

VILLAGE OF VOLENTE

ORDINANCE NO. 2022-O-01

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, AMENDING CHAPTER 9, ARTICLE 9.05 SITE DEVELOPMENT REGULATIONS, DIVISIONS 2 & 8, SECTIONS 9.05.041 AND 9.05.451 TO ESTABLISH PROCEDURES FOR VACATING, ABANDONING, OR CLOSING A STREET, ALLEY OR OTHER PUBLIC WAY OR PORTIONS THEREOF; AMENDING APPENDIX A FEE SCHEDULE TO ESTABLISH A FEE FOR THE VACATING, ABANDONING, OR CLOSING A STREET, ALLEY OR OTHER PUBLIC WAY OR PORTIONS THEREOF, AND UPDATE THE FEE FOR PROPERTY OWNER NOTIFICATIONS; AMENDING ARTICLE 9.03 SECTIONS 9.03.004(a)(7)(A) AND (b); AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE & MEETING

- WHEREAS**, Title 6, Subtitle E, Chapter 311 of the Transportation Code, provides that the governing body of a general-law municipality by ordinance may vacate, abandon, or close a street or alley of the municipality if a petition signed by all the owners of real property abutting the street or alley is submitted to the governing body; and
- WHEREAS**, the City Council of the Village of Volente (“City Council”) finds that an amendment to the Code of Ordinances is required to establish procedures for vacating, abandoning, or closing a street, alley or other public way or portions; and
- WHEREAS**, on February 15, 2022, the City Council conducted a meeting, at which the City Council received public briefings from City staff, and was provided feedback from interested citizens; and
- WHEREAS**, upon consideration of all of the information presented, the City Council finds that the proposed procedures, fees, and clarifications are necessary for effective government; and
- WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the Village has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the Village and is necessary or proper for carrying out a power granted by law to the Village; and
- WHEREAS**, the City Council finds that the amendment proposed is reasonable, necessary, and proper for the good government of the Village of Volente.

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

SECTION 1. FINDINGS

The facts and recitations found in the preamble of the Ordinance are true and correct and incorporated herein for all purposes.

SECTION 2. ENACTMENT

A. Chapter 9, Article 9.05, Division 2, Section 9.05.041 of the Code of Ordinances of the Village of Volente is hereby amended by adding the following definitions:

Sec. 9.05.041 Definitions:

“Abandon” means to relinquish the public’s right of way in and use of the road.

“Abutting” means to touch along a border or with a projecting part, (land abuts on the road); to terminate at a point of contact; to border on; touch.

“Discontinue” means to discontinue the maintenance of the road.

“Vacate” means to terminate the existence of the road.

B. Chapter 9, Article 9.05, Division 8 of the Code of Ordinances of the Village of Volente is hereby amended by adding a new Section 9.05.451 to read as follows:

Sec. 9.05.451. Vacating, abandoning, or closing a street, alley or other public way or portions thereof.

(a) **Petition.** All Property owners desiring to have the Village exercise its powers regarding vacating, abandoning, or closing a street, alley or other public way or portions thereof, shall file their petition with the Village, in writing, directed to the Village Council. Such petition shall contain a description of the street, alley, or other public way or portion thereof, as the case may be, and attached to said petition shall be a list of all owners abutting said street, alley, other public way or portion thereof, as the case may be, together with the last known address of all such owners. If all abutting property owners do not join in said petition, a statement shall be attached to said request showing the reason for nonparticipation of those who have not signed the petition. Travis County Appraisal District tax rolls shall be the source for the purpose of determining the names and addresses of all abutting property owners and such tax rolls shall be conclusive as to the names of the abutting property owners for the purposes of this chapter.

(b) **Fees.** Upon the filing of such petition with the Village, an administrative fee shall be paid in accordance with Appendix A Fee Schedule of the Village’s Code of Ordinances to cover the

expense of administering the procedure outlined in this section and the cost of mailing notices and release forms to all abutting property owners. Such fee is nonrefundable.

(c) Notices and releases. Upon the filing of such petition and fee as provided herein, the Village shall mail notices of said petition and release forms by certified mail, return receipt requested, to all abutting property owners.

(d) Partial vacation or abandonment or closure. If the petition requests that only a portion of a street, alley, or other public way which is open to public access from either direction is to be vacated, abandoned, or closed then it shall be necessary for the petitioner to provide the Village with the names and last known mailing addresses of all abutting property owners both for the portion to be closed and for that portion which is to remain open in either direction up to the next intersection with another street, alley, or public way. Notices and release forms shall be mailed to all such abutting property owners for the closed and open portions of said street, alley, or public way as provided in this Section.

(e) Council review. The proposed vacation, abandonment, or closure shall be reviewed by the Village Council and shall be placed on the agenda for the next regular meeting of the Village Council after the filing of the petition or such public meeting as the Village Council may set, provided that at least ten (10) days have elapsed from the date said petition is filed until the date of said meeting in order to allow sufficient time for the mailing of notices and release forms to the abutting property owners. The Village Council shall hold a public hearing and review the petition during the public meeting. No action shall be taken at the first meeting during which the review takes place.

