

ORIGINAL

Village of Volente

ORDINANCE NO. 2007-0-80

AN ORDINANCE ADOPTING REGULATIONS GOVERNING LOCATING PUMPING STATIONS, WATER INTAKE FACILITIES, WATER LINES, WASTEWATER LINES, AND WATER AND WASTEWATER COLLECTION AND TREATMENT FACILITIES LOCATED WITHIN THE VILLAGE OF VOLENTE; REQUIRING VILLAGE COUNCIL APPROVAL; AND PROVIDING FOR FINES, PENALTIES, OPEN MEETINGS COMPLIANCE, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the Village of Volente desires to preserve and enhance the public health, safety, and general welfare of its citizens and provide for planned and orderly construction and expansion of water and wastewater infrastructure located within its corporate boundaries; and

WHEREAS, the Village of Volente has complied with the notice and public hearing requirements of Chapter 211 of the Texas Local Government Code and the provisions of the Texas Open Meetings Act;

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

The Village of Volente hereby adds Chapter 40, entitled "Health and Sanitation," to its Code of Ordinances and adopts the following provisions regulating the siting and construction of water lines, wastewater lines, pumping stations, water intake facilities and other water and wastewater treatment facilities and improvements within the Village's municipal boundaries.

CHAPTER 40: HEALTH AND SANITATION

Sec. 40.001. CONSTRUCTION AND EXPANSION OF WATER AND WASTEWATER LINES, PUMPING STATIONS, WATER INTAKES, AND OTHER WATER AND WASTEWATER COLLECTION AND TREATMENT FACILITIES

DIVISION 1: POLICY, AUTHORITY, TITLE, PURPOSE AND DEFINITIONS

Sec. 40.002. Policy.

The Village Council hereby declares it to be the policy of the Village that all water and wastewater lines, pumping stations, water intakes, and other water and wastewater collection and treatment facilities and improvements be sited, constructed and expanded in an orderly manner compatible with the public health, safety, and welfare of its citizens, as determined taking into consideration the factors enumerated herein.

Sec. 40.003. Authority.

This Chapter is enacted pursuant to the police powers of the Village of Volente and under the authority of the Constitution and general laws of the State of Texas, including particularly the provisions in *Chapter 211 of the Texas Local Government Code*.

Sec. 40.004. Title.

This Chapter may be cited as the Water and Wastewater Facility Siting Ordinance of the Village of Volente.

Sec. 40.005. General Purpose and Intent.

The primary purpose of this Article is to promote the public health, safety and the general welfare of the Village and its present and future residents by establishing reasonable guidelines and criteria for the siting and construction and expansion of water and wastewater lines, pumping stations, and water intakes, and water and wastewater collection and treatment facilities and improvements (collectively referred to as "Water and Wastewater Facilities") within the Village's boundaries.

Sec. 40.006. Definitions

- (a) For purposes of Chapter 40, "Water and Wastewater Facilities" includes all water lines, wastewater lines, pumping stations, water intake facilities and equipment, and all other water and wastewater collection and treatment facilities and improvements located within the Village of Volente's municipal boundaries.
- (b) Water and wastewater facility located on single family residential lot to provide services to structures on that lot.

DIVISION 2: VILLAGE APPROVAL OF PROPOSED SITES AND ROUTES

Sec. 40.007. Village Approval Required.

- (a) No utility, person, or entity may construct or expand Water or Wastewater Facilities without obtaining approval from the Village Council of the facility's or improvement's route or location.
- (b) Prior to filing any applications for the construction or expansion of Water and Wastewater Facilities, a utility, person, or entity proposing to construct or expand Water or Wastewater Facilities within the municipal limits of the Village of Volente ("Applicant") must submit for the Village Council's consideration a minimum of three (3) substantially different and geographically distinct routes or locations for the proposed facility or improvement.
- (c) The Village Council shall study and evaluate each of the proposed locations or routes submitted by the Applicant, taking into account the following considerations for each:
 - (1) possible effects on the public's health, safety and welfare;
 - (2) potential adverse environmental impacts;
 - (3) compatibility with existing land uses on neighboring properties;
 - (4) congruity with the Village's and neighboring property owners' plans for future development and expansion;
 - (5) whether procedures or technologies designed to prevent or mitigate adverse effects are utilized;
 - (6) whether existing or planned easements are used;
 - (7) compliance with existing zoning and land-use regulations;
 - (8) magnitude of construction and operation impacts on surrounding area;
 - (9) direct and indirect economic impact on affected properties;
 - (10) preservation of the natural beauty and aesthetics of the community; and
 - (11) any other factors or considerations relevant to the public's health, safety and welfare.

- (d) Applying the foregoing factors, the Village shall determine which one of the proposed sites or routes may be used for the proposed facilities or improvement.
- (e) After the Village approves the proposed site or route, the Applicant may apply for permits and other authorizations to construct the water or wastewater collection or treatment facilities.

Sec. 40.008. Public Hearings; Notice.

The Village Council shall hold public hearings on the alternative routes and locations after giving public notice in order to afford interested persons an opportunity to be heard regarding the alternative routes and locations for the proposed Water or Wastewater Facilities.

Sec. 40.009. Site or Route Authorization.

Upon designating the approved site or route, the Village Council shall authorize the route or location of the facilities or improvements, along with any appropriate conditions.

DIVISION 2: VIOLATIONS AND ENFORCEMENT

Sec. 40.010. Violations.

It is unlawful and a violation of this Chapter for any utility, entity, or person to construct or expand Water or Wastewater Facilities within the Village of Volente's municipal boundaries on a site or route other than that which is authorized under this Chapter by the Village Council.

Sec. 40.011. Penalty.

Any utility, entity, or person who violates or fails to comply with any of the provisions of this Chapter shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies available by law.

Sec. 40.012. Enforcement.

In addition to assessing penalties pursuant to Section 50.011 and any other permissible remedies, the Village may enforce this Article by taking administrative action or initiating legal proceedings.

- (a) **Administrative Action:** Administrative action includes, but is not limited to, the revocation or invalidation of any municipal permits, licenses, or approvals relating to the planned facilities or improvements.
- (b) **Court Proceedings:** The Village Attorney may file an action in a court of competent jurisdiction to enjoin the violation or threatened violation of this Chapter, or to obtain declaratory judgment relief, 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 the provisions of this article.

DIVISION 3: GENERAL PROVISIONS

Sec. 40.013. Construction.

The terms and provisions of this Chapter shall not be construed in a manner to conflict with *Chapter 211 of the Texas Local Government Code*, and if any term or provision of this Chapter shall appear to conflict with any term, provision or condition of *Chapter 211*, such term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with such Chapter 211, 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 Chapter.

Sec. 40.014. Amendment and Repeal.

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

Sec. 40.015. Severability.

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

Sec. 40.016. Open Meetings.

It is hereby officially found and determined that the meeting at which the ordinance enacting this provision of the Code 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 Texas Open Meetings Act, *Chapter 551 of the Texas Government Code*.

Sec. 40.017. Effective Date.

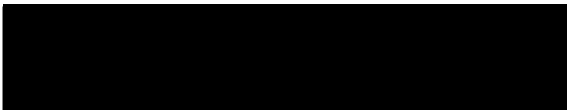
This Chapter shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code*.

PASSED AND APPROVED this 17th day of July 2007.



Jan Yenawine, Mayor
Village of Volente

ATTEST:



Jermier Zufelt, Village Secretary