

TITLE XV: LAND USAGE

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CHAPTER 150: SUBDIVISIONS, PLATS, AND STREETS

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GENERAL PROVISIONS

150.01 SHORT TITLE.

This chapter shall be known and may be cited as the ASubdivision, Plat, and Street Chapter of the Village of Jones Creek, Texas@.
(Ord. 28, passed 4-25-1972)

150.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSION. The Planning Commission of the village.

COMMISSIONER. The members of the Commission.

COUNCIL or THE COUNCIL. The Village Council of Jones Creek, Texas.

EASEMENT. Any easement or right-of-way, except streets dedicated to the use of the public or any private person, firm, or corporation, or reserved by or granted to the public or any private person, firm, or corporation.

PERSON. Any natural person as well as any partnership, corporation, or other artificial entity recognized as existing as an entity separate and apart from the owners thereof by the laws of the state and any political subdivision of the state.

PLAT. A map or representation on paper of a subdivision or resubdivision.

RESUBDIVISION. The division of an existing subdivision, together with any change of lot or area size therein, or the relocation of any street or easement lying in an existing subdivision; and includes the replatting of an existing subdivision, whether such division is by reference to lots and/or blocks on a plat, whether recorded or unrecorded, or by reference to metes and bounds, or by both such references.

STREET. The entire width between the boundary lines of every highway, road, street, alley, or other way open to the use of the public for purposes of vehicular travel.

SUBDIVISION. The division of a tract or parcel of land into two or more lots or parts, or other division of land, for the purpose, whether immediate or in the future, of the transfer of ownership or building development, or both, whether such division is by reference to lots and/or blocks on a plat, whether recorded or unrecorded, or by reference to metes and bounds, or by both such references.

TO RESUBDIVIDE. The act of dividing a tract or parcel of land in such a manner that a resubdivision results therefrom.

TO SUBDIVIDE. The act of dividing a tract or parcel of land in such a manner that a subdivision results therefrom.

VILLAGE or THE VILLAGE. The Village of Jones Creek in Brazoria County, Texas.
(Ord. 28, passed 4-25-1972; Ord. 136, passed 6-18-1981)

• **150.03 RULES OF CONSTRUCTION.**

In the construction of this chapter, the following rules shall be observed.

(A) The singular number shall include the plural number and the plural number shall include the singular number.

(B) The masculine gender shall include the feminine and neuter genders.

(C) The use of a word in one tense shall, where logical and reasonable in the context in which such word is used, be construed to include such word in any of its other tenses.

(D) In the event any section or provision of this chapter is found to be unconstitutional, void, or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this chapter and such remaining sections and provisions shall remain in full force and effect.

(E) All words and phrases not specifically defined in ' 150.02 shall be given their usual and customary manner.

(Ord. 28, passed 4-25-1972)

• **150.04 PURPOSE.**

The Council makes the following findings of fact with respect to the adoption of this chapter.

(A) Immediately prior to and on the same day as the day of the adoption of this chapter, a public hearing was held by the Council in relation thereto, at which all parties in interest and all citizens of the village who were present were given an opportunity to be heard.

(B) At least 15 days= notice of the time and place of such hearing was published in the *Brazosport Facts* prior thereto.

(C) The *Brazosport Facts* is a daily newspaper published in the City of Freeport in Brazoria County, Texas, and is a newspaper of general circulation within the incorporated limits of the village.

(D) No newspaper is published within the incorporated limits of the village.

(E) Based upon the evidence adduced at such public hearing, the Council finds that the adoption of this chapter is necessary to promote the health, safety, morals, and general welfare of the community in and surrounding the village and the safe, orderly, and healthful development of said community.

(Ord. 28, passed 4-25-1972)

150.05 SCOPE.

Based upon the provisions of Tex. Local Government Code Ch. 212, this chapter is adopted and shall apply to all streets and easements existing at, or created after, the effective date hereof and to all subdivisions and resubdivisions made after the effective date hereof lying and situated within the incorporated limits of the village or within the limits of its extraterritorial jurisdiction, as defined in Tex. Local Government Code Ch. 212, as the same now exist or may in the future exist through changes made by annexation or growth in population as provided by the laws of the state. Provided, however, the provisions of this chapter shall not apply to any portion of the village's extraterritorial jurisdiction which, pursuant to Tex. Local Government Code Ch. 242, the village has entered into an agreement for the county to regulate the platting of subdivisions.

(Ord. 28, passed 4-25-1972; Ord. 406, passed 7-15-2008)

150.06 VARIANCES.

Whenever the Council, by a majority vote of the Aldermen present and voting at a regular or special meeting thereof, finds that extraordinary hardship may result from the strict compliance with the provisions of this chapter and such finding is entered upon the minutes of such meeting, the Council may, by a further vote of a majority of the Aldermen present and voting at such meeting, vary the same so that substantial justice may be done and the public interest secured. Provided, however, a reasonable description of the variation or variations so granted, sufficient to permit the identification thereof, must then be entered in the minutes of such meeting, but no variance shall ever be granted which will have the effect of nullifying the intent and purpose of this chapter.

(Ord. 28, passed 4-25-1972)

150.07 FEES AND CHARGES.

(A) The following schedule of fees and charges shall be paid to the Village Secretary/Administrator at the time of the filing of a proposed plat of any proposed subdivision or resubdivision:

(1) Plat fee: \$25 for each original plat filed;

(2) Per lot fee: if the proposed subdivision or resubdivision is divided into lots and blocks, an additional fee of \$2 per lot shall be paid; and

(3) Acreage fee: if the proposed subdivision or resubdivision is not divided into lots and blocks, an additional fee of \$5 per acre, or fraction thereof, shall be paid.

(B) Any person filing an application seeking to have the Commission and Council approve the vacating of any subdivision or resubdivision shall pay to the Village Secretary/Administrator a fee of \$10 at the time of filing the same.

(C) Any person filing an application seeking to have the Council approve the opening and construction of a new street or the reconstructing, maintenance, or improvement of an existing street shall pay to the Village Secretary/Administrator a fee of \$10 at the time of filing the same. (Ord. 28, passed 4-25-1972; Ord. 136, passed 6-18-1981)

PLAT REGULATIONS

150.20 CONTENTS OF PLATS.

Every proposed plat submitted for approval and acceptance shall show thereon the following:

(A) The name of the proposed subdivision or resubdivision;

(B) North point, scale (which must be 100 feet equals one inch or greater), and date of preparation;

(C) The names and addresses of the owners and subdividers;

(D) A depiction of the boundary lines of the subdivision or resubdivision with accurate distances and bearings in metes and bounds;

(E) A statement of the total acreage included within the proposed subdivision or resubdivision;

(F) The name and certificate of the registered professional engineer or licensed land surveyor who prepared and is responsible for the plat;

(G) The name of all streets and the classification as to type of all easements, the boundary lines of all streets and easements, together with accurate distances and bearings, and the exact location and width thereof;

(H) True bearings and distances to the nearest corner of the original survey of land in the county of which the tract being subdivided or resubdivided is a part;

(I) True bearings and distances to the beginning point of the original corporate limits of the village as reflected in the field notes thereof recorded in Volume 1046, beginning at page 625 of the Deed Records of the county;

(J) The names of adjacent existing subdivisions or resubdivisions and the names of the record owners of all unsubdivided land adjacent to the proposed subdivision or resubdivision;

(K) At some point thereon, a small key map showing the location of the proposed subdivision or

resubdivision with reference to the original corporate limits of the village, as shown on the map thereof, duly recorded in Volume 1046, beginning at page 632 of the Deed Records of the county;

(L) All lot and block numbers, or other designations thereof, and all boundary lines of lots and blocks with accurate dimensions in feet and with bearings and angles to street lines;

(M) Setback building lines, if setback buildings lines are included in any restrictive covenants which have been or will be recorded;

(N) Location and description of all monuments;

(O) The length of all arcs, radii, internal angles, points of curvature, and length of bearing of the tangents and contours with intervals of five-tenths feet or less, referred to sea level datum, if required;

(P) All parts or parcels of the proposed subdivision or resubdivision which have been or will be dedicated to the use of the public or reserved to the use of the property owners of the proposed subdivision or resubdivision;

(Q) Certification of approval by the majority of the Commissioners comprising the Commission and by the Mayor and a majority of the Aldermen comprising the Council; and

(R) Such other matters as may reasonably be required by the Council for the enforcement of this chapter.

(Ord. 28, passed 4-25-1972; Ord. 136, passed 6-18-1981)

• **150.21 DATA REQUIRED TO ACCOMPANY PLAT.**

Any proposed plat of a proposed subdivision or resubdivision filed pursuant to the provisions of this chapter shall, unless the same appears on the face thereof, be accompanied by the following data:

(A) If the proposed plat constitutes a resubdivision, a copy of the plat of the subdivision being divided;

(B) Certificate of a registered professional engineer licensed to do business in the state to which his or her signature, professional title, license number, and seal are affixed stating that he or she has examined the proposed plat and compared it on the ground with the proposed subdivision or resubdivision, and that he or she certifies that in such proposed subdivision or resubdivisions the lots, blocks, streets, and easements shown thereon have been laid out and in fact exist on the ground as shown on such proposed plat and that all of the streets therein have been built to and, as of the date of such certificate, satisfy the minimum street specifications set forth in ' 150.26;

(C) Certificate of ownership and dedication of all streets, parks, playgrounds, and other public areas to the public use forever, executed by all persons owning an interest in the property being subdivided or resubdivided, signed and acknowledged in the manner prescribed by the laws of the state

for conveyances of real property;

(D) Certificate of ownership of any lienholders of any liens against the property being subdivided or resubdivided subordinating their liens to all public streets, parks, playgrounds, and other public areas shown on the proposed plat, any data accompanying the same, to be dedicated for public use and purpose, signed and acknowledged in the manner prescribed by the laws of the state for conveyances of real property;

(E) Waiver of claim for damages occasioned by the establishment of grades or alterations of the surface of any portion of the streets in the proposed subdivision or resubdivision, signed and acknowledged in the manner prescribed by the laws of the state for conveyances of real property;

(F) Restrictive covenants, if any, which are then or which are intended by the owners and subdividers of the land included in the proposed plat to be placed of record, signed and acknowledged in the manner prescribed by the laws of the state for conveyances of real property. If such covenants are already recorded but additional restrictions are intended to be recorded, both documents shall accompany the proposed plat;

(G) Certificate showing that all ad valorem taxes due to the state, or any political subdivision thereof, in which the proposed subdivision or resubdivision is situated have been paid, that there are no delinquent taxes against such property, and setting out any assessments or other such lawful charges against such property or, if there be none, then so stating;

(H) Six true copies or prints of the plat, suitable for reproduction, with copies of the other data required by this section attached to each;

(I) Certificate of ownership and approval from owners of all easements which are or which will be located on or under the ground and which is or will be crossed by any other easement or any street within the proposed subdivision or resubdivision, signed and acknowledged in the manner prescribed by the laws of the state for conveyances of real property; and

(J) Such other data as may reasonably be required by the Council for the enforcement of this chapter.

(Ord. 28, passed 4-25-1972)

150.22 PROCEDURE FOR APPROVAL.

(A) Any person desiring to have a proposed plat of a proposed subdivision or resubdivision, to which this chapter is applicable, approved by the Council shall file the original of the same with the Village Secretary/Administrator and shall, at the time of filing, pay the prescribed fee required by 150.07.

(B) No proposed plat of a proposed subdivision or resubdivision shall be regarded as properly filed

until the original thereof has been delivered to the Secretary/Administrator, together with any data required to be attached thereto by this chapter, and until payment in full of the prescribed fee has been received by the Secretary/Administrator.

(C) When a proposed plat has been properly filed, the Secretary/Administrator shall note on the reverse side thereof the date of filing and shall sign the same officially. Thereafter, the Secretary/Administrator shall notify the Mayor and the Chairperson of the Commission of the filing of the same and shall deliver to each Commissioner one of the six copies or prints, together with the copies of the data attached thereto, which were filed with the original of the proposed plat.

(D) (1) The Commission shall act to approve or disapprove such plat within 30 days from the filing date. If the Commission does not disapprove the final plat within 30 days from the filing date, such plat shall be deemed to have been approved by the Commission.

(2) If the Commission has acted to approve on such plat or within 30 days from the filing date if no action is taken, the Chairperson of the Commission shall deliver to the Mayor and the Aldermen one each of the six copies or prints, together with the copies of the data attached thereto, which were filed with the original of the proposed plat. Within 30 days after the approval of the plat by the Commission or within 30 days after such plat is deemed approved by the Commission by reason of non-action, the Council shall act to approve or disapprove it.

(3) If such plat be not disapproved by the Council within such additional 30-day period, it shall be deemed to have been approved by the Council. The Secretary/Administrator shall send written notice of the date, time, and place of the meetings of the Commission and Council at which such plat is to be considered to the person who filed the same, directed to him or her at the address given to the Secretary/Administrator at the time of filing. Proof that such notice, directed to such person at such address was deposited in the U.S. Mail, first class postage prepaid, shall constitute prima facie evidence that the same was timely received by such person.

(E) At each meeting, a reasonable length of time shall be given to every Commissioner or Alderman, as the case may be, or any other interested person appearing either in person or by agent or attorney, within which to introduce any evidence or make any statement in favor of or against the approval and acceptance of the proposed plat under consideration.

(F) In order to be approved and entitled to acceptance, a proposed plat must receive the favorable vote of a majority of both the Commissioners and Aldermen present and voting at the meetings at which such plat is considered; otherwise, it shall be regarded as disapproved.

(G) A certificate showing the filing dates hereunder and the failure to take action thereon within the period herein prescribed shall, on demand, be issued by the Commission and Council, as the case may be, and said certificate shall be sufficient in lieu of the written endorsement or other evidence of approval herein required.

(H) If the plat is approved, the Commission and Council shall indicate such finding by certificate endorsed thereon, signed by a majority of the Commissioners and by the Mayor and a majority of the

Aldermen.

(I) The Secretary/Administrator shall, on behalf of the Commission and Council, keep a record of all applications for the approval of plats and the action or non-action of the Commission and Council with respect thereto; and upon demand of the owners of any land affected, the Commissioners and Aldermen shall certify their reasons for any action taken in the matter.

(J) The standard to be used by the Commission and Council in approving and accepting or in rejecting any proposed plat shall be whether or not the same satisfies all of the requirements of this chapter except those, if any, with respect to which the Commission and Council grants a variance as provided in ' 150.06; whether or not such proposed subdivision or resubdivision and the streets, easements, lots, and other matters depicted on such plat are laid out on the ground as shown therein; and whether or not the streets as laid out and constructed satisfy the minimum street specifications set forth in ' 150.26.

(Ord. 28, passed 4-25-1972; Ord. 136, passed 6-18-1981)

' 150.23 PROCEDURE FOR VACATING PLATS.

(A) Any person desiring to obtain the approval of the Commission and Council to the vacating of a plat or replat of any subdivision or resubdivision within the area described in ' 150.05 shall file the original and six copies of an application requesting approval of such action with the Village Secretary/Administrator, together with the fee required by ' 150.07(B). Such application must be signed by the owners of all of the land within the subdivision or resubdivision in question and the original must be acknowledged by each of them in the manner prescribed by the laws of the state for conveyances of real property.

(B) The actions required to be taken by the Commission, Council, and the Village Secretary/Administrator, with respect to the filing, approval, or disapproval of proposed plats, shall apply to applications for approval of a vacating of the plat of any subdivision or resubdivision. Thus, such application shall not be regarded as properly filed until the required fee has been paid to the Secretary/Administrator.

(Ord. 28, passed 4-25-1972; Ord. 136, passed 6-18-1981)

' 150.24 CONSTRUCTING STREETS; EXCEPTIONS.

(A) *Application.* Any person desiring to open and construct a new street or to reconstruct, maintain, or improve an existing street in the area described in ' 150.05 shall file proposed plans and specifications for such work with the Village Secretary/Administrator and shall, at the time of filing, pay to the Secretary/Administrator in full the fee required by ' 150.07(C).

(B) *Action on applications.*

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(1) The Secretary/Administrator shall note the date of filing thereon and affix his or her official signature thereto and shall immediately notify the Mayor of all such plans and specifications filed with him or her. The Mayor shall place the consideration thereof on the agenda for the next regular meeting of the Council or for a special meeting thereof. Notice of the time, place, and date of such meeting shall be given to the person who filed such plans and specifications in the same manner and with the same effect as notices required to be given to persons filing proposed plats of subdivisions or resubdivisions under ' 150.22(D).

(2) At such meeting, any Aldermen and all interested persons, their agents or attorneys, shall be given a reasonable time in which to offer evidence and to speak for or against the approval of such application. In order to be approved, the application must receive a favorable vote of a majority of the Aldermen present and voting at such meeting. At the same time, the Council shall determine the time within which such work shall be completed.

(3) If, after hearing the evidence introduced and the statements made at such meeting, the Council determines by a majority vote of the Aldermen present and voting that the minimum street specifications in ' 150.26 should be altered to meet the requirements of a particular location, the term of such alteration shall be entered in the minutes of such meeting and a certified copy of such terms shall be prepared by the Secretary/Administrator under his or her official signature and the seal of the village and mailed to the person who filed the plans and specifications under the rules and with the same effect as the notice of such meeting.

(C) *Effect of approval.* Upon approval of such plans and specifications by the Council, the person on whose behalf the application was filed shall be authorized to commence the opening and construction of a new street or the reconstruction, maintenance, or improvement of an existing street, provided such work, when completed, results in the satisfaction of the minimum street specifications in ' 150.26 and the alteration thereof, if any, made by the Council at the time such plans and specifications were approved. Provided, however, such authority shall cease unless such work is completed within the time specified by the Council at the time of its approval of such plans and specifications, or at a later date to which such authority is extended by a majority vote of the Aldermen of the Council present and voting at a subsequent regular or special meeting thereof on the written request of the person who filed the plans and specifications and entered in the minutes of such meeting.

(D) *Exceptions.* The provisions of this section shall not apply in the following instances:

(1) Where the opening and construction of a new street or the reconstruction, maintenance, or improvement of an existing street is done by any person pursuant to a municipal maintenance agreement or any other agreement between the village and the state=s Highway Department;

(2) Where the opening and construction of a new street or the reconstruction, maintenance, or improvement of an existing street is done by any person employed by and acting for the county=s Road and Bridge Department when it has been requested to do such work by the Council; and

(3) Where the opening and construction of a new street or the reconstruction, maintenance, or improvement of an existing street is done by any person pursuant to a plat of a proposed subdivision or resubdivision which has been approved and accepted by the Council pursuant to the terms of this chapter prior to the commencement of such work.

(Ord. 28, passed 4-25-1972)

• **150.25 PROHIBITED ACTS.**

(A) From and after the effective date of this chapter, it shall be unlawful for any person to lay out a subdivision or resubdivision on any tract or parcel of land situated in the area described in ' 150.05 or to aid, abet, or assist another person in any manner in the laying out of such subdivision or resubdivision of such land, unless the laying out of such subdivision or resubdivision is done pursuant to a plat of a proposed subdivision or resubdivision which has been approved and accepted by the Commission and Council pursuant to the terms of this chapter prior to such subdivision or resubdivision.

(B) Division (A) above shall not apply to any person who commits the acts therein proscribed if a proposed plat of such subdivision or resubdivision is filed with the Village Secretary/Administrator for approval and acceptance pursuant to the terms of this chapter within six months following the date of such acts.

(C) From and after the effective date of this chapter, it shall be unlawful for any person to grant, sell, or convey any tract or parcel of land situated in the area described in ' 150.05 or to aid, abet, or assist another person in any manner in granting, selling, or conveying such land, where the effect of granting, selling, or conveying the same is to subdivide or resubdivide such and a plat of such resulting subdivision or resubdivision has not theretofore been filed with and approved by the Council in the manner prescribed by the terms of this chapter.

(D) From and after the effective date of this chapter, it shall be unlawful for any person to open and construct a new street or to reconstruct, maintain, or improve an existing street within the area described in ' 150.05, or to aid, abet, or assist another person in any manner in opening and constructing a new street or in reconstructing, maintaining, or improving an existing street, unless the approval of the Council for such work has previously been obtained pursuant to the terms of this chapter.

(E) Division (D) above shall not apply to any of the instances enumerated in ' 150.24(D).

(F) Each day during which a violation of any of the acts defined in divisions (A), (C), or (D) above occurs and each day during which any condition which has resulted from any such acts is allowed to continue by the person who caused or aided, abetted, or assisted in any manner in causing the same shall be a separate offense and punished as such.

(Ord. 28, passed 4-25-1972; Ord. 29, passed 6-20-1972; Ord. 136, passed 6-18-1981) Penalty, see ' 150.99

150.26 MINIMUM STREET SPECIFICATIONS.*(A) Surfacing material.*

(1) Initial construction of road surface shall consist of either:

(a) Pugmill mixed sand stabilized shell with a minimum compacted depth of eight inches;

or

(b) Limestone (Texas Highway Department Specifications) with a minimum compacted depth of six inches.

(2) After initial construction of road surface, it shall be surfaced with hot mix asphaltic concrete to a minimum thickness of one and one-half inches.

(B) Drainage.

(1) Ditches excavated to neat lines and grades, with outfall ditches where needed to adequately drain street and street ditches.

(2) Suitable and adequate drainage structures must be provided under all roads where required.

(C) Alterations. These specifications may be altered by the Council to meet the requirements of a particular location.

(Ord. 28, passed 4-25-1972; Ord. 29, passed 6-20-1972)

' 150.99 PENALTY.

(A) Any violation of this chapter, as amended, shall be a misdemeanor punishable by a fine not to exceed \$500; and each and every day any such violation continues or occurs shall constitute a separate offense.

(B) (1) Any person found guilty of a violation of committing any acts proscribed by ' 150.25 shall be guilty of a misdemeanor and assessed a fine of not more than \$500.

(2) In addition to filing a complaint against any person for a violation of all or any portion of ' 150.25, the village hereby expressly reserves the right and shall have the right to file a civil action in a court of competent jurisdiction under the laws of the state seeking to have any acts of any person which are contrary to the provisions of this chapter prohibited or corrected by writ of injunction, or seeking to recover damages therefor, or both.

(Ord. 28, passed 4-25-1972; Ord. 136, passed 6-18-1981)

CHAPTER 151: FENCES

Section

- 151.01 Fence permit
- 151.02 Fencing materials
- 151.03 Prohibited fencing materials
- 151.04 Maintenance of fences
- 151.05 Electric fences
- 151.06 Fences on private property
- 151.07 Staking of lot lines
- 151.08 Construction in Residential-1 District
- 151.09 American fence association requirements

- 151.99 Penalty

• **151.01 FENCE PERMIT.**

Any person, firm, or corporation who desires to construct a fence within the village shall make an application for a fence permit with the village=s Building Inspector. The application shall state the name and address of the applicant, the location of the property to be fenced, the type of materials to be used in the fence construction, and the date of the proposed construction. The application must be accompanied by a plat of the property to be fenced. A fee adopted by resolution of the Village Council shall be charged for the permit. Before granting the permit, the Building Inspector shall ensure that the proposed fence complies with the provisions of this chapter.

(Ord. 461, passed 6-11-2013)

• **151.02 FENCING MATERIALS.**

Any fence constructed pursuant to this chapter shall be constructed of materials commonly intended for residential or commercial fences, such as wood, vinyl, chain link, or brick, or any other materials deemed to be acceptable as fencing materials by the Building Inspector.

(Ord. 461, passed 6-11-2013)

▪ **151.03 PROHIBITED FENCING MATERIALS.**

Materials which may be hazardous when used as fencing, especially materials which may be hazardous during strong winds from a hurricane or tropical storm, are prohibited as fencing materials. Examples of prohibited materials are sheet metal, tin, or other such materials.
(Ord. 461, passed 6-11-2013)

▪ **151.04 MAINTENANCE OF FENCES.**

All fences constructed pursuant to this chapter shall be maintained so as not to endanger life or property, and any fence which, through lack of repair, type of construction, or otherwise, imperils the health, life, property, or well being of a neighborhood shall be deemed a nuisance. The Building Inspector shall notify the owner of property on which such a fence is located of the existence of such a nuisance and any such nuisance must be abated within 30 days after a hand delivered or certified mail notice is delivered or sent by the Building Inspector. Any notice shall be sufficient if it is hand delivered or mailed to the address of the owner of the property reflected in the records of the county tax office.
(Ord. 461, passed 6-11-2013)

▪ **151.05 ELECTRIC FENCES.**

It shall be unlawful for any person, firm, or corporation to construct, place, or allow the construction of any fence, as defined in this section, of metal construction charged or connected with electrical current in such a manner as to transmit such current to persons, animals, or any other thing which intentionally or unintentionally might come in contact with it. Any electric fence that was constructed before the date of the passage of this chapter must contain a highly visible sign stating Acaution electric fence@ every 50 feet along the entire length of the fence. The only electric fence that is permitted for a boundary line fence is one which is entirely inside a boundary fence that is not electric.
(Ord. 461, passed 6-11-2013) Penalty, see ' 151.99

▪ **151.06 FENCES ON PRIVATE PROPERTY.**

All fences, including those as lot line fences constructed along a lot line, shall be located entirely on the private property of the person constructing the fence.
(Ord. 461, passed 6-11-2013)

▪ **151.07 STAKING OF LOT LINES.**

The Building Inspector may require the owner of property upon which a fence is to be located to establish lot lines upon such property through the placing of permanent stakes or other markers located by a licensed surveyor. Such lot lines shall be established within 30 days after notice from the Building

Inspector. The Building Inspector may also make such other rules and regulations which are not in conflict with this section, nor inconsistent with public safety, as may be necessary to effectuate the purposes of this chapter.

(Ord. 461, passed 6-11-2013)

' 151.08 CONSTRUCTION IN RESIDENTIAL-1 DISTRICT.

It shall be unlawful for any person to construct, erect, or cause to be constructed or erected in the village, in any Residential-1 up to two-acre home sites, any fence unless the fence shall, in its construction and location, conform to the following requirements.

(A) The front yard may be fenced with a fence no taller than five feet with a transparency view of at least 50%. The material shall be constructed of recognized fence material. No vegetation shall be allowed to grow on the fence to create a natural barrier on the fence line.

(B) Front yards that are corner lots shall meet the requirements of the village's Traffic Code to prevent the fence from creating a traffic hazard. This area is also known as a public open space easement (P.O.S.E.). The front yard may be fenced on corner lots provided that no vegetation is permitted or any other object which would create an obstructed view. An unobstructed view shall be maintained in the 20-foot triangle.

(C) The backyard may be fenced with a fence no taller than seven feet tall. It shall be constructed as a transparent fence line or solid fence. The height of the fence line may extend to the front of the residential building, but shall not pass the front of the building or extend into the front yard.

(D) The side yard may have a fence that is not taller than seven feet tall. The side yard is the area from the front of the residential building to the rear of the building.

(E) Fences constructed within lot areas shall be so located as to comply with the setback requirements set forth in other ordinances.

(Ord. 461, passed 6-11-2013) Penalty, see ' 151.99

' 151.09 AMERICAN FENCE ASSOCIATION REQUIREMENTS.

In the event that this chapter does not address the design, material of construction, or other information submitted by an applicant, the Building Inspector shall use the standards that are utilized in residential fencing as recognized by the American Fence Association.

(Ord. 461, passed 6-11-2013)

151.99 PENALTY.

Any person who violates this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.
(Ord. 461, passed 6-11-2013)

CHAPTER 152: FLOOD HAZARD PREVENTION

Section

General Provisions

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GENERAL PROVISIONS

152.01 SHORT TITLE.

This chapter shall be known and may be cited as the Flood Damage Prevention Chapter of the Village of Jones Creek, Texas.
(Ord. 381, passed 11-15-2005)

152.02 STATUTORY AUTHORIZATION.

Tex. Water Code Ch. 16 authorizes local government units to adopt regulations designed to minimize flood losses.
(Ord. 381, passed 11-15-2005)

152.03 PURPOSE.

(A) The flood hazard areas of the village are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affects the public health, safety, and general welfare.

(B) These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

(C) It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood-control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is in a flood area.
(Ord. 381, passed 11-15-2005)

▪ **152.04 METHODS OF REDUCING FLOOD LOSSES.**

In order to accomplish its purposes, this chapter uses the following methods:

(A) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or cause excessive increases in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and other development that may increase flood damage;

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or increase flood hazards to other lands;

(F) Require that a plan for evacuating residents of all manufactured home parks or subdivisions located within flood-prone areas be developed and filed with, and approved by, appropriate community emergency management authorities; and

(G) Require all new construction and substantial improvements of all structures to have the lowest floor (including basement) to be elevated at least one foot above ground level where a different elevation is not required by other provisions of this chapter.
(Ord. 381, passed 11-15-2005)

▪ **152.05 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLUVIAL FAN FLOODING. Flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and depositions; and unpredictable flow paths.

APEX. A point on an alluvial fan or similar landform below which the flow part of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

APPURTENANT STRUCTURE. A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1% annual chance (100-year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING. A designated Zone A, AH, or VO on the village's flood insurance rate map (FIRM) with a one percentage greater than annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. Land in the floodplain within the village subject to a 1% or greater chance of flooding in any given year. The area may be designated as a Zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is defined into Zone A, AE, AH, AO, A1-99, VO, V1-30, VE, or V.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

CRITICAL FEATURE. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT. Any human-made change in improved and unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, excavation, drilling operations, or storage of equipment or material.

ELEVATED BUILDING.

(1) A nonbasement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated

above the ground by means of pilings, columns (post and piers), or sheer walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

(2) In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, the term also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

(3) In the case of Zones V1-30, VE, or V, the term also includes a building otherwise meeting the definition of **ELEVATED BUILDING**, even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of ' 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as existing structures.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which such homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the village.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). An official map of the village on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the village.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

FLOOD PROTECTION SYSTEM. Those physical structural works for which funds have been authorized, appropriated, and expended, and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within the village subject to a special flood hazard and

the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

FLOODPLAIN or **FLOOD-PRONE AREA**. Any land area susceptible to being inundated by water from any source (see definition of **FLOODING**).

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODWAY (REGULATORY FLOODWAY). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE. A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HABITABLE FLOOR. Any floor usable for the purpose of working, sleeping, eating, cooking, or recreation, or a combination of such uses. A floor used for storage purposes only is not a **HABITABLE FLOOR**.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior a contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities that have been certified either by an approved state program, as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in state without approved programs.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system that consists of a levee and associated structures, such as closure and drainage devices, constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's **LOWEST FLOOR**, provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of § 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME. A structure, transportable in one or more sections, built on a permanent chassis and designed for use with or without a permanent foundation. The term **MANUFACTURED HOME** does not include recreational vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other data to which base flood elevations shown on the village's FIRM are referred.

NEW CONSTRUCTION. For the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the village and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the village.

OTHER FLOOD AREAS. Areas of 500-year floods, areas of 100-year floods with average depths of less than one foot or with drainage areas of less than one square mile, and areas protected by levees

from 100-year floods. These are also areas determined to be outside the 500-year floodplain. These areas are designated Zone X on the flood hazard boundary map (FHBM). These are also areas in which flood hazards are undetermined and in such event will be designated as Zone D on the FHBM.

PRIMARY FRONTAL DUNE. A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

RECREATIONAL VEHICLE. A vehicle that is: built on a single chassis, no more than 400 square feet when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

SAND DUNES. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

SPECIAL FLOOD HAZARD AREA. See **AREA OF SPECIAL FLOOD HAZARD.**

START OF CONSTRUCTION. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. Law No. 97-348), being 16 U.S.C. ' ' 3501 et seq.)

(1) Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date.

(2) The actual **START** mean either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation.

(3) Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(4) For substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the code enforcement official and that are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE. A grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A **VARIANCE**, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements, see ' 60.6 of the National Flood Insurance Program regulations.)

VILLAGE. The Village of Jones Creek in Brazoria County, Texas.

VIOLATION. The failure of a structure or other development to be fully compliant with the village's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in ' 60.3(b)(5), (c)(4), (c)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in **VIOLATION** until such time as that documentation is provided.

WATER SURFACE ELEVATION. The heights, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other data, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. 381, passed 11-15-2005)

' 152.06 APPLICATION.

This chapter shall apply to all areas of special flood hazard within the village.
(Ord. 381, passed 11-15-2005)

▪ **152.07 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the most current scientific and engineering report entitled "The Flood Insurance Study for the Village of Jones Creek, Texas", with accompanying FIRMs and flood boundary-floodway maps (FBFM), with any revisions, are adopted by reference and declared to be a part of this chapter.
(Ord. 381, passed 11-15-2005)

▪ **152.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.**

A development permit shall be required to ensure conformance with the provisions of this chapter.
(Ord. 381, passed 11-15-2005)

▪ **152.09 COMPLIANCE.**

No structures or land shall be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
(Ord. 381, passed 11-15-2005) Penalty, see ' 152.99

▪ **152.10 NO ABROGATION OF GREATER RESTRICTIONS.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. 381, passed 11-15-2005)

▪ **152.11 INTERPRETATION.**

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the Village Council and deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord. 381, passed 11-15-2005)

▪ **152.12 LIABILITY.**

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by human-made or natural causes.

(B) This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages.

(C) This chapter shall not create liability on the part of the village or any of its officials or employees for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under this chapter.

(Ord. 381, passed 11-15-2005)

▪ **152.13 PRIOR OFFENSES.**

No offense committed and no fine, forfeiture, or penalty incurred prior to the effective date of this chapter is to be affected by the adoption of this chapter, but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this chapter had not been adopted.

(Ord. 381, passed 11-15-2005)

ADMINISTRATION

▪ **152.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Building Official appointed by the Village Council to administer Chapter 156 and other similar codes of the village shall be the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 C.F.R. (National Flood Insurance Program regulations) pertaining to floodplain management.

(Ord. 381, passed 11-15-2005)

▪ **152.26 DUTIES AND RESPONSIBILITIES OF ADMINISTRATOR.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(A) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;

(B) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding;

(C) Review, approve, or deny all applications for development permits required by the adoption of this chapter;

(D) Review permits for proposed development to assure that all necessary permits have been obtained for those federal, state, or local government agencies (including ' 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. ' 1334) from which prior approval is required.

(E) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation;

(F) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the state=s Natural Resources Conservation Commission, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

(G) Assure that the flood-carrying capacity within the altered or relocated portions of any watercourse is maintained;

(H) When base flood elevation data has not been provided in accordance with ' 152.07, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source in order to administer the provisions of ' ' 152.40 through 152.45; and

(I) When a regulatory floodway has not been designated, require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the village=s FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the village.

(Ord. 381, passed 11-15-2005)

' 152.27 PERMIT PROCEDURE.

(A) Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by the village. The following information is required:

(1) Plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard;

(2) Elevation in relation to mean sea level of the lowest floor (including basement) of all new

and substantially improved structures;

(3) Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;

(4) A certificate from a registered professional engineer or architect that the non-residential flood-proofed structure shall meet the flood-proofing criteria of ' 152.41(B);

(5) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

(6) Maintenance of a record of all such information in accordance with ' 152.26(A).

(B) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of ' ' 152.25 through 152.28 and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The comparability of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

(7) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

(10) The relationship of the proposed use to the comprehensive plan for that area.

(C) A depth criterion zone for floodplain management is subject to the following.

(1) Land within the depth criterion portion of the identified 100-year floodplain below the base

flood elevation, but at an elevation at or above the base flood elevation (BFE), minus the specified depth criterion, as shown on the effective FIRM in selected reaches of the floodplain(s), are hereby designated as the floodway fringe.

(a) For example, if base flood elevation equals 20 feet NGVD and the depth criterion equals three feet, the floodway fringe property would be that which is at or above ($20' - 3' = 17'$ NGVD).

(b) These fringe areas may be developed, or otherwise filled, above the base flood elevation without performing an analysis of impact on flood levels. However, levee systems or other continuous fills in the floodway fringe exceeding 500 feet in any dimension or forming a potential barrier to the movement of waters during the occurrence of the base flood are not permitted unless hydrologic and hydraulic analyses, certified by a registered professional engineer, demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated developments, will not increase the water surface elevation of the base flood more than one foot at any point within the village.

(2) No development, including fill, may be placed within designated floodway, natural stream channels, or other floodplain areas not designated as floodway fringe unless a hydrologic and hydraulic analysis, certified by a registered professional engineer, demonstrates that no increase in base flood elevations throughout the watershed will occur. Since Zones AO and AH do not have floodway, this would not apply.

(3) Prior to granting a permit for the construction of a structure designed for purposes of human occupancy, the Floodplain Administrator or another responsible village official must conduct an on-site visit and review where the depth of flooding would equal or exceed one and one-half feet. The purpose of the visit and review is to assess the availability of suitable evacuation routes and emergency services capability during the occurrence of the discharge of the 100-year flood. Where there would be a danger to health and/or safety with regard to evacuation and emergency services, the development permit request should be denied.
(Ord. 381, passed 11-15-2005)

• 152.28 VARIANCE PROCEDURE.

(A) The following procedure is hereby established for the consideration of variances from the requirements of this chapter.

(1) The Village Council is hereby designated as the Appeal Board to hear and render judgment on requests for variances from the requirements of this chapter.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(3) Any person aggrieved by the decision of the Appeal Board may appeal such decision to a court of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Upon consideration of the factors noted below and the intent of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter as stated in ' 152.03.

(6) If a variance is granted, the applicant shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(7) Variances shall only be issued upon:

(a) The showing of good and sufficient cause;

(b) A determination that the failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or cause fraud on, or victimization of, the public, or conflict with existing laws or ordinances of the village.

(B) The prerequisites for granting variances are:

(1) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure=s continued designations as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to, and surrounded by, lots with existing structures constructed below the base flood level, providing relevant factors in ' 152.27 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases;

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result;

(4) Variances shall only be issued upon a determination that the variance is the minimum

necessary, considering the flood hazard, to afford relief; and

(5) Variances may be issued by the village for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use; provided, that the criteria outlined in this section and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. 381, passed 11-15-2005)

FLOOD HAZARD REDUCTION

152.40 GENERAL STANDARDS.

In all areas of special flood hazard, the following provisions are required for all new constructions and substantial improvements.

(A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

(D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.

(G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 381, passed 11-15-2005)

152.41 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data have been provided, as set forth in ' ' 152.07, 152.26(H), or 152.42(C), the following provisions are required.

(A) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this division (A), as proposed in ' 152.27(A)(1), is satisfied.

(B) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed that below the base flood level the structure is water-tight, with walls substantially impermeable to the passage of water and with structural components having capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural designs, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this division (B). A record of such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Floodplain Administrator.

(C) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access, or storage in an area other than a basement and are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) The bottom of all openings shall be no higher than one foot above grade; and

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided they permit the automatic entry and exit of floodwaters.

(D) *Manufactured homes.*

(1) All manufactured homes to be placed within Zone A must be installed using methods and practices that minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

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(2) All manufactured homes must be in compliance with division (A) above.

(3) Manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the village=s FIRM on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood must be elevated or a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(4) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the village=s FIRM that are not subject to the provisions of division (D)(1) above must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(E) *Recreational vehicles*. All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the village=s FIRM shall meet the following requirements:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use, i.e. it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and it has no permanently attached additions; or

(c) Meet the permit requirements of division (A) above and the elevation and anchoring requirements for manufactured homes in division (D)(1) above.

(Ord. 381, passed 11-15-2005)

• 152.42 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with ' ' 152.03 and 152.04.

(B) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet development permit requirements of ' ' 152.08 and 152.27 and all other provisions of ' ' 152.40 through 152.45.

(C) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, that is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to ' ' 152.07 and 152.26(H).

(D) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(E) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize or eliminate flood damage.

(Ord. 381, passed 11-15-2005)

▪ **152.43 STANDARDS FOR AREAS OF SHALLOW FLOODING.**

(A) Located within the areas of special flood hazard established in ' 152.07 are areas designated as shallow flooding (Zones AO and AH). These areas have special flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident.

(B) Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction or substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the village=s FIRM (at least two feet if no depth number is specified);

(2) All new construction and substantial improvements of nonresidential structures shall:

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified on the village=s FIRM (at least two feet if no depth number is specified); or

(b) Together with attendant utility and sanitary facilities, be designed to that below the base flood level the structure is water-tight, with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in ' 152.27(A)(1), are satisfied; and

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(Ord. 381, passed 11-15-2005)

▪ **152.44 FLOODWAY.**

(A) Located within areas of special flood hazard established in ' 152.07 are areas designated as floodway.

(B) Because the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill; and

(2) New construction, substantial improvements, and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels.

(Ord. 381, passed 11-15-2005)

' 152.45 COASTAL HIGH HAZARD AREAS.

(A) Located within the areas of special flood hazard established in ' 152.41 are areas designated as coastal high hazard areas (Zones V1-30, VE, and/or V).

(B) These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, in addition to meeting all provisions outlined in this chapter, the following provisions must also apply:

(1) Obtain the elevation (in relation to mean sea level) of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The Floodplain Administrator shall maintain a record of all such information;

(2) All new construction shall be located landward of the reach of mean high tide;

(3) All new construction and substantial improvements shall be elevated on pilings and columns so that:

(a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and

(b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those required by applicable state or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of divisions (B)(3)(a) and (B)(3)(b) above.

(4) (a) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(b) For the purpose of this division (B)(4), a breakaway wall shall have a design safe loading resistance of not less than ten and not more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with base flood. Wind loading values used shall be those required by applicable state or local building standards. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

(5) Prohibit the use of fill for structural support of buildings;

(6) Prohibit human-made alteration of sand dunes and mangrove stands that increase potential flood damage;

(7) Require that manufactured homes placed or substantially improved within Zone V1-30, V, and VE on the community=s FIRM on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred Asubstantial damage@ as a result of a flood meet the standards of divisions (B)(1) through (B)(6) above, and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the community=s FIRM meet the requirements of ' 152.41(D); and

(8) Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community=s FIRM either: be on the site for fewer than 180 consecutive days; be fully licensed and ready for highway use; or meet the requirements of ' 152.42 and divisions (B)(1) through (B)(6) above. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. 381, passed 11-15-2005)

152.99 PENALTY.

(A) A culpable mental state is not required for the commission of an offense under this chapter.

(B) Any violation of this chapter shall be a misdemeanor punishable by a fine not to exceed \$500; and each day any such violation continues or occurs shall constitute a separate offense.
(Ord. 381, passed 11-15-2005)

CHAPTER 153: INTERNATIONAL CODES

Section

General Provisions

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GENERAL PROVISIONS

153.01 UNSAFE BUILDING ABATEMENT CODE.

(A) This section shall be known and may be cited as the Standard Unsafe Building Abatement Code Section of the Village of Jones Creek, Texas.

(B) The Standard Unsafe Building Abatement Code, 1985 Edition, published by the Southern Building Code Congress International, hereinafter the code, save and except such portions as are in conflict with Chapter 156 and such portions as are modified in division (C) below, is hereby adopted and incorporated and made a part of this section as fully as if set forth at length herein; and from and after the date on which this section shall take effect, the provisions therein, with the exceptions noted above, shall control the elimination, alteration, construction, removal, demolition, use, and occupancy of any

building, structure, or premises which is unsafe or unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life or which, in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. A true and correct copy of the code has been filed in the office of the Village Secretary/Administrator, and shall be made available to any interested person for inspection and reading upon reasonable request therefor made to the Secretary/Administrator.

(C) The following amendments, deletions, or additions to such code are hereby made and in the event of a conflict with such standard code the following shall apply.

(1) *Section 103.4 - Liability.* Is hereby deleted and is of no force and effect.

(2) *Section 104 - Violations and Penalties.*

(a) Any person, firm, or corporation, or the agent of any of them, who shall violate any provision of this code, as amended by the Standard Unsafe Building Code Ordinance of the village, or fail to comply with this code, as so amended, or any requirement herein, as so amended, or any order of the Building Official made pursuant to this code, as so amended, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500; and each day any such violation continues or occurs shall constitute a separate offense.

(b) In any prosecution under this code, as so amended, in the Municipal Court of the village, or any other court of competent jurisdiction, proof that any person committed an act prohibited by this code, as so amended, or omitted an act required by this code, as so amended, shall be prima facie proof that such act or omission, as the case may be, was done knowingly and intentionally.

(3) *Section 105.1 - Composition.* The Village Council shall sit as the Board of Adjustments and Appeals for the purpose of providing for the final interpretation and enforcement of the provisions of the Standard Code adopted by Ord. 451. When sitting as the members of such Board, the members of the Village Council shall be governed by the procedure contained in the Standard Code.

(4) *Section 105.2 - Officers and Meeting.* As members of the Board of Adjustments and Appeals, the Village Council shall serve without compensation. The Mayor shall serve as the Chairperson and, in the absence of the Mayor, the Mayor Pro Tempore shall serve as alternate Chairperson. The Village Secretary/Administrator shall serve as ex officio Secretary of the Board. The Board of Adjustments and Appeals shall meet at the call of its Chairperson or any three members thereof. Notice of the date, time, and place of any such meeting shall be given by the Secretary in accordance with the state's Open Meetings Act, codified as Tex. Government Code ' ' 551.001 et seq.

(5) *Section 105.4 - Records.* The Secretary shall make a detailed record of all proceedings of the Board of Adjustment and Appeals. The record shall set forth the reasons for the Board's decision, the vote of each member participating therein, the absence of a member and any failure of a member to vote.

(6) *Section 105.5 - Procedure.* The Board may establish rules and regulations for its own procedure in addition to, and not inconsistent with, the provisions of this code. The Board shall meet within ten days after an appeal is filed or at the request of the Building Official when the Building Official desires to have the Board determine whether or not any building or structure complies with the standards set out in this code.

(7) *Section 301.2 - Compliance with Standards: Public Hearing.* If the Building Official has determined that any building, structure, or portion thereof is unsafe, he or she shall call a meeting of the Board of Adjustments and Appeals for the purpose of conducting a public hearing for such Board to make a determination of whether or not such building, structure, or portion thereof fails to comply with the standards set out in this code and is, thereof, unsafe. Notice in writing of the date, time, and place of such hearing shall be given to the record owner, either personally or by certified mail, postage prepaid, and return receipt requested. Attached to such notice shall be a detailed report documenting conditions which, in opinion of the Building Official, renders the building or structure unsafe under the provisions of this code. The provisions of ' ' 302.1.2, 302.1.3, 301.1.4, 402, 403, 502, 503, and 504 of this code shall be applicable to such public hearing and notice with the word Aowner@ being substituted for the word Aappellant@.

(8) *Item 2 of Section 302.1.1 - Content of Notice.* A statement indicating that the building or structure has been declared unsafe by the Board of Adjustments and Appeals after a public hearing, attaching thereto a copy of the written decision of such Board.

(9) *Section 302.1.4 - Proof of Service.* Proof of service of the notice shall be by written declaration indicating the date, time, and manner in which service was made signed by the person served or by the return receipt.

(10) *Item 1 of Section 303 - Standards for Compliance.* The building or structure shall be repaired in accordance with the applicable building code of the village or demolished at the option of the owner, unless the building or structure is unrepairable, in which event it shall be demolished.

(11) *Definitions.* The following definitions contained in ' 202 of the code are hereby amended to read as follows.

APPLICABLE GOVERNING BODY. The Village Council.

BUILDING OFFICIAL. The Building Official appointed pursuant to the International Building Code.

CHIEF APPOINTING AUTHORITY. The Village Council.

OFFICIAL PUBLIC RECORDS. The most current tax roll of the village at the time any notice required by this code is given.

RECORDER. The County Clerk.

UNREPAIRABLE BUILDING OR STRUCTURE. Any building or structure that cannot be repaired because it is a nonconforming use under Chapter 156 and the repair of such building or structure is prohibited by such Chapter.

(12) *Section 601.2.2.* Subsequent to posting the building or structure, the Building Official may cause the building or structure in question to be repaired to the extent required to render it safe, or if the notice required demolition, the Building Official may cause the building or structure to be demolished and all debris to be removed from the premises. This may be done by using employees of the village or by contract with an independent contractor and, if the latter, may consist of an agreement whereby such contractor will demolish the building or structure without further compensation than to keep for the use and benefit of such contractor all salvageable material removed from the premises. Any cost incurred by the village including, but limited to, the wages of employees of the village who perform such work, during or in connection with the repair or demolition of any building or structure, shall be collected in the manner provided in Section 601.2.4 below. In lieu of demolishing such building or structure on the premises, the Building Official may permit such contractor, at such contractors expense, to remove or cause such building or structure to be removed from the premises to a location within or without the corporate limits of the village under such conditions as the Building Official may prescribe, if agreed to by such contractor in writing. Provided, however, before removing such building or structure, such contractor shall agree in writing to indemnify and hold harmless the village and its officers and employee from any and all claims that might be made against them or any of them arising out of such removal; and if removed to a location within the village, such building or structure must either be demolished or repaired to comply with Chapter 156 and all applicable technical codes of the village, within such time as the Building Official may specify.

(13) *Costs.* Any costs incurred by the village in the repair demolition of any building or structure shall be assessed against the premises on which such building or structure is or was located by filing with the Recorder for recording in the official records of the county a written statement by the Building Official, subscribed and sworn to and duly acknowledge by the Building Official before a notary public or other officer of the state authorized to administer oaths and take acknowledgments, containing the legal description of the premises, the name or names of the owner or owners, a description of the work performed, the date on which such work was completed, and a statement of the total cost incurred by the village in connection therewith. Upon the filing of such statement, the village shall have a privileged lien on such premises, second only to tax liens and liens for street improvements, to secure the cost of such repair or demolition, together with interest at 10% annum on the total cost incurred from the date such work was completed until paid. For the collection of such cost and interest, suit may be instituted and recovery and foreclosure had in the name of the village. Such recorded statement of the Building Official shall be prima facie proof of the fact and cost of such repair or demolition and the reasonableness thereof.

(D) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the Standard Code adopted by division (B) above.

(E) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of the Building Official under the provisions of the Standard Code adopted by division (B) above.

(Ord. 262, passed 2-21-1991; Ord. 332, passed 4-15-1999; Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

INTERNATIONAL CODES ADOPTED

153.15 SHORT TITLE.

This subchapter shall be known and may be cited as the Village of Jones Creek International Code Subchapter of 2009@.

(Ord. 451, passed 2-21-2012)

153.16 INTERNATIONAL BUILDING CODE.

(A) The International Building Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of the other sections of this chapter, is hereby adopted as the Building Code for the village.

(B) For purposes of the International Code adopted by this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator under the provisions of the International Code adopted by division (A) above.

(E) The following sections of the International Code adopted by division (A) above are hereby revised as follows:

(1) *Section R101.1.* Insert: Village of Jones Creek, Texas;

(2) *Table R301.2(1).* Insert: Southern Building Code Congress International Standard for Hurricane Resistant Residential Construction (SSTD 10);

(3) *Section P2603.6.1.* Insert: Eighteen inches; and

(4) *Section P3103.1.* Insert: four inches.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

' 153.17 INTERNATIONAL RESIDENTIAL CODE.

(A) The International Residential Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of the other sections of this chapter, is hereby adopted as the Residential Code for the village.

(B) For purposes of the International Code adopted by this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator under the provisions of the International Code adopted by division (A) above.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

▪ **153.18 INTERNATIONAL EXISTING BUILDING CODE.**

(A) The International Existing Building Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of the other sections of this chapter, is hereby adopted as the Existing Building Code for the village.

(B) For purposes of the International Code adopted by division (A) above, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator under the provisions of the International Code adopted by division (A) above.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

▪ **153.19 INTERNATIONAL PROPERTY MAINTENANCE CODE.**

(A) The International Property Maintenance Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of the other sections of this chapter, is hereby adopted as the Property Maintenance Code for the village.

(B) For purposes of the International Code adopted by division (A) above, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

HOUSING OFFICIAL. The Building Official of the village.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator and Housing Official under the provisions of the International Code adopted by division (A) above.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

▪ **153.20 INTERNATIONAL ENERGY CONSERVATION CODE.**

(A) The International Energy Conservation Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of the other sections of this chapter, is hereby adopted as the Energy Conservation Code for the village.

(B) For purposes of the International Code adopted by division (A) above, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

HISTORIC BUILDING. Any building within the village designated as such by Chapter 156.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator under the provisions of the International Code adopted by division (A) above.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

• **153.21 INTERNATIONAL PLUMBING CODE.**

(A) The International Plumbing Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of any other sections of this chapter, is hereby adopted as the Plumbing Code for the village.

(B) For purposes of the International Code adopted by division (A) above, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator under the provisions of the International Code adopted by division (A) above.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

• **153.22 INTERNATIONAL MECHANICAL CODE.**

(A) The International Mechanical Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of any other sections of this chapter, is hereby adopted as the Mechanical Code for the village.

(B) For purposes of the International Code adopted by division (A) above, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator under the provisions of the International Code adopted by division (A) above.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

' 153.23 INTERNATIONAL FUEL GAS CODE.

(A) The International Mechanical Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of any other sections of this chapter, is hereby adopted as the Fuel Gas Code for the village.

(B) For purposes of the International Code adopted by division (A) above, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF ADMINISTRATOR. The Building Official of the village.

CHIEF APPOINTING AUTHORITY. The Village Council.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the International Code adopted by division (A) above.

(D) If the office of Building Official is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator under the provisions of the International Code adopted by division (A) above.

(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

' 153.24 NATIONAL FIRE CODE.

(A) The National Fire Code, 2009, published by the International Code Council, Inc., together with all amendments thereto, save and except such portions as are inconsistent with the provisions of any other sections of this chapter, is hereby adopted as the Fire Code for the village.

(B) For purposes of the National Code adopted by division (A) above, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICABLE GOVERNING BODY. The Village Council.

BOARD OF ADJUSTMENTS. The Village Council.

BOARD OF APPEALS. The Village Council.

CHIEF APPOINTING AUTHORITY. The Village Council.

CONTAINER. A vessel designed for the storage of flammable or combustible liquids in small quantities.

FIRE OFFICIAL. The Fire Marshal of the village.

MUNICIPALITY. The Village of Jones Creek, Texas.

(C) The Village Council shall from time to time by resolution set any fees for the issuances of any permits required by the provisions of the National Code adopted by division (A) above.

(D) If the office of Building Official or Fire Marshal is vacant, the Mayor or his or her designee shall have the powers and shall perform the duties of Chief Administrator or Fire Official, as the case may be, under the provisions of the International Code adopted by division (A) above.
(Ord. 451, passed 2-21-2012) Penalty, see ' 153.99

' 153.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

(B) Any person, firm, or corporation, or the agent of any of them, who shall violate any provision of the International Code adopted by ' 153.01, or fail to comply with such code or any requirement therein or any order of the Building Official made pursuant thereto, shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed \$500; and each day any such violation continues or occurs shall constitute a separate offense.

(C) Any person, firm, or corporation, or the agent of any of them, who shall violate any provision of the International Code adopted by ' ' 153.16 through 153.23, or fail to comply with such code or any requirement therein or any order of the Building Official made pursuant thereto, shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed \$500 or, in the event such violation is a violation of a provision governing fire safety or public health and sanitation, including dumping of refuse, by a fine not to exceed \$2,000; and each day any such violation continues or occurs shall constitute a separate offense.

(Ord. 451, passed 2-21-2012)

CHAPTER 154: SIGNS

Section

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GENERAL PROVISIONS

154.01 SHORT TITLE.

This chapter shall be known and may be cited as the ASign Chapter of the Village of Jones Creek@.
(Ord. 363, passed 7-30-2002)

▪ **154.02 SCOPE.**

This chapter applies to all signs located within the village as well as all signs within the extraterritorial jurisdiction of the village, as defined by Tex. Local Government Code Ch. 42, but no permit creates an easement.

(Ord. 363, passed 7-30-2002; Ord. 405, passed 5-19-2008)

▪ **154.03 CONFLICT WITH STATUTES.**

(A) No offense committed and no fine, forfeiture, or penalty incurred prior to the effective date of this chapter is to be affected by the adoption hereof, but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this chapter had not been adopted.

(B) Nothing contained in this chapter shall cause any rights heretofore vested to be altered, affected, or impaired in any way and all such rights may be hereafter enforced as if this chapter had not been adopted.

(C) This chapter is cumulative of, and in addition to, all other ordinances of the village on the same subject and all such other ordinances are hereby expressly saved from repeal; but where this chapter conflicts or overlaps with any other ordinance of the village, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail. Provided, however, this chapter shall in no way impair the application of, or excuse less than full compliance with, all fees, permits, or provisions of any building code, electrical code, or ordinance of the village.

(Ord. 363, passed 7-30-2002; Ord. 405, passed 5-19-2008)

▪ **154.04 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMATED SIGN. Any sign or other street graphic illuminated by flashing, intermittent, or color-changing light or lighting or which creates by such devices figures, human or otherwise, that move or speak.

AREA OF SIGN.

(1) The area of the smallest rectangle that will enclose the sign. The maximum number of rectangles that may be used to enclose an irregularly shaped sign shall be four.

(2) The area of a multisided sign shall be calculated from the greatest orthographic projection of the sign. If a sign is made up of individual letters, the **AREA OF THE SIGN** shall be the sum of the

areas of the rectangles required to enclose each word in the sign (one rectangle per word).

(3) In all cases, the sides of the rectangle shall be vertical and horizontal.

AREA OF WALL. The total area of the orthographic projection of one side of the structure.

BANNER. A temporary graphic composed primarily of cloth, paper, fabric, or other nonrigid material supported by wire, rope, or other similar means, not including decorative streamers with no lettering, suspended along or across a building or public street.

BUILDING CODE. The standard building code or codes adopted by other ordinances of the village with any amendments thereto made by such other ordinances.

BUSINESS. Any organization, person, activity, club, group, or other entity of any nature that uses, repairs, constructs, or is advertised on a sign. This term is not restricted to those engaged in commercial activities.

CANOPY SIGN. Any sign or other street graphic attached to, or hung from, a canopy or awning, which shall be defined as a roofed structure projecting from and supported by a building when such covered structure extends beyond the building structure or property line.

CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGN (CEVMS).

(1) Any sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including an illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

(2) It is specifically provided that a LED or light emitting diode or digital sign is not included within the definition of a **CEVMS**. A **CEVMS** sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the *Manual on Uniform Traffic Control Devices (MUTCD)* approved by the Federal Highway Administrator as the National Standard.

ELECTRICAL CODE. The standard electrical code adopted by another ordinance of the village with any amendments thereto made by such other ordinance.

FREESTANDING or GROUND-MOUNTED SIGN. Any permanent or temporary sign or standard on which messages, advertising names, and the like are displayed and the sign has as its support a pole, foundation, or pinning that is anchored into the ground.

OFF-PREMISES SIGN. A sign that identifies or advertises a business, person, activity, goods, products, or services not located, sold, or offered for sale on the premises where the sign is installed and maintained, or that directs persons to a location other than the premises where the sign is installed and maintained.

ON-PREMISES SIGN. Any sign identifying or advertising a business person activity, goods, products, or services located, sold, or offered for sale on the premises where the sign is installed and maintained, or that directs persons to a location on the premises where the sign is installed and maintained.

PORTABLE SIGN. Any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, wheeled carrier, or other nonmotorized mobile structure. A portable sign that has wheels removed shall still be considered a **PORTABLE SIGN**. A sign located on a motor vehicle is a portable sign if the vehicle remains parked in the same place more than 24 hours.

PROJECTING SIGN. Any permanent or temporary sign or graphic that is attached to a building and extends in some direction more than 12 inches horizontally from the plane of the building wall.

ROOF SIGN. Any sign or graphic painted, drawn, written, or mounted on the roof of a building and extending above or outside the orthographic projection of the roof line.

SIGN. Any outdoor display, design, pictorial, or other representation that is so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner so that the same shall be used for advertising or the visual dissemination of any information, symbol, or picture in any manner whatsoever. The term **SIGN** shall include the sign structure.

SIGN STRUCTURE. Any structure that supports or is designed or intended to support any sign. A **SIGN STRUCTURE** may be a single pole and may or may not be an integral part of a building.

SNIFE SIGN. Any small sign, generally of a temporary nature, made of any material, when such sign is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, or fences or to other objects, and the advertising matter appearing on the sign is not applicable to the present use of the premises upon which such sign is located.

SPINNER or PENNANT. Any sign, display, or attention-seeking device that spins or flutters when contacted by air currents or is propelled by a mechanical fan, or which makes noise when spinning.

TEMPORARY SIGN. Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, wood, or other light material, not to exceed 32 square feet in size. A portable sign shall not be considered a **TEMPORARY SIGN**.

VILLAGE. The Village of Jones Creek, Texas.

WALL SIGN. Any permanent sign that is placed on the wall (front, side, or rear) of a building, whether such sign is separate and mounted on the wall or is painted, drawn, or written on the wall. A permanent sign shall in this case be defined as a sign that remains in place for a period exceeding 90 days.

(Ord. 363, passed 7-30-2002; Ord. 405, passed 5-19-2008; Ord. 468, passed 4-22-2014)

SPECIFIC REGULATIONS

' 154.15 PROHIBITED SIGNS.

The following signs are hereby prohibited:

(A) Off-premises signs;

(B) Portable signs, except for non-profit charitable special events approved by the Village Council on an individual basis;

(C) Snipe signs;

(D) Signs attached to chain link fences unless permitted elsewhere in this chapter; and

(E) Changeable electronic variable message sign (CEVMS), whether on-premises or off-premises. (Ord. 363, passed 7-30-2002; Ord. 405, passed 5-19-2008) Penalty, see ' 154.99

' 154.16 PERMISSIBLE SIGNS.

(A) The following signs are permissible in areas having a residential zoning under Chapter 156:

(1) One unlighted sign, which shall not exceed one square foot in area, indicating the name of the occupant or occupation of a customary home occupation may be located on private property, provided the sign is attached flat to the building;

(2) Churches and schools may have one sign which shall not exceed 16 square feet in area;

(3) One garage sale sign on private property, provided the area of the sign does not exceed 16 square feet and is removed after ten days; and

(4) Temporary signs may be used on the same residential premises for only 30 days in any calendar quarter, providing all such days shall be consecutive.

(B) The following signs are permissible in areas having a commercial zoning under Chapter 156:

(1) Canopy signs, which must be rigidly attached so as to remain in place under wind loads of 125 mph. Such signs may not exceed 32 square feet in area or four feet in height; and

(2) Freestanding and ground-mounted signs:

(a) Businesses fronting on a state highway will be limited to one free-standing sign having a maximum of 96 square feet for the first 100 feet of lot frontage, or fraction thereof; and, if the lot frontage of a business exceeds 100 feet, such business may have an additional free-standing sign having a maximum of 96 square feet for each additional 100 feet of lot frontage;

(b) Businesses fronting on a commercial street, other than a state highway, will be limited to one free-standing sign having a maximum of 64 square feet for the first 60 feet of lot frontage, or fraction thereof; and, if the lot frontage of a business exceeds 60 feet, such business may have an additional free-standing sign having a maximum of 72 square feet for each additional 100 feet of lot frontage;

(c) Churches and schools may have one sign not exceeding 64 square feet in area; and

(d) Temporary signs may be used on the same business premises for only 30 days in any calendar quarter, providing all such days shall be consecutive.

(Ord. 363, passed 7-30-2002)

• **154.17 OTHER PROHIBITIONS.**

(A) No sign shall resemble any official sign erected by any governmental unit, or by reason of position, shape, or color conflict with the proper functioning of, or be confused with, any traffic sign, signal, or emergency vehicle. The use on any sign of words such as Astop@, Alook@, Adanger@, or any other word, phrase, or symbol or character in such a manner as to interfere with, mislead, or confuse any driver or traffic is prohibited.

(B) Signs shall not be located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or so as to obstruct or interfere with the view of any driver or any traffic.

(C) No sign shall contain lights that are not effectively shielded so as to prevent light from being directed at any portion of a street or highway from which the lights or light rays are visible and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or otherwise interfere with any driver=s operation of a motor vehicle.

(D) No sign shall obstruct any means of egress or any opening necessary for required light, ventilation, or firefighting or for escape from any place, or tend to prevent free passage from one part of a roof to any other part of that roof.

(E) All signs shall be constructed so as to prevent the accumulations of rainwater in the sign.

(F) No sign shall be placed, constructed, reconstructed, erected, or used on any private or public premises or property of any nature whatsoever without the permission of the person or governmental entity owning or controlling such premises or property.

(G) No sign shall be erected nearer than ten feet horizontally or ten feet vertically from any utility pole.

(H) No dilapidated, abandoned, or out-of-date signs and no sign which is a safety hazard or otherwise, in violation of the provisions contained herein, shall remain on any premises.

(Ord. 363, passed 7-30-2002) Penalty, see ' 154.99

• **154.18 PERMIT REQUIRED.**

(A) No person shall erect, construct, reconstruct, alter, or use a sign without first securing a written permit from the village, subject to the exceptions set forth in ' 154.19.

(B) A permit is not transferrable.

(C) A copy of the permit shall be posted at each erection site.

(Ord. 363, passed 7-30-2002) Penalty, see ' 154.99

• **154.19 EXCEPTIONS.**

No permit shall be required for on-premises signs of the following descriptions:

(A) Signs painted on glass surfaces of windows and doors;

(B) Directional and regulatory signs erected by any governmental entity;

(C) Legal notices, house numbers, No trespassing@ and No parking@, and other similar notice or warning signs;

(D) Signs otherwise required by law;

(E) On-premises signs setting for the location or direction to parking or buildings located on the premises, or regulating the flow of traffic;

(F) Signs displayed, designed, or used upon motor vehicles as long as such vehicles are continuously used as vehicles and not merely as signs;

(G) Signs at gasoline service stations not over 36 inches wide and 60 inches tall, which display the price of gasoline or other services performed by the station and limited to two per station;

(H) Signs mounted on the wall of a building no higher than the roof line and stating only the street number and name of the proprietor, but the number of such signs shall not exceed the number of entrances for such premises;

(I) Christmas displays and other similar temporary displays erected without advertising;

(J) A sign not over 32 square feet in area setting forth information concerning a building or other structure under repair or construction, or advertising the sale or rental of the premises;

(K) Subdivision identification signs; and

(L) Temporary signs used on the same private premises for only 30 days in any calendar quarter, providing all such days shall be consecutive.

(Ord. 363, passed 7-30-2002)

• **154.20 PERMITS NOT REQUIRED.**

No sign permit is required for the change of any of the ornamental features, electrical devices, or advertising display of any sign.

(Ord. 363, passed 7-30-2002)

• **154.21 APPLICATION PROCEDURE.**

(A) *In general.* The application for a permit shall be submitted on such form as the Building Official may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with the provisions of this chapter. Applications for a permit to construct a sign 20 feet above ground level shall be accompanied by a drawing of the sign structure and sign, prepared and certified by a professional engineer registered with the state as meeting the wind load specifications referenced in the building code. The Building Official, at his or her option, may also require similar certification by a professional engineer registered with the state where any unusual structural provisions of a proposed sign indicate that such certification is advisable in the interest of public safety.

(B) *Contents.* Applications for permits required by ' ' 154.18 through 154.21 shall include the following:

(1) Name, address, and telephone number of the applicant, which shall be kept current at all times;

(2) The location of the building, structure, or lot where the sign is to be located including, not only the street address, but also the lot, block, section number, and subdivision name, or a metes and bounds description;

(3) The position of the sign in relation to nearby buildings on any part of the lot on which the sign is to be placed;

(4) Two blueprints or ink drawings on a scale not smaller than one inch to 15 feet of the specifications and plans, showing the method of construction and attachment to the building or the ground;

(5) The name of the person erecting the sign and all related support structures;

(6) Any electric, building, and other permits required for the sign. All illuminated signs shall have an electrical permit in addition to a sign permit; and

(7) Such other information as the Building Official may require to show full compliance with all ordinances of the village.

(C) *Subterfuge*. Any permit that, in the opinion of the Building Official, was obtained by subterfuge or any procedure not in full compliance with this chapter is subject to a stop order and revocation.

(D) *Construction permit duration; renewal permit*. Any permit for construction of a sign shall become null and void unless construction of the sign is completed within 180 days. Thereafter, a renewal permit must be obtained.

(E) *Fees*. The Village Council shall by resolution adopt a fee schedule for sign permits. All fees of any nature under ' ' 154.18 through 154.21 shall be nonrefundable.
(Ord. 363, passed 7-30-2002)

ENFORCEMENT

154.35 ENFORCEMENT OFFICIAL DUTIES.

(A) The Building Official shall be the Administrative Enforcement Official of the provisions of this chapter. The Enforcement Official is charged with the duty of administering the provisions of this chapter.

(B) In furtherance of this responsibility, the Enforcement Official shall:

(1) Make such inspections as may be necessary and initiate appropriate action to bring about compliance with this chapter if such inspection discloses any noncompliance;

(2) Investigate thoroughly any complaints of alleged violations of this chapter;

(3) Order in writing the remedy of all conditions of all violations of this chapter found to exist on any premises;

(4) State in the violation order a time limit for compliance;

(5) Request the assistance of the village's legal counsel in taking appropriate legal action upon the failure of the responsible party to comply with such violation order at the time specified in the order; and

(6) Ensure that the owners or lessees of all signs (except those permitted in a residential zone and those that are exempt under the terms of this chapter) apply for a sign permit.