(f) Information required. The Village shall not act on such petition until such time as the petitioner has delivered to the Village the following:

(1) If an Authorized Agent is submitting the application on behalf of all landowners abutting the street, alley, or other public way or portion thereof, to be vacated, abandoned, or closed, an Authorized Agent form is required including a notarized letter authorizing the agent to act on the landowners' behalf;

(2) A copy of the Subdivision Plat, including the Plat notes;

(3) If only a portion of a street, alley, or other public way is being proposed for vacation, abandonment, or closure, a survey of that portion must be prepared by a Registered Professional Land Surveyor, including metes and bounds description and sketch;

(4) Prior to Council review, a quitclaim deed must be executed by all abutting landowners relinquishing their legal interest in the proposed vacation, abandonment, or closure of the street, alley or other public way or portion thereof;

(5) A copy of any agreements or easements that have either been executed with adjacent landowners;

(6) A real estate appraisal of the subject street, alley, or other public way or portion thereof requested for vacation, abandonment or closure;

(7) Easement releases for any public utility easements within the right-of-way of the subject street, alley, or other public way or portion thereof; and

(8) A payment representing each abutting petitioner's pro rata share of the appraised value of the subject street, alley, or other public way or portion thereof to be vacated, abandoned, or closed.

(g) Council action.

(1) Such petition, if not acted upon at the second public meeting at which it appears on the agenda, may be continued to subsequent meetings if it is in the best interest of the parties and the public as the Village Council may in its sole discretion determine.

(2) Once the petition is approved by the Village Council, the petitioners have 30 days in which to record the vacation, closure, or abandonment of the subject street, alley, or other public way or portion thereof in the county deed records and to submit to the Village, a Replat Application(s) covering the vacated, abandoned or closed street, alley, or other public way or portion thereof and the adjacent properties.

(3) Submitting the petition and fee shall not obligate the Village to vacate, close, or abandon the subject street, alley, or other public way or portion thereof.

C. Appendix A Fee Schedule, Section A2.003 of the Code of Ordinances of the Village of Volente is hereby amended by adding the following:

	Administrative Fee	Professional Services and Legal Services	Property Owners Notifications	Professional Cost Deposits and Other Fees	Fire and Safety Inspections and Review
Petition to vacate, abandon, or close a street or alley or other public ways and portions thereof	\$500.00	Cost plus 12.5%	Cost plus 12.5%	Deposit is administrative fee plus \$500.00	\$50.00 per hour; 2-hour minimum

D. Appendix A Fee Schedule of the Code of Ordinances of the Village of Volente is hereby amended by updating the fee for "Property Owner Notifications" throughout Appendix A as follows, where applicable. Underlined and italicized text shall be added and struck-through and bracketed text shall be deleted.

	Administrative Fee	Professional Services and Legal Services	Property Owners Notifications	Professional Cost Deposits and Other Fees	Fire and Safety Inspections and Review
	\$		Cost plus 12.5%		

E. Chapter 9, Article 9.03, Division 1, Sections 9.03.004(a)(7), (b) of the Code of Ordinances of the Village of Volente are hereby amended to read as follows. Underlined and italicized text shall be added and struck-through and bracketed text shall be deleted.

Sec.9.03.004 Application

(7) An abbreviated platting process referred to as a short form final plat process (sec. 9.03.059) is available for certain qualified situations, they are:

(A) The combining of any number of contiguous tracts, lots, sites or parcels for the purpose of creating one (1 on more legal lots of less than five (5) acres in order to achieve a more developable site, except as otherwise provided herein.

(b) The construction or placement, or the proposed construction or placement, of any structure over, or across a property boundary or lot line shall be deemed to be the combining of two or more contiguous tracts, lots, sites or parcels under section 9.03.004(a)(7)(A). It shall be unlawful for any person to construct or place, or to cause to be constructed or placed, a structure on, over or across a property boundary or lot line.

SECTION 3. CUMULATIVE AND REPEALER

This ordinance shall be cumulative of all provisions of ordinances of the Village of Volente, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances. All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SECTION 4. SEVERABILITY

In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconditional; and the City Council of the Village of Volente, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

SECTION 5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the Village's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

SECTION 6. EFFECTIVE DATE

This Ordinance is in full force and effect immediately upon its adoption.

SECTION 7. PROPER NOTICE AND MEETING

That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chap. 551, Tex. Loc. Govt. Code.

PASSED, APPROVED, AND ADOPTED on this the 15th day of February, 2022 by a 5 (ayes) to 0 (nays) to 0 (abstentions) vote of the City Council of the Village of Volente, Texas.

VILLAGE OF VOLENTE



ATTEST:

