **Sec.33.373 Government Units**

Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this article.

### **Sec.33.374 Failure to Complete Improvements**

For plats or site development for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the Village in the construction permit(s), the plat approvals shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the Village may:

- A. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- B. Suspend final plat approval until the public improvements are completed, and may record a document to that effect for the purpose of public notice;
- C. Obtain funds under the security and complete the public improvements itself or through a third party;
- D. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision or site for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property; or
- E. Exercise any other rights available under the law.

**Sec.33.375 Acceptance of Dedication Offers**

Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the council. The approval by the council of a preliminary or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the Village of any street, public area, easement or park shown on the plat. The Village may require the plat to be endorsed with appropriate notes to this effect.

**Sec.33.376 Maintenance and Guarantee of Public Improvements**

The applicant shall maintain all required public improvements for a period of two (2) years following approval of the constructed site development by the Village, and shall also provide a two-year maintenance bond, or such other guarantee or warranty as is satisfactory to the council that all public improvements will be free from defects for a period of two (2) years following such approval by the Village.

**Sec. 33.377 Construction Management**

- A. A site development permit, NPS pollution control permit, and building permit (as applicable) are required from the Village prior to beginning any site development-related work in the Village or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a flood plain. The submission of requests for site development permits and approvals shall comply with Section 3.317 of this article.
- B. Conditions Prior to Authorization: Prior to authorizing release of a site development permit, the Village shall be satisfied that the following conditions have been met:
  - 1. The preliminary plat has been approved by the council, and any conditions of such approval have been satisfied;
  - 2. All required engineering and construction engineering documents and permits are completed and approved by the Village;
  - 3. All necessary off-site easements and dedications required for Village-maintained facilities and not shown on the plat shall be conveyed solely to the Village, such as by filing of a separate instrument, with the proper signatures affixed. The originals of the documents and the appropriate fees for filing the documents at the county, including the Village's fees, Travis County requirements, and the Village's submission guidelines, as may be amended from time to time shall be provided to the Village prior to approval and release of the engineering plans and permits by the Village;

4. All contractors and subcontractors participating in the construction shall be presented with a set of approved plans and at least one (1) set of these plans shall remain on the job site at all times;
5. A complete list of the contractors, subcontractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times shall be submitted to the Village; and
6. All applicable fees shall be paid to the Village.

C. Preconstruction Conference:

1. All contractors and subcontractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to release of a site development, NPS pollution control, or building permit, and before any filling, excavation, clearing or removal of vegetation and trees that are larger than six inch (6") caliper. All contractors shall be familiar with, and shall conform with all provisions of this article and with the Village's non-point source pollution control ordinance.
2. The Village shall provide notice of the conference to the following persons or entities not later than the second (2<sup>nd</sup>) day before the conference:
  - a. Owner representative;
  - b. Consulting engineer;
  - c. Contractors; and
  - d. Affected utilities and appropriate Village officials.
3. Before convening a preconstruction conference, the Village shall distribute approved plans for the development to the persons and entities receiving notice of the conference.
4. The conference participants shall exchange telephone numbers and addresses at the conference. The participants shall discuss:
  - a. The sequence of construction;
  - b. Start dates and schedule of events;
  - c. Erosion and sedimentation controls;
  - d. Traffic control barricades;

- e. Site supervision;
- f. Emergency response;
- g. Special conditions or provisions of plans or specifications;
- h. Final acceptance guidelines; and
- i. Publishing and distribution of minutes of the conference.

5. Minutes of Conference: Before construction begins, the owner's consulting engineer shall prepare and distribute minutes of the preconstruction conference. Conference participants may file exceptions to the minutes. The engineer shall distribute copies of exceptions to the conference participants and shall include the exceptions in the inspection file.

D **Non-Point Source Pollution Controls and Tree Protection**: All non-point source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the Village's satisfaction, prior to commencement of construction or site development on any property.

E **Quality Control and Quality Assurance**:

1. General Procedures: Quality control construction inspection and testing shall be performed by the applicant. Quality assurance construction observations and testing may be conducted by the Village. Construction shall be in accordance with the approved engineering plans and permits and other applicable codes and ordinances. Any change in design that is required during construction shall be made by the licensed professional engineer whose seal and signature are shown on the plans and permits. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the Village. If the Village finds, upon observation, that any of the required public improvements have not been constructed in accordance with Village standards, then the applicant shall be responsible for completing and correcting the deficiencies such that they are brought into conformance with the applicable standards.
2. **Village Inspection Requests**:
  - a. The Village shall coordinate contact between an owner and a Village quality control observer.
  - b. An owner shall contact the Village to request a quality control inspection.

- c. The Village may require that a request be made forty-eight (48) hours before the date the inspection is desired, and specify the manner in which the request is made.
3. Village Inspection of Erosion and Sedimentation Controls and Tree Protection Measures:
- a. The owner shall request Village inspections of erosion and sedimentation controls and tree protection measures after the owner installs the controls and measures.
  - b. The Village shall schedule the inspection. The owner, consulting engineer, and contractor shall attend the observation.
  - c. During the inspection, the owner shall:
    - (i) Demonstrate that the erosion and sedimentation controls and tree protection measures comply with the Village's non-point source pollution control ordinance and permit and with this article.
    - (ii) Present a plan to the Village that includes future erosion and sedimentation controls, drainage, and utility and street layout.
  - d. After two (2) days notice to the owner, the Village may modify the approved erosion control and construction sequencing if the Village determines that the plans are inadequate.
  - e. The Village may make minor changes to the erosion control and construction sequencing plans if the modification upgrades erosion controls or reflects construction progress.
  - f. Except as provided in subsection (G) below, the owner shall not begin construction until the Village determines that the erosion and sedimentation controls and tree protection measures comply with Village requirements.
  - g. If the Village does not conduct an inspection on or before the fifth (5<sup>th</sup>) day after receiving a request, the owner may proceed with construction.
4. Village Re-inspection Fee:
- a. Except as provided in subsection (B) below, the Village may charge a re-inspection fee if at the time that the Village attempts to conduct an inspection, the owner:
    - (i) Has not finished the work to be observed;

- (ii) Has not finished corrections previously required by the Village;
  - (iii) Does not make approved plans readily available to the Village at the site; or
  - (iv) Does not provide access to the work on the scheduled inspection date.
- b. Work that was rejected at the first inspection for failure to comply with a technical code may be re-observed without payment of a re-inspection fee.
  - c. If a re-inspection fee is due, additional inspections may not be performed until the re-inspection fee is paid.

**F. Site Development Construction:**

1. **Distribution of Approved Plans:** The owner shall deliver two (2) copies of the released site development construction plans and approved plan revisions to the Village for use.
2. **Substantial Completion Work:**
  - a. Approximately ten (10) days before work under the site development construction plans is finished, the owner shall notify the Village in writing that the work is substantially complete and shall request a list of work to be completed.
  - b. On the day that the owner provides notice under subsection (A) above, the owner's consulting engineer shall submit a construction summary report to the Village.
3. **Final Inspection:**
  - a. No later than the tenth (10<sup>th</sup>) day after the owner gives written notice that work under a site development construction plan is substantially complete, the Village shall review the work and prepare a report identifying work that does not comply with the construction plans and permits and work that must be performed before the Village issues a final acceptance letter.
  - b. When the owner finishes the work listed in the report issued under subsection (A) above, the Village shall modify the report to reflect that the required work is finished.
4. **Approval and Acceptance by the Village:**

- a. The Village shall schedule a final approval and acceptance meeting at the site and shall invite the:
  - (i) Consulting engineer;
  - (ii) Contractors, as appropriate; and
  - (iii) Staff of affected utilities;
- b. The Village may not issue a final approval and acceptance letter until:
  - (i) Work identified in the Village’s report has been completed;
  - (ii) The following items have been submitted to the Village:
    - (a) Construction summary report;
    - (b) Consulting engineer’s concurrence letter;
    - (c) Reproducible plans, certified, “as built” by the consulting engineer;
    - (d) Required warranty and performance bonds;
    - (e) Cash or cashier’s check for balances due, if any; and
  - (iii) if the owner executed a developer contract with the Village, the conditions of the contract have been satisfied.

**G. Site Construction:**

- 1. Distribution of Approved Plans: The owner shall forward to the Village two (2) copies of the approved site development permit plan, approved building permit construction plan, approved revision, and applicable specifications for a development. The owner shall retain the plans at the site during construction and Village observations.
- 2. Grading, Drainage, and Water Quality Facilities:
  - a. During construction, the Village may observe land grading, drainage, and detention and water quality control facilities to determine whether the facilities comply with the released permits.
  - b. After construction of the land grading, drainage, and detention and water quality control facilities on a site is finished, the design engineer shall

submit a letter to the Village stating that the project substantially complies with the approved permits.

- c. The Village shall perform the final observation of the facilities after the design engineer submits the letter described in subsection (B) above.
- d. Except as provided in subsection (E) below, the Village may issue a certificate of occupancy or compliance only if the land grading, drainage, and detention and water quality facilities have been completed in accordance with the requirements of the construction code and permits.
- e. The Village may issue a certificate of compliance or certificate of occupancy before the construction is finished if:
  - (i) The Village determines that the unfinished construction is minor and the facility, and constructed, can perform the task for which it was designed; and
  - (ii) The owner executes an agreement on a form prescribed by the Village providing for the finishing of the construction and the posting of fiscal security in the amount and for the length of time approved by the council.

3. Connection of Public Utilities:

- a. Except as provided in subsection (B) below, utilities may be provided to a property if:
  - (i) For a property located in the extraterritorial jurisdiction of the Village, the Village issues a certificate of compliance for the development and signs a final acceptance letter for the subdivision infrastructures; or
  - (ii) For a property located in the Village's zoning jurisdiction, the Village issues a certificate of occupancy for the building.
- b. If required erosion and sedimentation controls are finished, the Village may authorize a temporary electrical connection:
  - (i) To test building service equipment before a certificate of occupancy or certificate of compliance has been issued; or
  - (ii) To provide electrical service to a building for which a temporary certificate of occupancy has been issued.

- H. Letter of Satisfactory Completion: The Village will not deem required public improvements satisfactorily completed until the applicant's engineer has certified to the Village, through submission of detailed sealed "as-built," or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the Village, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with engineering plans, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature and seal of the licensed professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer shall also furnish the Village with a copy of the approved final plat and the engineering plans, if prepared on a computer-aided design and drafting (CADD) system, in such a digital format (on disk) that is compatible with the Village's CADD system. When such requirements have been met, the Village shall thereafter make a recommendation to the council for consideration of satisfactory completion of the public improvements. Once the council votes its approval of satisfactory completion, the Village shall issue the Letter of Satisfactory Completion.

**Sec.33.378 Approval and Acceptance of Public Improvements**

- A. Acceptance of the development shall mean that the applicant has transferred all rights to all the public improvements to the Village for use and maintenance. The council may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the applicant has posted a performance bond, letter of credit or cash bond in the amount of one hundred percent (100%) of the estimated cost of those remaining improvements for a length of time to be determined by the council. If the remaining public improvements are greater than ten thousand dollars (\$10,000.00) and are not completed within the determined length of time, the Village will impose a ten percent (10%) penalty of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the applicant, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than ten thousand dollars (\$10,000.00), the applicant shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the council.
- B. Upon acceptance of the required public improvements or upon approval of the required public improvements, the Village shall submit a certificate to the applicant stating that all required public improvements have been satisfactorily completed.
- C. Certifications of Compliance and Occupancy:

1. **Certificate Required:**
  - a. In the zoning jurisdiction and in a municipal utility district that has a consent agreement with the Village requiring the issuance of a building permit, a person shall not use, occupy, or change the existing use or occupancy of a structure unless the Village has issued a certificate of occupancy for the structure.
  - b. In the Village jurisdiction:
    - (i) For development that does not require a site plan, a person shall not use or occupy a structure unless the Village has issued a certificate of compliance for the site development and subdivision infrastructure; and
    - (ii) For development that requires a site plan, a person shall not use or occupy the development included in the site plan unless the Village has issued certificates of compliance for the site development and the subdivision infrastructure.
2. **Issuance of Certificate of Compliance:** The Village shall issue a certificate of compliance if the site development has been completed in accordance with the released permits and other ordinance requirements, as applicable, and for subdivision and site development infrastructure:
  - a. In the extraterritorial jurisdiction, the Village has signed a final acceptance letter; or
  - b. In the zoning jurisdiction:
    - (i) The Village has signed a final acceptance letter; or
    - (ii) The council and the developer have executed a developer agreement.
3. **Issuance of Certificate of Occupancy:** The Village shall issue a certificate of occupancy if:
  - a. The development has passed required inspections and observations;
  - b. The owner satisfies fiscal security requirements;
  - c. The development has been completed in accordance with the released permits and other ordinance requirements, as applicable; and

- d. The Village has signed a final acceptance letter for site development or subdivision infrastructure or the council and the developer have executed a developer agreement, if applicable.
4. Temporary Certificate of Occupancy:
- a. A person may file an application with the Village for a temporary certificate of occupancy before the building or structure is finished.
  - b. The Village may issue a temporary certificate of occupancy if the Village determines that the proposed use or occupancy is not a hazard to life, health, or the public safety.
5. Exemption from Compliance:
- a. This subsection applies to an existing use or occupancy for which a certificate of occupancy was not issued if:
    - (i) The structure in which the use or occupancy occurs existed before the effective date of this article;
    - (ii) The use or occupancy was established before the effective date of this article;
    - (iii) The use or occupancy was not subject to an enforcement action before the effective date of this article; and
    - (iv) The use is a permitted use or is a nonconforming use.
  - b. The Village shall issue a certificate of occupancy for a use or occupancy described in subsection (A) above, if the Village determines that continuing the existing use or occupancy is not a hazard to life, health, or the public safety.
  - c. The Village shall issue a certificate of occupancy under subsection (B) above, notwithstanding the noncompliance of an existing use or occupancy or of a building in which the use or occupancy complies with applicable construction code requirements or site development regulations of this article.

**Sec. 33.379 Deferral of Required Improvements**

- A. The council may, upon petition of the applicant and favorable recommendation of the Village, defer at the time of preliminary plat approval, subject to appropriate conditions,

the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.

- B. Whenever a petition to defer the construction of any public improvements required under this article is granted by the council, the applicant shall deposit in escrow his or her share of the costs, in accordance with Village participation and oversizing policies, of the future public improvements with the Village prior to approval of the plat, or the applicant shall execute a separate developer agreement secured by a cash escrow or, where authorized by the council, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the Village.

### **Sec.33.380 Issuance of Building Permits and Certificates of Occupancy**

No building permit shall be issued for a lot, building site, building or use unless the lot or building site has been officially recorded by a final plat approved by the council, and unless all public improvements, as required by this article for final plat approval, have been completed, except as may be permitted below:

- A. A building "foundation only" permit may be issued for a nonresidential or multi-family development provided that a preliminary plat and site development plan been recommended by the commission and approved by the council, and provided that the engineering plans and permits have been approved by the Village. However, the building permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements. In other words, the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, inspected and tested.
- B. The council may release some residential building permits for not more than ten percent (10%) of the lots within a new residential subdivision, provided that a preliminary plat and site plan have been recommended by the commission and approved by the council and the engineering plans and permits have been approved by the Village, and provided that all public improvements have been completed for that portion of the development including, but not limited to, those required for fire and emergency protection, such as streets providing at least two (2) points of emergency access, alleys, water lines serving fire hydrants, and other similar, required public safety improvements. *No lot shall be sold nor title conveyed until the final plat has been approved by the council and recorded with the Travis County Clerk.*
- C. No certificate of occupancy shall be issued for a building or the use of property unless all site development improvements have been completed and a final plat has been approved by the council and recorded with the Travis County Clerk. Notwithstanding the above, the Village may authorize the conditional occupancy of a structure provided that a developer agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the council for the completion of all remaining public improvements, and

provided that the structure is safely habitable in accordance with the Village's construction code.

**Sec.3.381 Enforcement**

**A. Compliance Required; Observation:**

**1. Village Observation:**

- a. An owner shall as a condition of the construction permit, allow the Village to enter and observe the land or premises that is the subject of any Village construction permit.
- b. An applicant for an approval under this article shall agree in writing to allow the Village to enter and observe the land or premises that is the subject of any application during approval and development.
- c. Entry and observation under this section must be at a reasonable time for the purpose of investigating or enforcing the requirements of this article.
- d. If the premises are occupied, the Village shall present Village credentials and request entry. If the premises are unoccupied, the Village shall attempt to contact a responsible person and request entry.

**2. Copy of Released Site Development Permit at Development Site:**

- a. An owner shall keep a copy of all site development construction permits and building permits at the development site and allow the Village to examine it on request.
- b. An owner's failure to produce the copy of the released permits on request by the Village is prima facie evidence that a released permit does not exist.

**3. Copy of Right-of-Way Use Permit to be Kept On-Site:**

- a. An owner holder shall keep a copy of the right-of-way use permit in an accessible place on the construction site or business premises during the period for which the permit is valid.
- b. A permit shall state the name of the site manager, supervisor, project superintendent, or prime contractor to be contacted by the Village or police officer if problems exist.

- c. An owner's failure to produce a copy of the permit on request from a police officer, or from the Village, is prima facie evidence that a permit does not exist.

**B. Suspension and Revocation:**

**1. Suspension of a Permit or License:**

- a. The Village may suspend a permit or license if the Village determines that:
  - (i) The permit or license was issued in error; or
  - (ii) The permit or license holder has not complied with the requirements of this article.
- b. A suspension is effective until the Village determines that the permit holder has complied with the requirements of this article.

**2. Suspension of a Released Site Development Permit or Approved Subdivision Construction Plan:**

- a. The Village may suspend a released site development permit or an approved subdivision construction plan if the Village determines that:
  - (i) The site development permit was released in error;
  - (ii) The subdivision construction plan was approved in error; or
  - (iii) The development does not comply with this article.

**3. Suspension of a Certificate of Occupancy:**

- a. The Village may suspend a certificate of occupancy if the Village determines that:
  - (i) The certificate of occupancy was issued in error; or
  - (ii) The structure does not comply with the requirements of the Village's construction codes.

**4. Suspension and Revocation of a Right-of-Way Use Permit:**

- a. The Village may suspend a right-of-way use permit if the Village determines that the permit holder has not complied with the requirements of the permit.

- b. The Village may request review by the council of a proposed revocation or suspension. The council's findings are binding on the permit issuer.
  - c. The Village may require that a person found in violation of a permit requirement pay an investigation fee before the Village reinstates a suspended or revoked right-of-way use permit. The fee is one-third of the cost of the permit.
  - d. A suspension is effective until the Village determines that the person has complied with the requirements of the permit.
5. **Suspension and Revocation of a Variance or Special Exception:**
- a. If the Village determines that a person is not in compliance with a requirement of a variance or special exception, the Village may suspend the variance or special exception pending compliance.
  - b. The council shall hold a public hearing and determine whether the person is in compliance with the requirements of the variance or special exception.
  - c. The council shall hold the public hearing not later than the forty-fifth (45<sup>th</sup>) day after notification of the suspension.
  - d. If the council determines that the person is not in compliance with a requirement of the variance or special exception, the council may revoke the variance or special exception or take other action to obtain compliance.
  - e. The council's decision to revoke a variance or special exception is effective immediately.
6. **Revocation after Suspension:** The Village may immediately revoke a person's permit, license, released site development permit, approved subdivision construction plan, certificate of occupancy, or right-of-way use permit that has been suspended if the Village determines that the person did not comply in a reasonable time with the requirements of this article for which the suspension was ordered.
7. **Notice of Intent to Suspend or Revoke:**
- a. The Village may give notice to the person affected of the Village's intent to suspend or revoke a permit, license, released site development permit, approved subdivision construction plan, certificate of occupancy, or right-of-way use permit under this article.

- b. The notice may specify a reasonable time for compliance with this section. If a time for compliance is specified, the Village may not suspend or revoke before the time for compliance has expired.
8. Notice of Suspension or Revocation: The Village shall give notice by certified mail, return receipt requested, of a suspension or revocation by the Village under this section.

C. Orders:

1. Stop Work Order:

- a. If the Village determines that a person required to obtain a site development permit, subdivision construction plan, or permit has not complied with a requirement of this article, the Village may order the person to stop the development of or transportation of construction material to the site until the person complies with the requirements of this article.
- b. While a stop work order is in effect:
  - (i) A Village site observation may not be performed, and work requiring a Village observation shall not be approved; and
  - (ii) A person shall not connect a utility at the site.
- c. If a stop work order is based on a failed Village observation, a person shall not further develop the site until the development passes a Village re-observation.
- d. If a stop work order is based on a health or safety hazard, a person shall not further develop the site until the Village determines that the development complies with the requirements of this article and the Village's code of ordinances.
- e. If a stop work order is based on a violation of the requirements of this article for a right-of-way use permit, the order:
  - (i) Must state that no work shall be performed at the site if traffic is obstructed, unless the person obtains a right-of-way use permit;
  - (ii) Must state that noncompliance shall result in the immediate removal of an obstruction from the right-of-way and the arrest of an equipment operator; and
  - (iii) Shall require the immediate removal of an obstruction or traffic

control device in the public right-of-way.

- f. The Village shall post a stop work order on the site and mail a copy of the order to the record owner.

2. Remove or Restore Order:

- a. If the Village determines that building service equipment regulated by the Village codes is hazardous to life, health, or property, the Village may order that the equipment be removed or restored to a safe condition.
- b. A remove or restore order shall be in writing, posted on the site, and state a deadline by which compliance shall be achieved.
- c. The Village shall mail a copy of the remove or restore order to the record owner.
- d. A person shall not use or maintain building service equipment after a remove or restore order is posted.

3. Order to Clear Public Right-of-Way: Unless a person complies with the requirements of a right-of-way use permit or of this article, a police officer may order the person to immediately stop obstructing traffic and remove the obstruction from the public right-of-way. The police officer may:

- a. Impound a vehicle, machinery, or equipment;
- b. Order to driver to proceed to the Police Department;
- c. Remove a barricade or traffic diverting device;
- d. Issue a citation to a person who authorized or caused the violation; and
- e. Arrest a person who does not comply with the order.

D. Appeal; Criminal Enforcement:

1. Appeal:

- a. A person may appeal a stop work order, remove or restore order, revocation, or suspension issued under this section by giving written notice to the Village not later than the third (3<sup>rd</sup>) day after:
  - (i) The stop work order or remove or restore order is posted; or
  - (ii) The person receives notice of the revocation or suspension.

- b. The notice of appeal shall contain:
  - (i) The name and address of the appellant;
  - (ii) A statement of facts;
  - (iii) The decision being appealed; and
  - (iv) The reasons the decision should be set aside.
- c. The council shall hear the appeal not later than the third (3<sup>rd</sup>) working day after the appeal is filed. The appellant, the appellant's expert, and the Village may offer testimony to the council.
- d. The council shall affirm or reverse the Village's decision not later than the second (2<sup>nd</sup>) working day after the hearing. The Village shall give written notice of the decision and a statement of the reasons for the decision to the appellant. The decision of the council shall be final.
- e. A stop work order, remove or restore order, suspension, or revocation remains in effect during the pendency of an appeal under this section.

2. Criminal Enforcement:

- a. Criminal penalties for violations of this title are prescribed by the Village's code of ordinance.
- b. A separate offense is committed each day that a violation of this title continues.

**DIVISION 8: CONSTRUCTION IN PUBLIC RIGHTS-OF-WAYS**

**Sec.33.382 Findings and Purpose**

The purpose of this division is to:

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

- B. Govern the use and occupancy of the public rights-of-ways;
- C. Assist the Village in its efforts to protect the public health, safety and welfare;
- D. Conserve the limited physical capacity of the public rights-of-way held in public trust by the Village;
- E. To preserve the physical integrity of the streets and highways;
- F. To control the orderly flow of vehicles and pedestrians;
- G. Keep track of the different entities using the right-of-way to prevent interference between them;
- H. Assist on scheduling common trenching and street cuts; and
- I. Protect the safety, security, appearance, and condition of the public rights-of-ways.

**Sec.33.383 Authority; Scope**

This division applies to all persons that place facilities in, on or over public rights-of-ways.

**Sec.33.384 Definitions**

In this division:

***Affiliate:*** Means a person who controls, is controlled by, or is under common control with a provider.

***Certificated Telecommunications Provider:*** Means the same as in Local Government Code Section 283.002(2); i.e., any entity that has been granted a certificate from the Texas Public Utility Commission under Chapter 54 of Tex. Utility Code authorizing that entity to provide local exchange telephone service.

***Village:*** Means The Village of Volente, Texas. As used throughout, the term Village also includes the designated agent of the Village.

***Direction of the Village:*** Means all ordinances, laws, rules, resolutions, and regulations of the Village that are not inconsistent with this article and that are now in force or may hereafter be passed and adopted.

***Facilities:*** Means any and all of the wires, cables, fibers, duct spaces, manholes, poles, conduits, underground and overhead passageways and other equipment, structures, plant and

appurtenances and all associated physical equipment placed in, on or under the public rights-of-way.

**Public Rights-of-Ways:** Means the same as in the Texas Local Government Code, Section 283.002(6); i.e., the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airways above a public right-of-way with regard to wireless telecommunications.

**Sec33.385 Village Authorization Required**

- A. Any person seeking to place facilities on, in or over the public rights-of-way, shall first file an application for a site development permit with the Village and shall abide by the terms and provisions of this article pertaining to use of the public rights-of-way.
- B. Any person, except a certificated telecommunications provider, prior to placing, reconstruction, or altering facilities in, on, or over the public rights-of-way, shall obtain separate authorization from the Village.
- C. Any person with a current, unexpired consent, franchise, agreement or other authorization from the Village ("grant") to use the public rights-of-way that is in effect at the time this article takes effect shall continue to operate under and comply with that grant until the grant expires or until it is terminated by mutual agreement of the Village and the person, or terminated as otherwise provided for in law.

**Sec.33.386 Administration and Enforcement**

- A. The Village shall administer and enforce compliance with this division.
- B. A person shall report information related to the proposed use of the public rights-of-way that the Village requires in the form and manner reasonably prescribed by the Village.
- C. The Village shall report to the council upon the determination that a person has failed to comply with this division.

**Sec.33.387 Construction Obligations**

A person is subject to reasonable police power regulation of the Village to manage its public rights-of-ways in connection with the construction, expansion, reconstruction, maintenance or repair of facilities in the public rights-of-ways, pursuant to the Village's rights as a custodian of public property, based upon the Village's historic rights under state and federal laws. Such regulations include, but are not limited to, the following:

- A. At the Village's request, a person shall furnish the Village accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation and repair of facilities performed by the person in the public rights-of-ways.
- B. A person may be required to place certain facilities within the public rights-of-way underground according to applicable Village requirements absent a compelling demonstration by the person that, in any specific instance, this requirement is not reasonable or feasible nor is it equally applicable to other similar users of the public rights-of-ways.
- C. A person shall perform operations, excavations and other construction in the public rights-of-ways in accordance with all applicable Village requirements, including the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the public rights-of-ways. The Village shall waive the requirement of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the Village by the person. All excavations and other construction in the public rights-of-way shall be conducted so as to minimize interference with the use of public and private property. A person shall follow all reasonable construction directions given by the Village in order to minimize any such interference.
- D. A person must obtain a permit, as reasonably required by applicable Village codes, prior to any excavation, construction, installation, expansion, repair, removal, relocation or maintenance of the person's facilities. Once a permit is issued, person shall give to the Village a minimum of forty-eight (48) hours notice (which could be at the time of the issuance of the permit) prior to undertaking any of the above listed activities on its network in, on or under the public rights-of-way. The failure of the person to request and obtain a permit from the Village prior to performing any of the above listed activities in, on, or over any public rights-of-ways, except in any emergency as provided for in subsection (11) below, will subject the person to a stop-work order from the Village and enforcement action pursuant to the Village's code of ordinances. If the person fails to act upon any permit within 90 calendar days of issuance, the permit shall become invalid, and the person will be required to obtain another permit.
- E. When a person completes construction, expansion, reconstruction, removal, excavation or other work, the person shall promptly restore the rights-of-ways in accordance with applicable Village requirements. A person shall replace and properly relay and repair the surface, base, irrigation system and landscape treatment of any public rights-of-ways that may be excavated or damaged by reason of the erection, construction, maintenance, or repair of the person's facilities within thirty (30) calendar days after completion of the work in accordance with existing standards of the Village in effect at the time of the work.
- F. Upon failure of a person to perform any such repair or replacement work, and five (5) days after written notice has been given by the Village to the person, the Village may repair such portion of the public rights-of-ways as may have been disturbed by the

person, its contractors, or agents. Upon receipt of an invoice from the Village, the person will reimburse the Village for the costs so incurred within thirty (30) calendar days from the date of the Village invoice.

- G. Should the Village reasonably determine, within two (2) years from the date of the completion of the repair work, that the surface, base, irrigation system or landscape treatment requires additional restoration work to meet existing standards of the Village, a person shall perform such additional restoration work to the satisfaction of the Village, subject to all Village remedies as provided herein.
- H. Notwithstanding the foregoing, if the Village determines that the failure of a person to properly repair or restore the public right-of-way constitutes a safety hazard to the public, the Village may undertake emergency repairs and restoration efforts. A person shall promptly reimburse the Village for all cost incurred by the Village within thirty (30) calendar days from the date of the Village invoice.
- I. A person shall furnish the Village with construction plans and maps showing the location and proposed routing of new construction or reconstruction at least fifteen (15) days before beginning construction or reconstruction that involves an alteration to the surface or subsurface of the public rights-of-ways. A person may not begin construction until the location of new facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in writing by the Village, which approval will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing.
- J. If the Village declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, a person shall remove or abate the person's facilities by the deadline provided in the Village's request. The person and the Village shall cooperate to the extent possible to assure continuity of service. If the person, after notice, fails or refuses to act, the Village may remove or abate the facility, at the sole cost and expense of the person, without paying compensation to the person and without the Village incurring liability for damages.
- K. Except in the case of customer service interruptions and imminent harm to property or person ("emergency conditions"), a person may not excavate the pavement of a street or public rights-of-ways without first complying with Village requirements. The Village shall be notified immediately regarding work performed under such emergency conditions, and the person shall comply with the requirements of Village standards for the restoration of the public rights-of-ways.
- L. Within sixty (60) days of completion of each new permitted section of a person's facilities, the person shall supply the Village with a complete set of "as built" drawings for the segment in a format used in the ordinary course of the person's business and as reasonably prescribed by the Village, and as allowed by law.

- M. The Village may require reasonable bonding requirements of a person, as are required of other entities that place facilities in the public rights-of-ways.

**Sec.33.388 Conditions of Public Rights-of-Way Occupancy**

- A. In the exercise of governmental functions, the Village has first priority over all other uses of the public rights-of-way. The Village reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachments, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley or public rights-of-ways occupied by person, and to change the curb, sidewalks or the grade of streets.
- B. The Village shall assign the location in or over the public rights-of-ways among competing users of the public rights-of-ways with due consideration to the public health and safety considerations of each user type, and to the extent the Village can demonstrate that there is limited space available for additional users, may limit new users, as allowed under state or federal law.
- C. If the Village authorizes abutting landowners to occupy space under the surface of any public street, alley, or public rights-of-ways, the grant to an abutting landowner shall be subject to the rights of the previously authorized user of the public rights-of-ways. If the Village closes or abandons a public right-of-way that contains a portion of a person's facilities, the Village shall close or abandon such public right-of-way subject to the rights of the person.
- D. If the Village gives written notice, a person shall, at its own expense, temporarily or permanently, remove, relocate, change or alter the position of person's facilities that are in the public right-of-way within one hundred twenty (120) days, except in circumstances that require additional time as reasonable determined by the Village based upon information provided by the person. for projects expected to take longer than hundred twenty (120) days to remove, change or relocate, the Village will confer with person before determining the alterations to be required and the timing thereof. The Village shall give notice whenever the Village has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a Village or other governmental public improvement in the public rights-of-ways. This section shall not be construed to prevent a person's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall it be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with person.
- E. If the person fails to relocate facilities in the time allowed by the Village in this division, the person may be subject to liability to the Village for such delay and as set forth in the Village code of ordinances, now or hereafter enacted.

- F. Notwithstanding anything in subsections (d) and (e) above, the Village and a person may agree in writing to different time frames than those provided above if circumstances reasonably warrant such a change.
- G. During the term of its Village consent, a person may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its facilities. All tree trimming shall be performed in accordance with standards promulgated by the Village. Should the person, its contractor or agent, fail to remove such trimmings within twenty-four (24) hours, the Village may remove the trimmings or have them removed, and upon receipt of a bill from the Village, the person shall promptly reimburse the Village for all costs incurred within thirty (30) working days.
- H. Persons shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the Village gives written notice of no less than 48 hours. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. Person may require prepayment or prior posting of a bond from the party requesting temporary move.

#### **Sec.33.389 Insurance Requirements**

- A. A person shall obtain and maintain insurance in the amounts reasonably prescribed by the Village with an insurance company licensed to do business in the state of Texas acceptable to the Village throughout the term of a Village consent conveyed under this division. A person shall furnish the Village with proof of insurance at the time of the request for building permits. The Village reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the Village determines that changes in statutory law, court decisions, or the claims history of the industry or the person require adjustment of the coverage. For purposes of this section, the Village will accept certificates of self-insurance issued by the state of Texas or letters written by the person in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, for the Village to accept such letters the person must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the Village, based on financial information requested by and furnished to the Village. the Village's current insurance requirements are as prescribed by separate ordinance and as maintained on file in the office of the Village secretary.
- B. A person shall furnish, at no cost to the Village, copies of certificates of insurance evidencing the coverage required by this section to the Village. The Village may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the Village, the person, or the underwriter. If the Village requests a deletion, revision or modification, a person shall exercise reasonable efforts to pay for and to accomplish the change.

- C. An insurance certificate shall contain the following required provisions:
1. name the Village of Volente and its officers, employees, board members, commission members, and elected representatives as additional insureds for all applicable coverage;
  2. provide for thirty (30) days notice to the Village for cancellation, non-renewal, or material change; and
  3. provide that notice of claims shall be provided to the Village by certified mail.
- D. A person shall file and maintain proof of insurance with the Village. An insurance certificate obtained in compliance with this division is subject to Village approval. The Village may require the certificate to be changed to reflect changing liability limits. A person shall immediately advise the Village of actual or potential litigation that may develop and may affect an existing carrier's obligation to defend and indemnify.
- E. An insurer has no right of recovery against the Village. The required insurance policies shall protect the person and the Village. The insurance shall be primary coverage for losses covered by the policies.
- F. The policy clause "Other Insurance" shall not apply to the Village if the Village is an insured under the policy.
- G. The person shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the Village for payment of a premium or assessment. Insurance policies obtained by a person must provide that the issuing company waives all right of recovery by way of subrogation against the Village in connection with damage covered by the policy.

### **Sec.33.390 Indemnity**

- A. Except as to certificated telecommunications utilities, each person placing facilities in the public rights-of-way's shall agree to promptly defend, indemnify and hold the Village harmless from and against all damages, costs, losses or expenses (1) for the repair, replacement, or restoration of Village's property, equipment, materials, structures and facilities which are damaged, destroyed or found to be defective as a result of the person's acts or omissions, (2) from and against any and all claims, demands, suits, causes of action, and judgments for (A) damage to or loss of the property of any person (including, but not limited to the person, its agents, officers, employees and subcontractors, Village's agents, officers and employees, and third parties); and/or (B) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to the agents, officers and employees of the person, person's subcontractors and Village, and third parties), arising out of, incident to, concerning or resulting from the

negligent or willful act or omissions of the person, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this division.

- B. This indemnity provision shall not apply to any liability resulting from the negligence of the Village, its officers, employees, agents, contractors, or subcontractors.
- C. The provisions of this indemnity is solely for the benefit of the Village and is not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

#### **Sec.33.391 Unauthorized Use of Public Rights-of-Ways Enforcement and Penalties**

The council may authorize its attorney to initiate appropriate actions in a court of competent jurisdiction to enforce the provisions of this division or to enjoin such violations which occur within the Village or any area subject to all or part of the provisions of this division. Any person in violation of any provision of this division shall be fined as a Class C misdemeanor. Each day of violation under this division shall be a separate violation. Prosecution or conviction under this provision shall not be a bar to any other remedy or relief for violations of this division.

#### **Sec.33.392 Abandoning or Vacating Streets [Reserved]**

### **DIVISION 9: EASEMENTS**

#### **Sec.33.393 General Provisions**

- A. The minimum width for utility easements shall be fifteen feet (15') and the minimum width for drainage easements shall be twenty-five feet (25'). The width of easements for other utility providers, such as for gas, electric, telephone or cable TV, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies. Wherever possible, easements shall be along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots.
- B. Where a subdivision is traversed by a watercourse, drainageway or channel, there shall be provided a storm water easement or drainage right-of-way conforming substantially with such course and of such additional width of ten feet (10'), subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA) and in accordance with the City of Austin, Texas Drainage Criteria Manual (latest edition).

Parallel streets or parkways may be required adjacent to certain portions of creek or drainageways to provide maintenance access or access to recreation areas. Other utilities may be permitted within the drainage easement if approved by the Village.

- C. Where alleys are not provided in a residential subdivision, a minimum ten foot (10') wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.
- D. For new development, all necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity, for which they are being provided. Examples include, but are not limited to, the following: a water, sanitary sewer or drainage easement; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the Village and its fire suppression and emergency medical service providers for access purposes; an electrical, gas or telephone easement, which is dedicated to the specific utility provider that requires the easement.
- E. Access easements shall be provided in accordance with this division and with the Village's zoning and subdivision ordinances and with the City of Austin, Texas Transportation Criteria Manual (latest edition).

#### **Sec.33.394 Public Utility Easements**

- A. New Public Utility Easements (P.U.E.) shall be dedicated on all new or amended lots parallel to all property lines, as follows:
  - 1. Property lines abutting on street rights-of-ways: fifteen feet (15');
  - 2. Residential interior property lines: fifteen feet (15');
  - 3. Non-Residential or Multi-family Interior property lines: fifteen feet (15').
- B. Detention and water quality facilities are not permitted in public utility easements.
- C. Off-street parking is allowed in public utility easements.
- D. Signs complying with the Village's sign ordinance are allowed in public utility easements as long as all utilities have been located in the easement and the location of the sign will not interfere with the maintenance of the utilities. Signs in the public utility easement shall be removed at the owner's expense if necessary for utility maintenance.
- E. Any construction or plantings over dedicated utility or drainage easements shall be removed and/or replaced at the owners expense should such easements be required for use by any authorized utility company or be required to provide adequate drainage.

**Sec.33.395 General Maintenance**

- A. All easements located on private property shall be maintained by the property owner or homeowners association.
- B. All water quality easements shall be maintained in accordance with the Village's non-point source pollution control ordinance.

**DIVISION 10: PENALTIES AND ENFORCEMENT**

**Sec.33.396 Effect of Interpretation**

In interpreting and applying the provisions of this article, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this article to interfere with or abrogate or annual any easements, covenants or other agreements between parties provided, however, that where this article imposes a greater restriction or a greater standard upon site development than are imposed or required by agreements, the provisions of this article shall govern.

**Sec.33.397 Preserving Rights in Pending Litigation and Violations Under Existing Ordinances**

By the passage of this article, no presently illegal site development shall be deemed to have been legalized unless specifically such site development is authorized by this article. Otherwise, such development shall be considered an illegal or non-conforming activity, as the case may be. It is further the intent and declared purpose of this article that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the effective date of this article, shall be discharged or affected, but prosecutions and suites for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

**Sec.33.398 Stop Orders**

Whenever any site development activity is being done contrary to the provisions of this article, the Village may order the work stopped by notice in writing (referred to as a "Stop Work Order") served on any persons engaged in the doing or causing such work to be done. The stop work order shall be posted on the property, near the activity in question, and any such person shall forthwith stop work until authorized by the Village to proceed with the work.

**Sec.33.399 Permit Revocation**

A violation of this article shall authorize the Village to cancel any permit or approval depending in whole or in part on any approval under this article. If a permit or approval is canceled, no further work shall be done on the project made the subject of the permit or approval until the violation has been cured and new submittals under this article, as required by the Village, have been made and approved in accordance with the provisions of this article and a new permit has been issued or new approval obtained.

**Sec.33.400 Denial of Approvals and Permits**

A violation of this article shall authorize the Village to deny any approvals or permits sought by the person violating this article.

**Sec.33.401 Penalties and Injunctive Relief**

Any person violating this article, upon conviction, is punishable by a fine in accordance with the general penalty provision of the Village's code of ordinances. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

**Sec.33.402 Court Proceedings**

Upon the request of the council the Village attorney or other authorized attorney shall file an action in the court of jurisdiction to enjoin the violation or threatened violation of this article, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the Village to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this article.

**Sec.33.403 Authority to Enter Property**

A. Under the following circumstances, Village officials may enter private property at all reasonable times to perform any duty imposed by this article:

1. Whenever the Village has reasonable cause to believe that there exists upon any premises any condition in violation of this article;
2. Whenever necessary to make inspections or observations to enforce or confirm compliance any of the provisions of this article;

3. Upon receipt of any permit application to inspect the existing conditions of a particular site in conjunction with review of the application.
- B. If the site to be inspected is occupied, Village shall provide reasonable notice to property owner of intent to access property.
- C. Except during construction, if the site in unoccupied Village shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises.
- D. If entry is refused to the Village, the Village shall have recourse to every remedy provided by law to secure entry.
- E. No owner or other person having charge, care, or control of any premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by Village for the purpose of inspection and examination pursuant to this article. Any person violating this section shall be guilty of a misdemeanor.

## **DIVISION 11: CLOSING PROVISIONS**

### **Sec.33.404 Construction**

The terms and provisions of this article shall not be construed in a manner to conflict with the *Texas Local Government Code*, and if any term or provision of this article shall appear to conflict with any term, provision or condition of the *Texas Local Government Code*, such article term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with such Texas Local Government Code, and, if possible, in a manner to give effect to both. The standard and accepted rules of statutory construction shall govern in construing the terms and provisions of this article.

### **Sec. 33.405 Amendment and Repeal**

All ordinances or parts thereof conflicting or inconsistent with the provisions of this article as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this article and any other code or ordinance of the Village, the terms and provisions of this article shall govern.

### **Sec. 33.406 Severability**

If any provision of this article or the application of any provision to any person or circumstance

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

**Sec. 3.407 Amendments**

The council may, from time to time, adopt, amend and make public rules and regulations for the administration of this article. This article may be enlarged or amended by the council after public hearing, due notice of which shall be given as required by the Texas Local Government Code.

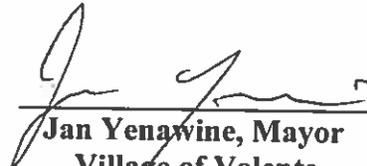
**Sec. 3.408 Effective Date**

This article shall take effect immediately from and after the passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code*.

**Sec. 3.409 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 Local Government Code*.

**Passed and approved this 26th day of October 2004.**

  
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Jan Yenawine, Mayor  
Village of Volente

**ATTEST:**

  
\_\_\_\_\_  
Jennifer Zufelt, Village Secretary

**ORDINANCE NO. 2004-O-36**

**AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, PROVIDING FOR DESIGN STANDARDS AND IMPROVEMENT REQUIREMENTS FOR CONSTRUCTION WITHIN THE VILLAGE AND ITS EXTRATERRITORIAL JURISDICTION; PROVIDING FOR VARIANCES FROM SUCH STANDARDS AND REQUIREMENTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICATIONS FOR AND APPROVALS OF NON-POINT SOURCE POLLUTION PERMITS, SITE PLAN DEVELOPMENT PERMITS, BUILDING PERMITS, BUILDING DEMOTION AND RELOCATION PERMITS, TREE REMOVAL PERMITS, AND CERTIFICATES OF OCCUPANCY, INCLUDING THE VARIOUS PLANS TO BE SUBMITTED IN CONNECTION WITH THE ISSUANCE OF SUCH PERMITS; PROVIDING FOR SITE DEVELOPMENT DESIGN STANDARDS FOR PUBLIC STREETS AND PRIVATE STREETS, INCLUDING ESCROW POLICIES AND PROCEDURES; PROVIDING FOR TRAFFIC IMPACT ANALYSES; PROVIDING DESIGN STANDARDS FOR ALLEYS, EASEMENTS, BLOCKS, WALKWAYS, DRIVEWAYS AND DRIVE AISLES, AND OFFSTREET PARKING AND LOADING; PROVIDING FOR LANDSCAPING; PROVIDING FOR FENCING, WALLS AND SCREENING; PROVIDING STANDARDS FOR CONSTRUCTION ON VARIOUS LAND SLOPES, FOR CONDUCTING CUT AND FILL ACTIVITIES, FOR CONTROLLING EROSION AND SEDIMENTATION, FOR LANDCLEARING, AND FOR DRAINAGE; PROVIDING REGULATION OF WATER AND WASTEWATER SERVICES IN THE VILLAGE INCLUDING PROVISIONS APPLICABLE TO WATER DISTRICTS; PROVIDING REGULATIONS FOR PRIVATE SEWAGE FACILITIES; PROVIDING REGULATIONS FOR LIQUID WASTE HAULERS; PROVIDING REGULATIONS FOR THE WITHDRAWAL OF GROUNDWATER; PROVIDING OUTDOOR LIGHTING STANDARDS; PROVIDING STANDARDS FOR CONSTRUCTION DESIGN OF EXTERIOR STRUCTURES; PROVIDING REGULATIONS FOR PUBLIC SITES, OPEN SPACES, PARKS PUBLIC FACILITIES; PROVIDING FOR IMPROVEMENTS REQUIRED PRIOR TO APPROVAL OF CONSTRUCTED SITE DEVELOPMENT AND CONSTRUCTION STANDARDS; PROVIDING CONSTRUCTION STANDARDS FOR WATER AND WASTEWATER FACILITIES; PROVIDING REQUIREMENTS FOR VILLAGE ACCEPTANCE AND APPROVAL OF PUBLIC IMPROVEMENTS; PROVIDING SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the Village of Volente desires to adopt regulations to establish standards for the development and construction of improvements within the Village of Volente and its extraterritorial jurisdiction to promote the public health, safety, morals and general welfare of the citizens of the Village of Volente and to provide for the safe, orderly and healthful development of 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 the Texas Local Government Code;

**WHEREAS**, the Village of Volente has complied with the notice and public hearing requirements 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 a recommended site plan development ordinance from the Commission;

**WHEREAS**, the Village of Volente desires to adopt the following regulations and standards for the development and construction of improvements within the Village of Volente and its extraterritorial jurisdiction

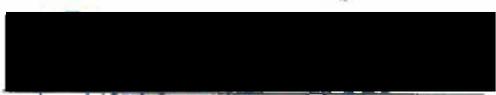
**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS, THAT:**

**Sec.33. \_\_\_\_\_ Penalty:** Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the village limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum provided for in Chapter 54 of the Texas Local Government Code. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. Any person who violates this article is subject to suit for injunctive relief as well as prosecution to seek penalties for the violations.

Passed and approved 16 day of November, 2004



Jan Yenawine, Mayor



Jennifer Zufelt, City Secretary