

ARTICLE II.
ZONING DISTRICTS AND REGULATIONS.

Section 9. General Requirements and Limitations.

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

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

(c) Structures and Buildings. No building, structure or accessory structure shall be erected, converted or enlarged, nor shall any such existing building or structure be structurally altered or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless the same shall be done and completed in a manner to comply with all applicable City codes and ordinances, and such work and structure shall:

(i) Conform to the setback, building site area, building location and land use regulations hereinafter designated for the district in which such building or open space is located.

(ii) Not exceed the height limit herein established for the district in which such building is located, except as specifically authorized as follows:

(A) The height limits prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, necessary public or private utilities, conveyors, flag poles, and necessary mechanical appurtenances. The height limits and other applicable regulations for television, radio and communications towers and antennas may be established by separate ordinance.

(B) Public or semi-public service buildings, hospitals, institutions or schools, churches and other places of worship where permitted, may be erected to a height not exceeding forty (40) feet when each of the required yards is increased by one (1) foot for each two (2) feet of additional building height above the height limits for the district in which the building is located.

(d) Accessory Structures and Uses. Accessory structures designed, constructed and located for a use permitted in the district, in compliance with this Ordinance and all other applicable City ordinances, are permitted in each zoning district.

(e) Conformity to Construction Plan Requirements. No structure or building shall be erected,

converted, enlarged, reconstructed or structurally altered unless Construction Plans meeting the requirements of this Ordinance have been approved by the City Engineer and/or City Building Official.

(f) Conformity to Parking and Loading Space Requirements. No structure or building shall be erected, converted, enlarged, reconstructed or structurally altered unless it shall conform to the off-street parking and loading requirements of this Ordinance.

(g) Conformity to Landscaping and Screening Requirements. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered unless it shall conform to the landscaping and screening requirements of this Ordinance.

(h) Conformity to Building Setback Requirements. No yard or other open space provided around any structure or building for the purpose of complying with provisions of this section shall be considered as providing a yard or open space for a building on any other lot.

(i) Outdoor Lighting. All outdoor lighting shall be installed and maintained in compliance with all applicable City ordinances. Such lighting shall be located and maintained in a manner as to not be directed onto any public street or adjacent property; provided that such lighting may be directed directly down upon a public street as provided for street lights.

(i) Multi-Family, Commercial and Industrial. Outdoor lighting for multi-family, general retail, commercial and office will be in accordance with the provisions of this Ordinance and the City building codes. A lighting plan shall be included with the site plan submitted for a building permit.

(ii) Residential. Outdoor lighting on residential property will be installed in accordance with applicable City ordinances. It will be located so as not to be directed directly upon adjoining property or create a nuisance for adjoining property owners. Lighting used for security purposes, which will be operated during night hours will be located as close as is practicable to main dwellings.

(j) Height and Placement Requirements. Except as otherwise specifically provided in this Ordinance, no building shall be erected or maintained within the required building setbacks set forth herein, or which exceeds the height limits specified in the following Chart 1.

Chart 1.

Zoning District	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback	Min. Lot SF Area	Min. Lot Depth	Min. Lot Width	Max. Height Limit
R-1	50 ft,	25 ft.	50 ft.	25 ft	43,580 sf	200 ft At building setback (125 ft at ridgeline)	125 ft. (200 ft at ridgeline)	35 ft.
R-1 C	30 feet	15	15	15	Minimum of 21,740 sf and No larger than 1 home per acre	120	90	35 ft.
R-2	25 ft. for two unit 30 ft for three and four unit	15 ft.	15 ft.	10 ft. 15 ft. when abutting R-1	10,000 per unit	120	90 ft.	35 ft.
OS	25 ft.	10 ft.	15 ft.	25ft.	10,000	90	60 ft.	35 ft.
Gov	25 ft.	15 ft.	15 ft.	15 ft.	10,000	90	60 ft.	35 ft.
C-1	40 ft.	15 ft.	15 ft. 30 ft from Residential	15 ft. 30 ft from Residential	10,000	90	50 ft.	35 ft.
C-2	60 ft.	25 ft.	25 ft. 35 ft from Residential	15 ft. 30 ft from Residential	20,000	150	60 ft.	35 ft.
C-3	100 ft.	25 ft. for single tenant 50 ft. for multi-tenant	50 ft.	15 ft. 30 ft from Residential	25,000 for single tenant 40,000 for multi-tenant	250	60 ft. for single tenant 100 ft. for multi-tenant	35 ft.
I-1	100 ft.	50 ft.	50 ft.	50 ft.	40,000	250	125 ft.	35 ft.
I-2	100 ft.	50 ft. 100 ft. from Residential	50 ft. 100 ft. from Residential	50 ft. 100 ft. from Residential	60,000	250	125 ft.	35 ft.

(k) Lot Coverage. The maximum percentage of lot area which may hereafter be covered by the main building(s) and all accessory buildings shall not exceed that set forth in the following Chart 2. In the

following zoning districts, the maximum building lot coverage must conform to the following schedule:

Chart 2

<u>District</u>	<u>Coverage Main Buildings and All Accessory Buildings</u>
OS, R1, R2, Gov	20%
C1, C2, C3, I	20%

Open off-street parking and loading areas will not be considered as lot coverage under this subsection.

(l) Floor Area Ratio. Except as hereinafter provided, no building or structure may be erected, added to or altered to exceed the maximum floor area ratio standards in the various zoning districts as set forth in the following Chart 3. In the following zoning districts, the maximum floor area ratio (FAR) for any building or structure shall be as follows:

Chart 3
Maximum Floor Area Ratio (FAR)

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

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

(m) Parking. Automotive vehicles or trailers not bearing current license plates and state motor vehicle inspection stickers, excluding racing cars, antique cars, and cars belonging to members of armed forces who are on active duty, shall be parked in accordance with this section and any applicable City Ordinances.

(i) Parking Regulations. Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this Ordinance, designated on-street and off-street parking spaces shall be provided in a number not less than as provided in Chart 4 set forth hereinafter.

(ii) Handicap Parking. Non-residential handicap parking requirements are a minimum of one space for under fifty parking spaces, then one additional space for over fifty parking spaces up to one hundred spaces, and then one space per one hundred spaces up to five hundred. Over five hundred, it is one percent of total parking spaces. Dimensional requirements are twelve-foot (12') width and eighteen-foot (18') depth per handicap space. The location and design of handicapped parking spaces shall be as required by ordinance and state and federal law.

(iii) Maximum Parking. The maximum number of parking spaces for a commercial or industrial use area shall not exceed 150% of the parking required pursuant to Chart 4.

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

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

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

(C) Providing covered, secured bicycle parking racks or facilities;

(D) Providing a transit facility that is approved by the local transit authority, and related amenities. Related amenities include, but are not limited to, a public plaza, pedestrian sitting areas, and additional landscaping.

(v) Development and Maintenance Standards for Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

(A) Off-street parking areas for more than five vehicles and loading areas shall be effectively screened by a privacy fence, hedge or planting, on each side which adjoins a residential use or property situated in a Residential Area.

(B) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

(C) Access aisles shall be of sufficient width for vehicular turning and maneuvering.

(vi) Council Determination. Off-street and on-street parking for all uses not within the categories above shall be adequate to meet the anticipated needs and shall be determined by the City Council using standards outlined for special exception and with a view towards providing adequate parking and carrying out the general scheme of the parking requirements herein set out.

Special Exception. The City Council may grant a special exception to allow two or more uses to share parking spaces upon a showing that the particular uses in question will require parking at different times. Any spaces the Council allows to be shared count toward the number of spaces each use must provide.

Chart 4*

Use	Number of Parking Spaces
Residential dwellings, single to multi-family, and manufactured homes	Two spaces minimum for each living unit, and one-half (1/2) space for each additional bedroom above two.
Warehouses and other similar commercial establishments not catering to the general public	One space per 1,000 square feet of gross floor area
Hotels, Motels and similar transient accommodations	One space per bedroom and one space for each two employees
Rest homes, Nursing Homes, Convalescent Homes, sanitariums, and similar uses	One space for each two employees, and One space for each four patient beds
Bars, Cafes, Restaurants, Taverns, Nightclubs and similar uses	One space for every four seats provided for customer services
Food Sales, Food and Beverage Sales, Convenience Stores and similar uses	One space for each 200 square feet of gross floor area

Banks, Offices, financial lending institutions, personal service shops, retail establishments, shopping centers and similar uses catering to the general public	One space for each 250 square feet of gross floor area
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* Any use providing a drive-thru to customers, must additionally provide a ninety (90) foot concrete or asphalt driveway.

(n) Uses Noncumulative. Uses within each District are restricted solely to those uses expressly permitted in each District, and are not cumulative unless so stated.

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

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

(A) The structure shall comply with provisions of the Fire Code, Electrical Code and Building Code that are applicable to nursing homes;

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

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

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

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

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

(iii) A Personal Care Facility must have at least one paid staff member on duty 24 hours per day, and one supervisor for each six (6) residents during waking hours;

(iv) A Personal Care Facility may not have more than fifteen (15) residents.

Section 10. Establishment of Zoning Districts. (a) The City is hereby divided into ten (10) zoning districts, the use, height and area regulations as set out herein shall be uniform in each district. The ten (10) districts established shall be known as:

<u>Abbreviated Designation</u>	<u>Zoning District Name</u>
C-1	Light Commercial
C-2	Medium Commercial
C-3	Heavy Commercial
GOV	Government/Public Institutional
I-1	Light Industrial

I-2	Heavy Industrial
OS	Open Space
R-1	Single Family Residential
R-1 C	Single Family Cluster
R-2	Multi Family

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

(c) District Boundaries. Where uncertainty exists with respect to the boundaries of the established districts as shown on the Zoning Map, the following rules shall apply:

- (i) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines shall be construed to be said boundaries.
- (ii) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- (iii) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines of right-of-way lines of highways such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on said Zoning Map.
- (iv) In subdivided property, the district boundary lines on the Zoning Map shall be determined by use of the scale appearing on the map.
- (v) If a district boundary line divides a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown.
- (vi) Whenever any street, alley or other public way is vacated by the City Council, the zoning district shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the districts as extended.
- (vii) Where the streets on the ground differ from the streets shown on the Zoning Map, those on the ground shall control.

Section 11. Zoning of Annexed Areas. (a) Interim Zoning District. All territory hereafter annexed to the City shall be automatically classified as Residential District "R-1", pending subsequent action by the Commission and Council for permanent zoning; provided that upon application, by either the City or the property owner of the land being annexed, for zoning other than Agricultural, notice may be given and hearings held in compliance with *Chapter 211 of the Texas Local Government Code* and, upon annexation, such property may be permanently zoned as determined by the City Council after considering the Commission's recommendation.

(b) Permits in Interim Zoned Areas. In an area temporarily classified as Residential District "R-1", no permits for the construction of a building or use of land other than uses allowed in said District under this Ordinance shall be issued by the City Building Official.

Section 12. Single Family Residential 1 - District "R-1". (a) Purpose and Permitted Uses. Permits detached single family dwellings with a minimum of 800 square feet of living area, and related accessory structures, on a minimum lot size of 43,580 square feet.

(b) Additional Permitted Uses.

- (i) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (ii) Public buildings, including libraries, museums, police and fire stations.
- (iii) Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are converted to a permitted use within a period of one (1) year, specific permission must be obtained from the City Council for said display houses to remain.
- (iv) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (v) Water supply reservoirs, pumping plants and towers.
- (vi) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in Architectural Harmony with the main structure.

(c) Conditions and Limitations.

- (i) See Chart 1.
- (ii) See Chart 4.
- (iii) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated "For Sale" or "For Rent" sign not more than eight (8) square feet in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.
- (iv) Privacy fences that face public streets, roadways or rights of way must have the finished side facing the public street, roadways or right of way.
- (v) Home based occupation. Any homeowner wishing to engage in commercial endeavors within a residential structure may do so provided that:
 - a. The business has no employees other than immediate family;
 - b. No noxious chemicals, pollutants or other hazardous materials are stored on site;

- c. No excessive traffic flow results from the operation of the business;
- d. No manufacturing requiring heavy equipment is performed; and
- e. Lighting, sound and nuisances are within the acceptable standards for R-1 zoning.

Section 13. Single Family Residential Cluster - District "R-1 C". (a) Purpose and Permitted Uses. Permits detached single family dwellings with a minimum of 800 square feet of living area, and related accessory structures, on a lot size that does not cause the development to exceed one home per acre.

(b) Additional Permitted Uses.

- (i) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (ii) Public buildings, including libraries, museums, police and fire stations.
- (iii) Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years. Display dwellings with sales offices, provided that if said display dwellings are not moved are converted to a permitted use within a period of one (1) year, specific permission must be obtained from the City Council for said display houses to remain.
- (iv) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (v) Water supply reservoirs, pumping plants and towers.
- (vi) Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise. Such structures will be required to receive a conditional use permit and must be in Architectural Harmony with the main structure.

(c) Conditions and Limitations.

- (i) See Chart 1.
- (ii) See Chart 4.
- (vi) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of an unilluminated "For Sale" or "For Rent" sign not more than eight (8) square feet in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.
- (vii) Privacy fences that face public streets, roadways or rights of way must have the finished side facing the public street, roadways or right of way.
- (viii) Common walkways will be required in place of sidewalks.

Section 14. Single Family Residential 2 - District "R-2". (a) Purpose and Permitted Uses. Allows detached duplexes, three and four unit residences with a minimum of 1,000 square feet of living area and permitted accessory structures on a minimum lot size of 10,000 square feet per unit.

(b) Additional Permitted Uses. As set forth in Section 25(b).

(c) Conditions and Limitations. See Section 25(c).

Section 15. Open Space – District "OS". (a) An open space district is a tract of land provided as a general benefit for the community . Common open space must be usable for recreational purposes or must provide visual, aesthetic and environmental amenities. The uses authorized for the common open space should be appropriate to the scale and character of the surrounding development considering its size, density, expected population, topography, and the number and type of dwellings to be provided. As a minimum, the total open space shall not be less than required for parks in the Subdivision Ordinance. Common open space should be improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements to be located in the common open space must be appropriate to the uses which are intended therefore, and must conserve and enhance the amenities of the common open space having regard to its topography and the intended function of the common open space.

(b) The uses permitted for this District are:

- (i) Cemeteries.
- (ii) Conservation areas.
- (iii) Golf courses.
- (iv) Outdoor recreational and athletic facilities.
- (v) Outdoor swimming pools.
- (vi) POA neighborhood parks, common open space, common open area, playgrounds and play fields.
- (vii) Wildlife sanctuaries.

(c) Permitted secondary uses are as follows:

- (i) Club Houses and Community Centers
- (ii) Retail-oriented uses which are clearly secondary and customarily or necessarily incidental to the permitted use including but not necessarily limited to the following:
 - (A) Retail sales and services operated as part of a golf course, recreational or athletic facility.
 - (B) Retail sales and services sponsored by service clubs, non-profit societies or organizations and concessions contracted with the City.
 - (C) Food and beverage sales, including alcoholic beverages (with a conditional use permit) to members only.

(D) Restaurants including alcoholic beverage sales which are operated as part of or in conjunction with a Club House facility for members only.

- (iii) Caretaker residence.
- (iv) Maintenance buildings required to house equipment and material to maintain the site.
- (v) See Chart 1.
- (vi) See Chart 4.

Section 16 "Gov" Government or Institutional District.

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

(b) Permitted Uses.

- (i) Facilities owned and operated by the federal government, the state or political subdivisions thereof, including public grounds;
- (ii) Fire station and safety services;
- (iii) Schools, public, denominational, kindergarten and pre-school, college, university, dormitory and group student housing;
- (iv) Uses required by public utilities and public transportation services;
- (v) Public athletic fields, stadium, sports facilities, playgrounds, neighborhood park, greenbelt, recreational centers, community centers and swimming pools;
- (vi) Churches, rectory and places of worship; and
- (vii) Accessory uses customarily incidental to any of the foregoing permitted uses.

(c) Conditional Uses Permitted Upon Authorization of City Council.

- (i) Cemeteries.
- (ii) Cultural services.
- (iii) Halfway house and institution for the care of substance dependent persons.
- (iv) Non-profit institutions or non-profit social clubs providing a charitable or philanthropic beneficial community service are permitted with a conditional use permit first being obtained; not including any jail, penal or mental institution.
- (v) Public Zoo.

(d) Conditions and Limitations.

- (i) See Chart 1.
- (ii) See Chart 4.

Section 17. Commercial and Industrial Uses

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

(b)Screening of Non-Residential Uses from Residential Districts or Uses

All lots, or parts of lots, which are improved with a predominantly non-residential use and whose side or rear lines are adjacent to a residential district or use and not separated by a public street or roadway, shall be screened from such residential district or use in accordance with the Village of Volente's Water Quality, NPS Pollution Control, Subdivision and Building Ordinances.

Section 18. Light Commercial - District "C-1".

(a) Purpose and Permitted Uses. This district allows a mix of commercial uses including, retail, office, light commercial, and similar uses excluding residential and multifamily. This district allows the retail sale of goods and products (in the following listed use areas) to which value has been added on-site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following:

- (i) Banks, savings and loans, credit unions and financial services.
- (ii) Business and commercial schools.
- (iii) Convenience store, retail food store and grocery stores (not including gasoline or alcohol sales).
- (iv) Packaging of honey, herbs, spices and peppers produced in the region; limited to small business operations having less than five thousand (5,000) square feet of enclosed building area and not more than five (5) employees on-site.
- (v) Personal service uses including barber shops, beauty parlors, photographic or artist studios, messengers, newspaper or telegraphic agencies, pressing substations, dressmaking, tailoring, shoe repairing, repair of household appliances, electronics and bicycles, catering and other personal service uses of similar character.
- (vi) Public utilities substations.
- (vii) Restaurant, cafe or cafeteria, drive -in eating establishment (no alcoholic beverage sales).
- (viii) Telephone exchange, postal facilities and communication service.
- (ix) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(b) Conditions and Limitations.

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

(c) Site Development Regulations.

- (i) Development of any use permitted in the "C-1" District shall conform to the site development regulations established for that District.
- (ii) Paved sidewalks, driveways and parking areas are required.
- (iii) Screening of loading and storage facilities is required.

Section 19. Medium Commercial - District "C-2". (a) Purpose and Permitted Uses. This district allows the following commercial land uses in facilities under 5,000 sf:

- (i) Assisted retirement living, boarding house, bed & breakfast, convalescent home, family home, home for the aged and group day care.
- (ii) Bakeries with goods primarily prepared for in-store retail sales on site.
- (iii) Child care center (small, intermediate and large) and child development facilities.

- (iv) Clinic and safety services.
- (v) Cultural services and community center (public and private).
- (vi) Day camp.
- (vii) Dancing and music academies.
- (viii) Florist shops, greenhouses and nurseries with outdoor service and display.
- (ix) Golf course (commercial), playfield or stadium (public).
- (x) Sanitariums, nursing homes, hospice and home for the aged.
- (xi) Parking lots and commercial garage.
- (xii) Radio and television broadcasting stations and studios, excluding broadcasting towers.
- (xiii) Recycling collection use.
- (xiv) Restaurant, cafe or cafeteria, drive-in eating establishment with alcoholic beverage sales (with conditional use permit).
- (xv) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(b) Conditions and Limitations.

- (i) That it be conducted primarily within an enclosed building or screened area, except for the customary outdoor activities for the specific uses listed.
- (ii) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that such odors, smoke, dust, noise or vibration at the property line does not exceed the permitted levels established by ordinance.
- (iii) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one-hundred (100) feet of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this Ordinance and any other applicable ordinance of the City.
- (iv) See Chart 1.
- (v) See Chart 2.

(vi) See Chart 3.

(vii) See Chart 4.

(c) Site Development Regulations.

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

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

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

Section 20. Heavy Commercial - District "C-3". (a) Purpose and Conditional Uses. This district is intended to provide for intense commercial uses and transportation services provided that such use shall when established be compatible with adjacent and neighboring residential areas and not create unreasonable traffic or land use conflicts. The following are Conditional uses that must receive a Conditional Use Permit from the Village of Volente:

(i) Bar, nightclub, private club, dance hall and social club where alcoholic beverages are sold (with conditional use permit).

(ii) Marina with no gasoline sales or repair service.

(iii) Retail facilities over 5,000 square feet.

(iv) Trailer camp or park.

(v) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

(vi) Veterinary services and hospital

(b) Conditions and Limitations.

(i) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.

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

(iii) Adequate enclosures, space, shelters and proper drainage and waste disposal to eliminate odor.

(iv) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within twenty-five (25) feet of any Residential District. Signs may be

illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this Ordinance and any other applicable ordinance of the City.

(v) See Chart 1.

(vi) See Chart 2.

(vii) See Chart 3.

(viii) See Chart 4.

(c) Site Development Regulations.

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

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

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

Section 21. Light Industrial - District "I-1". (a) Purpose and Permitted Uses. This district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for one (1) or more of the uses hereinafter enumerated. Allows assembly, packaging and manufacture of non-hazardous, non-volatile products and the following listed uses:

(i) Carpentry, painting, plumbing or tinsmiths shop.

(ii) Furniture manufacturers and upholsterers.

(iii) Light manufacturing.

(iv) Warehouse and storage including watercraft storage.

(v) Recycling operation (Indoors).

(vi) Wood Yard.

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

(b) Conditions and Limitations.

(i) That it be conducted within a building and/or outdoor area that is improved with concrete,

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

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

(iii) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one-hundred (100) feet of any Residential District. All signs shall comply with all applicable provisions of this Ordinance and any other applicable ordinance of the City. Alcoholic beverage sales are not permitted without a conditional use permit first being obtained.

(ii) See Chart 1.

(iii) See Chart 2.

(iv) See Chart 3.

(v) See Chart 4.

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

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

(i) At no point at the bounding property line of any use in an LI District may the sound pressure level of any operation or plant exceed the decibel limits specified in the octave band groups designated in the following table.

(A) Maximum permissible daytime* Octave Bank - Decibel Limits at the bounding property line** in an I-1 District:

OCTAVE								
BAND	37	75	150	300	600	1200	2400	4800
(CPS)	75	150	300	600	1200	2400	4800	9600
								A
								SCALE
DECIBEL BAND LIMIT (DB RE 0.0002 MICROBAR)								
	82	76	68	60	56	53	50	48
								62

Note: A scale level is provided for monitoring purposes only and is not applicable to detailed sound analysis.

*Daytime shall refer to the hours between sunrise and sunset on any given day.

**The Building Official will interpret the bounding property line for noise enforcement as being at the nearest right-of-way or property line of any street, alley, stream or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be the bounding property line.

(B) The following corrections will be made to the table of Octave Band Decibel limits in determining compliance with the noise level standards in an I1 District.

When noise is present at night (any time other than daytime) subtract 7 decibels. When noise contains strong, pure tone components or is impulsive, that is when meter changes at 10 decibels or more per second, subtract 7 decibels. Add ten (10) decibels when noise is present for not more than:

- 1/2 minute in any 1/2 hour period;
- 1 minute in any 1 hour period;
- 10 minutes in any 2 hour period; or
- 20 minutes in any 3 hour period.

(C) Measurement of noise is made with a sound level meter or Octave Band analyzer meeting the standards prescribed by the American Standards Association.

(ii) Smoke and Particulate Matter. No operation or use in an I1 District shall cause, create or allow the emission of air contaminants which violate State or Federal environmental laws, as referenced herein: *Texas Health and Safety Code Ann. Chapt. 381 & 382, Air Pollution Prevention and Control, 42 U.S.C.A. 67401, et.seq.* Open storage and open processing operations, including on-site transportation movements which are a source of wind or airborne dust or other particulate matter, are subject to the standards and regulations specified herein.

(iii) Odorous Matter. No use may be located or operated in an I1 District which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located. The odor threshold as herein set forth is determined by observation by the Building Official. In any case where uncertainty may arise or where the operator or owner of an odor emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures as specified by American Society for Testing Materials, A.S.T.M.D. 1391-57, Entitled "STANDARD METHOD FOR MEASUREMENT OF ODOR IN ATMOSPHERES", will be used and a copy of A.S.T.M.D. 1391-57 is hereby incorporated by reference.

(iv) Flammable and Explosive Materials. No use involving the manufacture or storage of compounds or products which decompose by detonation is permitted in an I1 District 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 Marshall of the City as not presenting a fire or explosion hazard. The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose films, solvents and petroleum products is permitted only when such storage or use conforms to the standards and regulations established by City ordinance.

(v) Toxious and Noxious Matter. No operation or use permitted in an I1 District may emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which exceeds the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health in Threshold Limit Values Occupational Health Regulation No. 3, as such regulations exist or may later be amended.

(vi) Vibrations. No operation or use in an I1 District may at any time create earthborne

vibration which, when measured at the bounding property line of the source of operation, exceed the limit of displacement set forth in the following table in the frequency ranges specified.

<u>FREQUENCY</u> <u>CYCLES PER SECOND</u>	<u>DISPLACEMENT</u> <u>IN INCHES</u>
0 to 10	.0010
10 to 20	.0008
20 to 30	.0005
30 to 40	.0004
40 to 50	.0003

(vii) Glare. No use or operation in an I-1 District may be located or conducted so as to produce intense glare or direct illumination across the bounding property line from a visible source of illumination nor may any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

Section 22. Heavy Industrial - District "I-2". (a) Permitted Uses. Allows assembly, packaging, treatment, processing and manufacture of products that do not pose any materially potential hazard to persons and property outside the boundaries of the property, and the following specifically listed uses to the extent such uses are contained or included within property as to not pose a potential hazard outside of the property on which such use is conducted:

- (i) Acetylene gas manufacture or storage.
- (ii) Blacksmith shops.
- (iii) Automobile shops and garages including watercraft and welding shops.
- (iv) Candle manufacture.
- (v) Celluloid manufacture or treatment.
- (vi) Crating express storage.
- (vii) Creosote manufacture or treatment.
- (viii) Gas and petroleum storage.
- (ix) Glass products from previously manufactured glass for wholesale distribution.
- (x) Glue or gelatin manufacture.
- (xi) Greenhouses and wholesale growers.
- (xii) Hatchery.
- (xiii) Manufacture, assembly and testing of communication equipment, medical instruments and apparatus, optics, photographic equipment and supplies, timing equipment, musical instruments and related equipment, computer components, computers, electronics and precision instruments.

- (xiv) Manufacturing, assembly and packaging of products from previously prepared material such as cloth, plastic, paper, leather, and precious or semi-precious metal or stone.
- (xv) Motion picture or video production facilities and sound stages.
- (xvi) Plastic products manufacture, but not including the processing of raw materials.
- (xvii) Printing, publishing and book binding.
- (xviii) Product assembly services (non-hazardous).
- (xix) Product development services (general).
- (xx) Public utility substations and distributing centers, regulation centers and underground stations.
- (xxi) Research services (general), engineering and development facilities or laboratories.
- (xxii) Sign shops.
- (xxiii) Soap manufacture.
- (xxiv) Soda and compound manufacture.
- (xxv) Testing and research laboratories.
- (xxvi) Tool and die shops.
- (xxvii) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that store and distribute goods and materials, and are in general dependent on raw materials refined elsewhere.

(b) Conditions and Limitations.

- (i) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.
- (ii) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.
- (iii) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within one-hundred (100) feet of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this Ordinance and any other applicable ordinance of the City.
- (iv) See Chart 1.

- (v) See Chart 2.
 - (vi) See Chart 3.
 - (vii) See Chart 4.
 - (viii) Development of any use permitted in the "I-2" District shall conform with the conditions and limitations established for that District.
- (c) Site Development Regulations.
- (i) Development of any use permitted in the "I-2" District shall conform to the site development regulations established for that District.
- (d) Performance Standards - Industrial Districts. See: Section 21(d).

**ARTICLE III.
SITE DEVELOPMENT PLAN REQUIREMENTS AND SPECIAL PROVISIONS**

Section 23. Construction Plans. (a) Purpose and Applicability. Construction Plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the Master Plan and Ordinances of the City. Construction Plan approval by the City Engineer shall be required for any development or improvement of land subject to this Ordinance, and not otherwise required by City's Subdivision Ordinance, Water Quality and NPS Pollution Control Ordinances, and applicable City Ordinances.

(b) Format. Construction Plans shall be drawn on twenty-four inch by thirty-six inch (24"x 36") sheets at a generally accepted engineering scale, and sufficient to thoroughly meet the informational requirements herein.

(c) Content. Construction Plans shall include all of the land proposed to be developed or improved, and any off-site improvements required to accommodate the project. Construction Plans shall contain, or have attached thereto:

- (i) A cover sheet, showing
 - (A) Names, addresses and phone numbers as applicable of the record owner and developer, if any, and all authorized agents including the architect, engineer, landscape architect and surveyor certified in the State of Texas.
 - (B) The proposed name of the project.
 - (C) A location map showing the relation of the project to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5-minute quadrangle map is recommended.

- (D) Certification, revision and signature blocks as required by the City.
- (E) The total acreage of the property to be developed.
- (F) Current zoning district as defined by this Ordinance.
- (G) An Existing Conditions Plan, showing as follows:
 - (1) Boundary of existing zoning districts, if applicable.
 - (2) The existing property lines, including bearings and distances, of the land being developed or improved. Property lines shall be drawn sufficiently wide to provide easy identification.
 - (3) The location of existing structures and improvements, if applicable.
 - (4) The accurate location, Caliper and Critical Root Zone of Significant Trees 8-inch Caliper and larger, in relation to the property boundary and, if applicable, within the limits of the proposed offsite improvements.
 - (5) Centerline of water courses, creeks, existing drainage structures and other pertinent data shall be shown.
 - (6) Lines delineating the Regulatory One Hundred (100) Year Floodplain, if applicable.
 - (7) Topographic data indicating one (1) foot contour intervals. The contoured area shall extend outward from the property boundary for a distance equal to twenty-five percent (25%) of the distance across the tract, but not fewer than fifty (50) feet nor more than two hundred (200) feet.
 - (8) The locations, sizes and descriptions of all existing utilities, including but not limited to sewer lines, lift stations, sewer and storm sewer manholes, water lines, water storage tanks, and wells within the property, and/or adjacent thereto. Existing overhead and underground electric utilities shall also be shown.
 - (9) The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements, building setbacks or other public rights-of-way within the property, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the property shall also be shown.
 - (10) Location of City limit lines and/or outer border of the City's extraterritorial jurisdiction, as depicted on the City's most recent base map, if either traverses or is contiguous to the property boundary.
- (H) An Erosion and Sedimentation Control Plan, showing as follows:
 - (1) Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.
 - (2) Existing and proposed topographic conditions with vertical intervals not greater than one (1) feet referenced to a United States Geological Survey or Coastal and

Geodetic Survey bench mark or monument.

(3) The location, size, and character of all temporary and permanent erosion and sediment controls with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.

(4) Contractor staging areas, vehicles access areas, temporary and permanent spoils storage areas.

(5) A plan for restoration and for the mitigation of erosion in all areas disturbed during construction.

(I) A Site Plan, showing all visible improvements to the land, including the following:

(1) The location, dimensions, square footage, height and intended use of existing and proposed buildings on the site.

(2) Location, number and dimensions of existing and proposed parking spaces, distinguishing between standard, handicap and van handicap spaces and calculation of applicable minimum requirements in accordance with this Ordinance.

(3) The location, type and dimensions of proposed driveways, signs and traffic control devices.

(4) Compliance with the City's Transportation policies provided in the City's Subdivision Ordinance.

(J) A Grading and Drainage Plan, showing as follows:

(1) A Drainage Area Map delineating areas to be served by proposed drainage improvements.

(2) Detailed design of all drainage facilities, including typical channel or paving section, storm sewers, detention ponds and other stormwater control facilities.

(3) Accurate cross-sections, plan and profiles of every drainage improvement proposed in a public utility easement and/or public right-of-way.

(4) Existing and proposed topographic conditions with vertical intervals not greater than one (1) feet referenced to a United States Geological Survey or Coastal and Geodetic Survey bench mark or monument.

(5) Attendant documents containing design computations and any additional information required to evaluate the proposed drainage improvements.

(6) Compliance with the City's Drainage policies provided in the City's Subdivision Ordinance.

(K) A Utility Plan, showing as follows:

- (1) The layout, size and specific location of proposed water mains and other related structures and in accordance with all current City standards, specifications and criteria for construction of water mains.
 - (2) The location of proposed fire hydrants, valves, meters, pipe fittings and other appurtenances.
 - (3) Design details showing the connection with the existing City water system.
 - (4) The layout, size and specific location of the proposed wastewater lines, lift stations and other related structures, and in accordance with all current City standards, specifications and criteria for construction of wastewater systems.
 - (5) Plan and profile drawings for each line in public right-of-way or public utility easements, showing existing ground level elevation at center line of pipe, pipe size and flow line elevation at all bends, drops, turns, station numbers at fifty (50) foot intervals.
 - (6) Detailed design for lift stations, special wastewater appurtenances, if applicable.
 - (7) Utility demand data, and other attendant documents, to evaluate the adequacy of proposed utility improvements, and the demand on existing City utilities.
 - (8) Compliance with the City's Utility policies provided in the City's Subdivision Ordinance.
 - (9) All well and septic plans with applicable permits.
- (L) A Building Plan, including floor, building, foundation, roof plans and elevations.
- (M) A Landscape Plan, showing as follows:
- (1) Dimensions, types of materials, size and spacing of proposed vegetative materials, planting details and irrigation appurtenances in relation to proposed structures or other significant improvements.
 - (2) The following maintenance note: The developer and subsequent owners of the landscaped property, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of the Subdivision Regulations.
 - (3) Compliance with the City's landscaping and screening requirements of this Ordinance. See Section 61.
- (N) Construction Details, showing (when applicable) as follows:
- (1) Structural retaining walls and/or detention outlet structures.
 - (2) Storm sewer manhole and covers, typical channel sections, inlets, safety end

treatments and headwalls.

(3) Wastewater manholes and covers, cleanouts, grease traps, pipe bedding and backfill.

(4) Water valves, water meters, fire hydrants, thrust blocks, backflow prevention and concrete encasement.

(5) Driveways, curb and gutter, sidewalks, curb ramps, pavement sections and pavement repair.

(6) Silt fence, rock berms, stabilized construction entrance, and inlet protection.

(7) Traffic controls when working in public right-of-way.

(8) Applicable City Standard Details and Specifications.

(d) Procedure. Construction Plans for the development or improvement of land in the City limits, not otherwise governed by the City's Subdivision Ordinance, shall be submitted to the City for approval prior to the issuance of a Building Permit.

(i) Two (2) complete sets of Construction Plans shall be submitted to City staff for review by the City Engineer at any time prior to the issuance of a Building Permit, along with the following:

(A) Completed application forms and the payment of all applicable fees.

(B) A letter requesting any variances from the provisions of this Ordinance.

(C) Any attendant documents needed to supplement the information provided on the Construction Plans.

(ii) City staff shall review all Construction Plan submittals for completeness at the time of application. If, in the judgment of City staff, the Construction Plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

(iii) The City Engineer shall review the Construction Plans to insure compliance with this Ordinance, and other applicable City ordinances, codes, standards and specifications, and good engineering practices.

(iv) Construction Plans may be rejected at any time subsequent to submittal and prior to final approval for failure to meet the minimum informational requirements of this Ordinance.

(v) Applicable fees pursuant to City ordinance shall be paid, including, but not limited to, all professional fees, engineer and attorney fees incurred by the City for or with respect to the review, processing and approval of the application for the approval of the Building Permit.

(e) Approval. Within thirty (30) days of the date on which all required information has been accepted for review, the City Engineer shall either approve or disapprove the Construction Plans. If the Construction Plans are disapproved, the City Engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the Construction Plans into compliance. If Construction Plans are approved, then the City Engineer shall sign the cover sheet of the Construction Plans, returning one (1) signed copy to the applicant and retaining the other signed copy for City records.

- (i) Specific approvals required from other agencies shall be obtained by the owner.
- (ii) All improvements shown in the approved Construction Plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.
- (iii) It shall be the right of the applicant seeking Construction Plan approval, to appeal a decision of the City Engineer to the Commission and have a final decision rendered by the Commission.

(f) Revision. Where necessary, due to unforeseen circumstances, for corrections to be made to Construction Plans for which approval has already been obtained, the City Engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with City requirements. Approval of such changes agreed to between the developer and City Engineer shall be noted by initialing and dating by both parties on the two (2) original signed copies of the Construction Plans.

(g) Responsibility. Notwithstanding the approval of any Construction Plans the City Engineer or the Commission, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer and his/her engineer for or with respect to any design, plans and specifications submitted.

(h) Expiration. Unless a longer time shall be specifically established as a condition of approval, Construction Plan approval shall expire twelve (12) months following the date on which such approval became effective, unless prior to the expiration, a Building Permit is issued and construction is commenced and diligently pursued toward completion.

(i) Extension. Construction Plan approval may be extended if the developer submits a written request for extension and continuance of the plan as approved by the City prior to expiration. Approval of any such extension request shall be automatic one (1) time only for a period of twelve (12) months.

Section 24. Landscaping and Screening Requirements. (a) Purpose. The purpose of this Section is, in conjunction with the other requirements of this Ordinance, to promote and support the orderly, safe, attractive and healthful development of land located within the community, and to promote the general welfare of the community by preserving and enhancing ecological, environmental and aesthetic qualities, through established requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties. The following are additional factors considered in establishing the requirements of this Section:

- (i) Paved surfaces, automobiles, buildings and other improvements produce increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from contamination, erosion and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern. The fact that the use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare and general well being of the community and, therefore, it is proper that the use of such elements be required.

(ii) The City experiences frequent droughts and periodic shortages of adequate water supply; therefore, it is the purpose of this Section to encourage the use of drought resistant vegetation that does not consume large quantities of water.

(b) Installation And Plan. All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards. An approved landscape plan shall be required for all new development in any zoning district, save and except for OS, R-1, and R2 Districts.

(c) Maintenance. The owner of the landscaped property shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this Section.

(d) Planting Criteria.

(i) Trees. Trees shall be a minimum of two (2) inches in caliper measured three (3) feet above finished grade immediately after planting. A list of recommended landscape trees may be obtained from the City. If the developer chooses to substitute trees not included on the recommended list, those trees shall have an average mature crown greater than fifteen (15) feet in diameter to meet the requirements of this Section. Trees having an average mature crown less than fifteen (15) feet in diameter may be substituted by grouping trees so as to create at maturity the equivalent of a fifteen foot (15) diameter crown if the drip line area is maintained. A minimum area three (3) feet in radius is required around the trunks of all existing and proposed trees.

(ii) Shrubs and Ground Cover. Shrubs, vines and ground cover planted pursuant to this section shall be good, healthy nursery stock. Shrubs must be, at a minimum, a one-(1) gallon container size.

(iii) Lawn Grass. It is recommended that grass areas be planted with drought resistant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in areas subject to erosion.

(iv) Synthetic Plants. Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this section.

(v) Architectural Planters. The use of architectural planters may be permitted in fulfillment of landscape requirements.

(vi) Other. Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.

(e) Landscaping Requirements. A minimum percentage of the total lot area shall be devoted to landscape development in accordance with the following schedule.

<u>Zoning or Use</u>	<u>Percentage</u>
(i) Multifamily, Open Space	20%

(ii)	Residential	*None
(iii)	Office, General Retail and Commercial Uses	20%
(iv)	Industrial - Light and Heavy	30%

(f) Exceptions. Exceptions to these provisions may be granted by the Commission and/or Council to require a lesser amount of landscaping if the aesthetic, buffering and environmental intent of this Ordinance is met, and the reduction of the landscape area results in the preservation of natural features having comparable value to the reduced landscape requirements.

(g) Placement. Landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent (50%) of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the Commission. Landscaping placed within public right-of-ways shall not be credited to the minimum landscape requirements by this Section.

(h) Credit. The Building Official and/or City Engineer shall, with respect to the issuance of a building permit or approval of a construction or site development plan, give a credit against the requirements of this Section for trees preserved on the site. Provided that, in order to reward the preservation of Significant Trees, a credit may be given for such preservation only if no more than fifty percent (50%) of the Critical Root Zone is disturbed or distressed with impervious cover; and provided further that the remaining Critical Root Zone must consist of at least one hundred (100) square feet.

(i) Additional Required Plantings. For every six-hundred (600) square feet of landscape area required by this Section, two (2) trees and four (4) shrubs shall be planted. To reduce the thermal impact of unshaded parking lots, additional trees shall be planted, if necessary, so that no parking space is more than 50 feet away from the trunk of a tree, unless otherwise approved by the Commission. This subsection (i) shall not apply to any property included in any of the following zoning categories: R-1.

(j) Replacement of Required Trees. Upon the death or removal of a tree planted pursuant to the terms of this Section, a replacement tree of equal size and type shall be required to be planted. A smaller tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree in this Section is retained.

(k) Screening. The following requirements shall be in addition to the foregoing landscaping and planting requirements.

(i) All off-street parking, loading spaces and docks, outside storage areas, satellite dishes larger than 18 inches in diameter, antennas, mechanical equipment, and the rear of structures on reverse frontage lots, must be screened from view from the street or public right-of-ways.

(ii) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof.

(iii) Privacy Fences.

(A) All fences required by this subsection and along a common property boundary shall be not less than six (6) feet in height.

(B) Fences up to eight (8) feet in height, but not less than six (6) feet, shall be allowed for impeding access to hazardous facilities including, but not limited to, electrical substations, swimming pools and chemical or equipment storage yards, where the slope of a line drawn perpendicular to the fence line averages twenty percent (20%) or more on either side of the fence over a distance no less than fifteen (15) feet, or where the fence forms a continuous perimeter around a subdivision and the design of said perimeter fence is approved by the Commission.

(C) Fences less than six (6) feet in height shall be allowed in front yards.

(D) No fence or other structure more than thirty percent (30%) solid or more than three (3) feet high shall be located within twenty-five (25) feet of the intersection of any rights-of-way.

(E) All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations.

(F) The finished side of all fences built to comply with these regulations shall face away from the screened object.

(iv) Evergreen Vegetative Screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation. Shrubs may be used in combination with landscape trees to fulfill the requirements of this Section.

(v) Landscape Berms. Landscape berms may be used in combination with shrubs and trees to fulfill the screening requirements of this Section if the berm is at least three (3) feet in height and has a maximum side slope of four (4) feet of horizontal run for every one (1) foot in vertical rise.

(vi) Native Vegetation. Existing vegetation, demonstrating significant visual screening capabilities and as approved by the Commission may fulfill the requirements of this Section.

(vii) Ridgetop preservation. In all zoning categories the Planning and Zoning Commission and the City Council will review plans in accordance with the Comprehensive Plan and particularly the intent to preserve the distinctive nature of the Volente Ridgetop. All plans must conform to the Comprehensive Plan as it relates to such standards.

Section 25. Sign Requirements. [See Sign and Subdivision Ordinances.]

Section 26. Conditional Use Permits. (a) Purpose. The City Council may by ordinance, adopted by four (4) affirmative votes after receiving the recommendation of the Commission, grant a conditional use permit in compliance with this Section for the conditional uses as listed in (b) below. The City Council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the Comprehensive Plan and to conserve and protect property and property values in the neighborhood.

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

(i) Airport, landing field, landing strip or heliport for aircraft; municipal service facilities and buildings.

(ii) Amusement park, but not within three hundred (300) feet of any Residential District.

- (iii) Circus, carnival or zoo grounds, but not within three hundred (300) feet of any Residential District.
- (iv) Commercial, recreational or amusement development for temporary or seasonal periods.
- (v) Clinic or institution, provided that any institution permitted in any Residential District shall be located on a site of not less than five (5) acres, shall not occupy more than ten percent (10%) of the total lot area and shall be set back from all property lines at least two (2) feet for each foot of building height.
- (vi) Horse race track and riding stables..
- (vii) Private operated community building or recreation field.
- (viii) Radio or television broadcasting towers or station.
- (ix) Cemeteries.
- (x) Schools - Public and Denominational.

- (xi) Alcoholic beverages-on premises and alcoholic beverages-mixed drink for those specific uses and in the specific zoning districts as provided by this Ordinance, including a bar, nightclub, tavern and private club.

- (xii) Including other uses as identified in the specific district or definition of the use.

(c) Procedure. Before authorization of any of the above conditional uses, public notice shall be given and public hearings shall be held as provided in *Chapt. 211, Tex. Loc. Gov't. Code*; provided that a conditional use permit for a period not to exceed seven (7) calendar days may be given for a use set forth in (b)(iii) or (b)(iv) above after a public hearing is held by the City Council after having received a report and recommendation from the Commission concerning the effect of the proposed use on the adjacent and neighboring properties and neighborhoods.

- (i) Permit Required. No conditional use shall be established, operated or maintained except as authorized by a Conditional Use Permit issued in accordance with the requirements of this Section.
- (ii) Conditional Use Permit Issued by City Council. A Special Use Permit may be issued only for the special uses specified in this Section, and only for the district where it is authorized.
- (iii) The City Council shall determine whether the proposed special use complies with each of the general criteria in subsection (d) of this section and with each of the criteria for the district applicable to the proposed use and shall make separate findings thereon or adopt the findings made by the Commission.
- (iv) The City Council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards or effective time periods designed to assure compliance with the criteria.
- (v) Application. An application for a Special Use Permit shall be made in writing in a form

prescribed by the City Secretary and shall be accompanied by such information as may be requested (including a site plan, if required) in order to properly review the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, and operational data.

(d) General Criteria Applicable to all Special Uses. A proposed Special Use Permit must comply with all the following criteria:

- (i) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;
- (ii) The proposed use will not have an adverse effect on the value of surrounding properties nor impede their proper development;
- (iii) The proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of his property or operation of his business;
- (iv) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and
- (v) The proposed use complies with all other applicable ordinances and regulations.

Section 27. Non-Conforming Uses Residential. (a) General Policy. The general public, the City Council and the Commission are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:

- (i) When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and
- (ii) When necessary to promote the general welfare and to protect the character of the surrounding property.

(b) Nonconforming Structures. Where a lawful structure exists on the effective date of the adoption or amendment of the zoning ordinance, that could not be built under the terms of the zoning ordinance or amendment thereto by reason of restrictions on permitted use, area, lot coverage, height, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (i) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

(c) Nonconforming Uses. A nonconforming use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (i) No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed or reconstructed.
- (ii) The use of the structure shall only be changed to a use permitted in the district in which it is located.
- (iii) A nonconforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the nonconforming use was discontinued, and such

use was not discontinued for a period of ninety (90) days or more.

(iv) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to any land outside such building.

(d) Repairs and Maintenance. On any nonconforming structure, or nonconforming portion of a structure, containing a nonconforming use, repairs and maintenance shall be performed to maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following conditions and limitations:

Section 28. Non-Conforming Uses Commercial and Industrial. (a) General Policy. The general public, the City Council and the Commission are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:

(i) When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and

(ii) When necessary to promote the general welfare and to protect the character of the surrounding property.

(b) Nonconforming Structures. Where a lawful structure exists on the effective date of the adoption or amendment of the zoning ordinance, that could not be built under the terms of the zoning ordinance or amendment thereto by reason of restrictions on permitted use, area, lot coverage, height, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful. Structures may be enlarged or added for the non-conforming use provided that commercial structures are more than two-hundred (200) feet from single family residential and industrial structures are more than three-hundred (300) feet from single family residential.

(c) Nonconforming Uses. A nonconforming use may be continued as long as it remains otherwise lawful, subject to the following provisions:

(i) A nonconforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the nonconforming use was discontinued, and such use was not discontinued for a period of ninety (90) days or more.

(iii) A nonconforming use shall terminate upon any sale or conveyance of the property.

(d) Repairs and Maintenance. On any nonconforming structure, or nonconforming portion of a structure, containing a nonconforming use, repairs and maintenance shall be performed to maintain the structure in compliance with the electrical, plumbing and building codes.

Section 29- Overlays. The City hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this Chapter. Within these overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional zoning districts. The Overlay Districts established by this Chapter, including the symbol for each type of district is as follows:

IR- Infill Redevelopment Overlay
R- Ridgetop Overlay

- (a) IR Infill Redevelopment Overlay. Where there is an existing lot that otherwise conforms to the restrictions of R-1 zoning located in the geographic area if the IR Overlay the City may grant a building permit for a lot that has less than a 20' front setback, 10' side setback 15' rear setback or is less than 43,580 square feet. The City will grant the building permit only for those lots that are not adjacent to any collector or arterial streets.
- (b) R Ridgetop Overlay. Where there is a geographic area that has been identified in the Comprehensive Plan as Ridgetop particular attention will be paid to the preservation of the uniformity of such Ridgetops and the impact on such uniformity will be kept to a minimum.

ARTICLE IV ADMINISTRATION

Section 30. General. The City Building Official shall administer the provisions of this Ordinance, and in furtherance of such authority, the City Building Official shall:

- (a) Records. Maintain permanent and current records with respect to this Ordinance, including amendments thereto.
- (b) Applications. Receive, file, and review all zoning applications to determine whether such plats comply with this Ordinance.
- (c) Commission. Forward zoning applications to the Commission as required by this Ordinance, together with its recommendations thereon.
- (d) Council. Forward zoning applications to the Council, together with the recommendations of the Commission and the City staff.
- (e) Implementation. Make such other determinations and decisions as may be required of the City by this Ordinance, the Commission or the Council; and enforce and implement this Ordinance and the final decisions by the Commission and City Council.

Section 31. Ordinance Interpretation. In the interpretation and application of the terms and provisions of this Ordinance, the following regulations shall govern:

- (a) Liberally Construed. In the City's interpretation and application, the provisions of this Ordinance shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, morals and welfare. This Ordinance shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
- (b) Highest Standards Govern. Whenever a provision of this Ordinance and any other provision of this Ordinance, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

(c) Resolution of Conflicting Interpretations. Where there arises a question concerning the meaning or intent of a provision of this Ordinance, a written decision setting forth the manner in which said provision shall be interpreted and administered is encouraged. In the event any interested party takes exception to such a decision the matter may be appealed to the Commission and, as appropriate, to the Council whose decision shall be final.

(d) Written Decisions Binding. Any final written decision made as provided in subsection (c) above shall be archived and shall govern interpretation of this Ordinance until such time as an amendment of this Ordinance shall nullify such decision, or the decision is over-ruled or rescinded by the City Council.

(e) State Law. The terms, provisions and conditions of this Ordinance shall be interpreted and applied in a manner consistent with state law and *Chapter 211 of the Texas Local Government Code*

(f) Comprehensive Plan. All zoning applications shall conform to the Comprehensive or Master Plan for the community and be consistent with all of the elements thereof.

(i) Where the proposed zoning application is inconsistent with one (1) or more of the elements of the Master Plan, the developer may petition the City for amendment to the particular element or elements of the Master Plan either prior to, or concurrent with, submitting a request for subdivision plat or development plan approval. Inconsistency with the provisions of the Master Plan shall be grounds for disapproval of the zoning application by the City.

(ii) Where the proposed zoning is for a zoning district or category provided for in this Ordinance but that is not included on the Master Plan existing on the date of this Ordinance, or not existing on the date of such application, the applicant shall propose an amendment to the Master Plan and provide information and documentation in support of such amendment.

(g) Consistency with the Subdivision Ordinance. All development projects within the corporate limits of the City shall be in conformance with the City's Subdivision Ordinance. Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval required for the proposed development would comply with this Ordinance.

Section 32. Board of Adjustments (a) Established. A Board of Adjustments (hereafter in this Section, the "Board") is established in accordance with the provisions of *§ 211.008 of the Texas Local Government Code*, regarding the zoning of cities and with the powers and duties as provided in said code.

SECTION 33. Planning and Zoning Commission.

- (a) A Planning and Zoning Commission has been created to accomplish the following purposes:
- (A) To identify community needs and advise the Council of their short-range and long-range implications for the total development of the Village;
 - (B) To recommend achievable community goals as a basis for long-range planning and development programs;
 - (C) To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals;
 - (D) To recommend to the Village Council the adoption, amendment and repeal of various provisions in the Village Master or Comprehensive Plan;
 - (E) To interpret the adopted plans and programs to concerned citizens so that private activities

and desires may be accomplished in harmony with public needs and policies;

(F) To recommend to the Village Council the adoption, modification and repeal of provisions in the Village's zoning ordinances;

(G) To recommend to the Village Council the initial and changes to the zoning of the various parcels of land in the Village;

(H) To recommend to the Village Council the adoption, modification and repeal of provisions in the Village's subdivision ordinances;

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

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

(b) Membership and Appointment.

The Planning and Zoning Commission shall be composed of five (5) qualified voters with two (2) alternates who reside in the Village. The Village Council will consider for appointment to the Commission those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to attend meetings. The Village Council shall strive to appoint members who, by reason of their occupations and the areas of the Village in which they reside, will be broadly representative of the community.

Section 34. Conditions for Issuing a Building Permit. No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this Ordinance and all applicable elements of the Master Plan, except as herein exempted, or upon the written application and approval of a variance.

Section 35. Certificates of Occupancy. (a) Policy and Application. Certificates of occupancy shall be required for any of the following:

(i) Occupancy and use of any structure or building hereafter erected or structurally altered, unless otherwise required.

(ii) Change in use of an existing building to a use of a different classification.

(iii) No occupancy of any new, or altered portion of any, structure or building, or any such building or structure for which there is a change of use, shall take place until a Certificate of Occupancy therefore shall have been issued by the City Building Official.

(b) Procedure.

(i) New and Altered Structures. Written application for a Certificate of Occupancy for a new building, or for an existing building which is to be altered, shall be made at the same time as the application for the Building Permit for such building. Said Certificate shall be issued within three (3) days after a written request for the same has been made to said City Building Official or his or her agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Ordinance and all applicable City codes and ordinances.

(ii) **Change in Use.** Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided shall be made to said City Building Official. If the proposed use is in conformity with the provisions of this Ordinance, the Certificate of Occupancy shall be issued within three (3) days after the application for same has been made.

(c) **Approval.** Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all Certificates of Occupancy shall be kept on file in the office of the City Building Official or his or her agent and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

(d) **Temporary Certificate of Occupancy.** Pending the issuance of a regular Certificate of Occupancy, a temporary certificate may be issued by the City Building Official for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations of the owners, or of the City, relating to the use or occupancy of the premises or any other matter covered by this Ordinance.

(e) **Non-Conforming Uses.** A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this Ordinance. Application for such Certificate of Occupancy for a non-conforming use shall be filed with the City Building Official by the owner or lessee of the building or land occupied by such non-conforming use within one (1) year of the effective date of this Ordinance. It shall be the duty of the City Building Official to issue a Certificate of Occupancy for a lawful non-conforming use, and the refusal of the City Building Official to issue a Certificate of Occupancy for such non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist at the effective date of this Ordinance.

Section 36. Fees. To defray the costs of administering this Ordinance, the applicant seeking plat approvals shall pay to the City, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the Council, and on file in the office of the City. When applications require review, actions or inspections by an Engineer or the City Attorney, such reasonable and necessary costs shall be reimbursed from the applicant to the City.

Section 37. Amendments. The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this Ordinance. This Ordinance may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

Section 38. Violations. Except as otherwise provided for in this Ordinance, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the City's territorial jurisdiction, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this Ordinance.

Section 39. Enforcement. (a) **Administrative Action.** The Mayor, Building Official, Village Planner, Village Engineer and/or the City Administrator shall enforce this Ordinance by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this Ordinance and good engineering practices, and the issuance of stop work orders.

(b) **Court Proceedings.** Upon the request of the City Council, the City Attorney shall file an action in the district courts to enjoin the violation or threatened violation of this Ordinance, 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 City to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this Ordinance.

**ARTICLE V
CLOSING PROVISIONS**

Section 40. Construction. The terms and provisions of this Ordinance 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 Ordinance shall appear to conflict with any term, provision or condition of *Chapter 211*, such Ordinance term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with such Chapter, 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 Ordinance.

Section 41. Amendment and Repeal. All ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

Section 42. Severability. If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 43. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapter 52 of the Texas Local Government Code*.

Section 44. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code*.

Section 45. Penalty. Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

PASSED AND APPROVED on this the ____ day of _____, 2004.

ATTEST:

Village of Volente, Texas

Jennifer Zufelt, City Secretary

Jan Yenawine, Mayor