(Ord. 363, passed 7-30-2002)

• **154.36 RIGHT OF ENTRY.**

The Enforcement Official is authorized to enter in and upon the outdoor areas of any premises at any reasonable time to determine whether there are any signs thereon for which a permit has not been issued or to ensure that all signs which are dilapidated, abandoned, out-of-date, a safety hazard, not in compliance with the requirements of this chapter, or for which a permit has been issued under the provision of this chapter are corrected or removed.

(Ord. 363, passed 7-30-2002)

• **154.37 PROCEDURE FOR VIOLATIONS.**

Whenever the Enforcement Official shall determine that a violation of ' ' 154.35 through 154.38 exists, he or she shall take the following action:

(A) Give written notice of the violation to the occupant and the owner shown on the most recent tax roll of the village indicating the nature of the violation, and a statement showing the time within which the work must be accomplished in order to comply with the provisions of this chapter for not less than ten days nor more than 60 days from the date of such written notice. Provided, however, in the case of a portable sign, the minimum notice period shall be not less than 24 hours;

(B) A copy of such written notice shall be filed with the Village Secretary/Administrator;

(C) Service of the written notice required by this section shall be deemed complete if personally delivered to the person who is required to be served or by sending the notice by certified mail, return receipt requested, to the last known address of such person and by posting a copy of such notice in a conspicuous place on the premises; and

(D) If the written notice is not complied with within the time specified in such notice, the Enforcement Official shall use all available means of enforcement including, but not being limited to, injunctive relief in the state=s District Court to secure an order requiring compliance with the provisions of this chapter or appropriate proceedings commenced in the Municipal Court of the village to secure punishment for its violation, or both.

(Ord. 363, passed 7-30-2002)

• **154.38 ADMINISTRATIVE APPEALS.**

(A) The Village Council shall serve and perform the duties of an Appeal Board under the provisions of this chapter.

(B) The Board shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged that there is an error in any requirement, order, decision, or determination made by the Enforcement Official in the enforcement of this chapter; and

(2) To authorize, upon appeal from the decision of the Enforcement Official, in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, upon adequate proof, it is shown that owing to special conditions, a literal enforcement of the provisions of ' ' 154.35 through 154.38 would result in unnecessary hardship. For the purpose of this chapter, a variance shall be authorized only when the strict application of the provisions hereof will:

(a) Cause real and substantial financial hardship to the sign user; or

(b) Result in arbitrary and unreasonable taking of property or in the practical closing or elimination of any lawful business.

(Ord. 363, passed 7-30-2002)

• **154.99 PENALTY.**

Any violation of this chapter shall be a misdemeanor punishable by a fine not to exceed \$500; each day any such violation continues or occurs shall constitute a separate offense; and a culpable mental state is not required for the commission of an offense under this chapter.

(Ord. 363, passed 7-30-2002; Ord. 405, passed 5-19-2008)

CHAPTER 155: ZONING

Section

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GENERAL PROVISIONS

- **155.001 ESTABLISHMENT OF DISTRICTS.**

The entire area of the village is hereby zoned into districts in accordance with a comprehensive plan for the purpose of conserving the value of buildings and encouraging the most appropriate use of land throughout the community. Said districts have been established with reasonable consideration of the character of the district and its particular suitability to the particular uses.

(Ord. 81, passed 3-21-1977)

155.002 PROVISIONS FOR OFFICIAL ZONING MAP.

(A) The Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter and shall be the final authority as to current zoning regulations.

(B) The Official Zoning Map shall be in the custody of the Secretary/Administrator and shall be identified by the signature of the Mayor, attested by the Secretary/Administrator, and bearing the seal of the village under the following words:

This is to certify that this is the Official Zoning Map referred to in Section 2 of Ordinance No. 81 of the Village of Jones Creek, Texas, read, passed, and approved on the 21 day of March, A.D. 1977@.

(C) When changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Council. The amending ordinance shall provide that such changes become effective when they have been entered upon the Official Zoning Map. The entry shall be signed by the Mayor and attested by the Secretary/Administrator. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided under 155.999.

(D) In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret, the Village Council may, by resolution, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the Secretary/Administrator, and bearing the seal of the village and date under the following words:

This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. ___ of the Village of Jones Creek, Texas.@

(E) Unless lost or totally destroyed, all prior Official Zoning Maps shall be preserved, together with all available records pertaining to their adoption or amendment.

(Ord. 81, passed 3-21-1977) Penalty, see 155.999

• **155.003 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the center lines of streets, highways, alleys, or railroad lines, platted lot lines, village limits, the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

(B) Boundaries indicated as parallel to or extensions of features indicated in division (A) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and

(C) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by divisions (A) and (B) above, the Board of Adjustment shall interpret the district boundaries.

(Ord. 81, passed 3-21-1977)

• **155.004 APPLICATION OF DISTRICT REGULATIONS.**

(A) The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

(B) No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(C) No building or other structure shall hereafter be erected or altered to accommodate or house a greater number of families than herein required; or in any other manner contrary to the provisions of this chapter.

(D) All territory which may hereafter be annexed to the village shall be considered to be zoned R-1 Single-Family Residential until otherwise classified by amendment of this chapter in accordance with the provisions of ' ' 155.100 through 155.104.

(Ord. 81, passed 3-21-1977)

• **155.005 MINIMUM REQUIREMENTS.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum

requirements adopted for the promotion of the public=s general welfare.
(Ord. 81, passed 3-21-1977)

▪ **155.006 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Official. He or she shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

(Ord. 81, passed 3-21-1977)

▪ **155.007 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY USE. A use on the same land with, but incidental and subordinate to, the primary use.

ACT. The state=s Zoning Enabling Act, codified as Tex. Local Government Code Ch. 211.

AGENT OF OWNER. Any person who is not an attorney at law but who has been appointed as attorney in fact of the owner by written power of attorney, duly acknowledged in the manner required by the laws of the state for instruments to be filed in the deed records of a county.

APARTMENT. A room or suite of rooms in an apartment house arranged, designed, or occupied as a residence by a single family, individual, or group of individuals.

APARTMENT HOUSE. Any multiple-family dwelling or building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied as three or more apartments or which is occupied as the home or residence of three or more families living independently of each other and maintaining separate cooking facilities.

AUTOMOBILE REPAIR SHOP. Any premises and structures when used primarily for the servicing and/or repairing of motor vehicles, including paint and body work, engine rebuilding, and minor maintenance activities.

BEGINNING OF CONSTRUCTION. The incorporation of labor and material within the foundation of the building or buildings.

BOARD OF ADJUSTMENT. The Board of Adjustment of the Village of Jones Creek, Texas.

BUILDING. Any structure having a roof supported by columns or walls used, or intended to be

used, for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate **BUILDING**.

BUILDING OFFICIAL. The Building Inspector or other official appointed by the Village Council to enforce this chapter.

BUILDING PLOT. The land (lot, lots, or tract of land) upon which a building or buildings are located, or upon which they are to be constructed, including yards, and bounded by the property line.

CLINIC, MEDICAL. An institution or station for the examination and treatment of ill and afflicted out-patients.

COIN OPERATED MACHINE. A skill or pleasure machine or device, or an electronic, electromechanical, or mechanical contrivance, operated by the payment or insertion of coins, tokens, paper currency, or any other consideration that are designed, made, or adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill and chance afford or reward the user, in addition to any right of replay, an opportunity to receive exclusively non-cash merchandise prizes, toys, novelties, or a representation of value redeemable for those items, having a wholesale value available from a single play of the game or device of not more than ten times the amount charged to play the game or device once or \$5, whichever is less.

COMMERCIAL AMUSEMENT. Any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gates of the activity. **COMMERCIAL AMUSEMENTS** include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, ferris wheels, children=s rides, roller coasters, skating rinks, ice rinks, traveling shows, bowling alleys, pool parlors, and similar enterprises.

DEPENDENT MOBILE HOME or HUD-CODE MANUFACTURED HOME. One that is not hooked up to approved sewer or hooked up to the water supply or hooked up to approved electrical, and which is not in livable condition.

DISTRICT or ZONING DISTRICT. A portion of the territory of the village within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DRIVE-IN EATING ESTABLISHMENT. Any structure and premises specifically designed for the preparation and sale of food and meals for consumption either indoors or in a vehicle parked on the premises or taken away for consumption at other places.

DWELLING, DUPLEX. A permanent building constructed on a fixed foundation for, or used exclusively for, residence purposes by not more than two families or housekeeping units.

DWELLING, SINGLE-FAMILY. A permanent building constructed on a fixed foundation for, or used exclusively for, residence purposes by one family or housekeeping unit.

EXCLUDED MACHINE. Any of the following:

(1) A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and direct from the machine, including claw, crane, or similar machines;

(2) A machine from which the opportunity to receive non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball or other physical object into the machine, or a part thereof, including basketball, skee-ball, golf, bowling, pusher, or similar machines; or

(3) A machine or any device defined in Tex. Penal Code ' 47.01 as a gambling device, or any activity prohibited or described in Tex. Penal Code Ch. 47.

FILLING, RETAIL SERVICE STATION. An establishment where gasoline, oil, and grease or automobile accessories are sold, supplied, or dispensed to the motor vehicle trade or where motor vehicles receive limited repair, are equipped for service, or where electric storage batteries are charged and cared for, or a place where any two or more such activities are carried on or conducted as the principal use of the establishment.

GAME ROOM FOR COIN OPERATED MACHINE. Any building, or portion thereof, used primarily for the exhibition or displaying of coin operated machines other than exclusively for excluded machines. A building, or part thereof, has such primary use where at least 51% of the total square footage of such building, or any part thereof, exclusive of restrooms, storage rooms, or other areas from which the public is usually excluded by the operator, is used for the exhibition or displaying of coin operated machines other than excluded machines, or at least 51% of the gross revenues derived from any use of such building is derived from the operation of coin operated machine other than excluded machines located therein.

HOME OCCUPATIONS. A commercial use customarily carried on in the home by members of the occupant family without structural alterations in the principal building or any of its rooms, or without the employment of additional persons, and which does not cause the generation of other than normal noise, pedestrian and vehicular traffic.

HUD-CODE MANUFACTURED HOME. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which in the traveling mode is eight feet or more in width or 40 feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designated to be used as a dwelling with or without a permanent foundation when connected to the required utilities, that include sewer, water, heating, air conditioning and electrical system, and gas, if required. Some of the above do require separate permits prior to hook up. On a **HUD-CODE MANUFACTURED HOME**, the date label plate can be found inside a kitchen cabinet,

electrical panel, or bedroom closet to verify the date the home was manufactured. A notice stating that the home was built according to manufactured home construction standards can be found. A certification label, also known as the HUD tag, is located on the outside of the manufactured home. The HUD tag is a two-inch by four-inch red metal tag plate affixed to the exterior of the home with rivets installed with screws. All numbers must be verified, as well as verifying that the HUD tag has the information HUD requires. The label number is stamped or etched into the tag. It should be a six digit number with a three letter prefix that identifies the agency that inspected the home. Any **HUD-CODE MANUFACTURED HOME** must still meet the age requirements established in ' 155.041 to be located or relocated in the Village of Jones Creek.

INSTALLATION. When used in reference to manufactured housing, means the transporting of a HUD-code manufactured home or HUD-code manufactured home components to the place where they will be used by the consumer, the construction of the foundation system, whether temporary or permanent, and the placement and erection of a HUD-code manufactured home or HUD-code manufactured home components on the foundation system, and includes supporting, blocking, leveling, securing, anchoring, and proper connection of multiple or expandable sections or components, the installation of air conditioning, and minor adjustments.

LIVING AREA. The total number of square feet contained in a single-family dwelling exclusive of porches, patios, and garages.

LOT. One piece, parcel, or tract of land which collectively meets all the following requirements:

- (1) Is located within a single block;
- (2) Has frontage on an accepted and improved public street;
- (3) Is occupied or utilized or designated by its owner, owners, or developer to be occupied, developed, or utilized as a unit for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter; and
- (4) Of which a plat has been recorded in the office of the County Clerk.

LOT DEPTH. The mean horizontal distance between the front lot line and rear lot line of a zoning lot.

LOT LINE. A boundary of a lot.

LOT WIDTH. The mean horizontal distance between the side lot lines of a lot.

MANUFACTURED BUILDINGS and **MANUFACTURED HOMES.** Any structure manufactured or built at a location other than where they are intended to be used.

MANUFACTURED HOME and **MANUFACTURED HOUSING.** A mobile home or a

HUD-code manufactured home as herein defined.

MOBILE HOME. A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include recreational vehicles.

MOBILE HOME PARK. Any lot, block, tract, or parcel of land owned by any person or jointly by two or more persons, regardless of the nature of the estate vested in each owner, upon where are located three or more manufactured homes or self-contained recreational vehicles intended to be occupied for dwelling or sleeping purposes, and includes facilities provided upon payment of a charge as well as facilities provided without charge for such accommodations.

PORTABLE BUILDING. A structure designed to be transported by attaching thereto wheels or skids or by placing such structure on a trailer, and to be used with or without being placed on a permanent foundation. This term does not include a mobile home, HUD-code manufactured home, or a recreational vehicle as defined herein.

RECREATIONAL VEHICLE. A vehicular type unit primarily designed as temporary living quarters for recreational camping or travel use that either has its own motive power or is mounted on or towed by another vehicle. The basic entities are recreational vehicles, camping trailers, truck campers, and motor homes, but it does not include a manufactured home as herein defined.

STRUCTURAL ALTERATIONS. Any change in the structural members of a building, such as walls, columns, beams, or girders.

VARIANCE. A legal modification of the district provisions such as yard, lot width and yard depth, signs, setback, and off-street parking and loading regulations granted due to the peculiar conditions existing within a single piece of property.

VARIETY STORE. A retail commercial establishment which supplies a variety of household goods, toys, limited light hardware items, candy, some clothing, and other general merchandise.

VILLAGE. The Village of Jones Creek in Brazoria County, Texas.

ZONING COMMISSION. The Zoning Commission of Jones Creek, Texas, appointed pursuant to the provisions of the Zoning Commission Ordinance of the village, read, passed, and approved as Ord. 52 on January 17, 1975.

ZONING MAP, OFFICIAL. The Zoning Map or Maps of the Village of Jones Creek, Texas, attested together with all amendments subsequently adopted.
(Ord. 81, passed 3-21-1977; Ord. 132, passed 2-19-1981; Ord. 287, passed 4-15-1993; Ord. 330,

passed 4-15-1999; Ord. 335, passed 6-17-1999; Ord. 416, passed 6-16-2009; Ord. 474, passed 11-18-2014)

NONCONFORMING USES

▪ 155.020 INTENT.

Within the districts established by this chapter, or amendments that may later be adopted, there are permitted to exist structures and uses of structures which were lawful before this chapter was passed but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans or construction of any building on which actual construction was lawfully begun prior to the effective date of adoption of this chapter. ***ACTUAL CONSTRUCTION*** is hereby defined as the possession of a current building permit.

(Ord. 81, passed 3-21-1977)

▪ 155.021 LAND AND LAND WITH MINOR STRUCTURES ONLY.

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended and where such use involves no structure or structures with a replacement cost in the aggregate exceeding \$2,000, such use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No such nonconforming use shall be enlarged or increased, nor shall be extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(C) If any such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(D) No such nonconforming use of land shall be continued after one year from the date of enactment of this chapter. The nonconforming use of land which becomes nonconforming by reason of subsequent amendments to this chapter shall be discontinued within one year from the date of such amendment.

(Ord. 81, passed 3-21-1977)

• **155.022 STRUCTURES AND USES OF STRUCTURES OTHER THAN MINOR STRUCTURES.**

Where a lawful structure, or structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that could not be built in the district under the terms of this chapter, such structure or structure and premises may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No such structure or structure and premises may be enlarged or altered in any way which increases its non-conformity.

(B) Should such structure be destroyed by any means to an extent of more than 50%, it shall not be reconstructed except in conformity with the provisions of this chapter.

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

(D) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use, provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

(E) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(F) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(G) In order for this section to apply, the structure or structures located on the premises in question must have a replacement cost in the aggregate of more than \$2,000.

(Ord. 81, passed 3-21-1977)

• **155.023 SPECIFIC USES WITH PERMIT EXEMPTED.**

Specific uses pursuant to the terms of a specific use permit granted under the terms of this chapter shall not be deemed nonconforming uses, but shall, without further action, be deemed a conforming use for the premises covered by such permit for the period of time covered by such permit.

(Ord. 81, passed 3-21-1977)

SCHEDULE OF DISTRICT REGULATIONS ADOPTED**▪ 155.035 CLASSIFICATION OF DISTRICTS.**

The several districts hereby established and into which the village is divided are designated as follows:

(A) R-1 District: Single-Family Residence District;

(B) R-2 District: General Residence District;

(C) R-3 District: Mobile Home Park District;

(D) R-4 District: Individual Mobile Home District; and

(E) C District: General Commercial District.

(Ord. 81, passed 3-21-1977; Ord. 132, passed 2-19-1981)

▪ 155.036 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose.* This district includes lands which are used for single-family dwelling purposes. The district is designed to protect these areas from uses not compatible with the character of one-family detached home type land use having the minimum area requirements herein specified.

(B) *Permitted uses.* A single-family dwelling as the primary use and home occupations and storage of recreational vehicles as accessory uses. To be considered stored, a recreational vehicle may not be occupied or used for any purpose.

(C) *Specific uses permitted.* Refer to ' 155.060.

(D) *Area requirements.*

(1) Lot size minimum: 8,400 square feet;

(2) Lot width minimum: 70 feet;

(3) Lot depth minimum: 120 feet; and

(4) Dwelling living area minimum: 1,400 square feet.

(E) *Setback requirements:*

(1) From front lot line: 25 feet. It is provided, however, that an unenclosed, covered, and windstorm approved carport shall be allowed within the 25 feet setback restriction;

(2) From rear lot line: ten feet; and

(3) From side lot line: five feet.

(Ord. 81, passed 3-21-1977; Ord. 132, passed 2-19-1981; Ord. 287, passed 4-15-1993; Ord. 339, passed 1-20-2000; Ord. 478, passed 8-18-2015)

• **155.037 R-2 GENERAL RESIDENCE DISTRICT.**

(A) *Purpose.* This district includes lands which are used for single-family dwelling or duplex dwelling purposes. This district is designed to protect these areas from uses not compatible with the character of one-family or duplex detached home type land uses.

(B) *Permitted uses.* A single-family or a duplex dwelling as the primary use and home occupations and storage of recreational vehicles as accessory uses. To be considered stored, a recreational vehicle may not be occupied or used for any purpose.

(C) *Specific uses permitted.* Refer to ' 155.060.

(D) *Area requirements.*

(1) A lot size minimum 8,400 square feet.

(a) For single-family dwelling:

1. Lot width minimum: 70 feet; and
2. Lot depth minimum: 120 feet.

(b) For duplex dwelling:

1. Lot width minimum: 90 feet; and
2. Lot depth minimum: 94 feet.

(2) Living area minimum:

(a) Single-family dwelling: 1,200 square feet; and

(b) Duplex dwelling: 800 square feet per family or housekeeping unit.

(E) *Setback requirements.* See ' 155.036(E).

(Ord. 81, passed 3-21-1977; Ord. 132, passed 2-19-1981; Ord. 287, passed 4-15-1993; Ord. 339, passed 1-20-2000)

• **155.038 R-3 MOBILE HOME PARK DISTRICT.**

(A) *Purpose.* This district contains land which is to be used only for high density individual mobile homes, small HUD-code homes, and self-contained recreational vehicles located within mobile home parks. A small HUD-code home is one which, when erected on site, is 850 or fewer square feet. A self-contained recreational vehicle has a flush toilet, shower, lavatory, and kitchen sink and is designed to be connected to the water system and sanitary sewer system in the same manner as manufactured housing.

(B) *Permitted uses.* Mobile homes, small HUD-code manufactured homes and self-contained recreational vehicles.

(C) *Specific uses permitted.* Refer to ' 155.060.

(D) *Other requirements.* Those contained in the Mobile Home Ordinance of the village, read, passed, and approved as Ord. 38 on June 18, 1973, as amended by Ord. 40, read, passed, and approved on August 28, 1973, and by Ord. 42, read, passed, and approved on November 13, 1973, all of which are incorporated herein by reference.

(E) *Setback requirements.* See ' 155.036(E).

(Ord. 81, passed 3-21-1977; Ord. 330, passed 4-15-1999; Ord. 339, passed 1-20-2000)

• **155.039 R-4 INDIVIDUAL MOBILE HOME DISTRICT.**

(A) *Purpose.* This district contains land which is to be used only for existing mobile homes and large HUD-code homes situated on individual lots located outside of mobile home parks. A large HUD-code home is one which, when erected on site, is more than 850 square feet.

(B) *Permitted uses.* Existing mobile homes, large HUD-code manufactured homes, and home occupations.

(C) *Specific uses permitted.* Refer to ' 155.060.

(D) *Area requirements.*

(1) Lot size minimum: 8,400 square feet.

(a) For single-family dwelling:

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- 1. Lot width minimum: 70 feet; and
- 2. Lot depth minimum: 120 feet.

(b) For duplex dwelling:

- 1. Lot width minimum: 90 feet; and
- 2. Lot depth minimum: 94 feet.

(2) Living area minimum:

(a) Single-family dwelling: 1,200 square feet; and

(b) Duplex dwelling: 800 square feet per family or housekeeping unit.

(E) *Replacement of existing mobile homes.* Any existing mobile home located in this district may only be replaced with a HUD-code manufactured home.

(F) *Setback requirements.* See ' 155.036(E).

(Ord. 81, passed 3-21-1977; Ord. 132, passed 2-19-1981; Ord. 330, passed 4-15-1999; Ord. 339, passed 1-20-2000)

' 155.040 C NEIGHBORHOOD BUSINESS DISTRICT.

(A) *Purpose.* This district is designed to provide a location for general commercial, retail uses which serve the entire community and its visitors. Land in this district is located mainly along major highways.

(B) *Permitted uses.* See R-1 and R-2 also.

Alcoholic beverage sales (restricted to off-premises consumption)
Antique shop
Apartments
Art studio or gallery
Automobile repair shop
Automobile sales and rental
Book and stationery stores
Bowling alley

Business, music, dance, or commercial schools
Café, restaurant, or cafeteria
Cleaner, dry and pressing plant, laundry and/or linen supply
Clinic
Clothing store, retail
Domestic household equipment rental, storage
Drive-in eating establishment
Drive-in sales
Drug store
Dwelling unit, as part of business building, for operator
Electric appliance shop and repair
Filling station, retail
Financial institutions
Florist shop, retail
Frozen food lockers (no slaughtering or stripping)
Furniture, appliance store, sales, service
Garage, commercial
Hardware store
Nursery plant sales
Offices, professional or service
Other personal service shops
Parking building or lot, commercial, for operating vehicles
Pet shop
Photographer=s studio
Printing and reproduction
Radio or television stations or studios (no towers)
Radio, television, or electronic sales and service
Retail food store
Retail sales and services

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Shoe sales and repair
Shopping center
Sign shop
Storage garage
Tailor and dressmaking shop
Theaters and motion picture houses
Tire shop, no vulcanizing or retreading
Trailer and/or accessory equipment sales, rental, or storage
Variety store
Warehouses
*Other uses will be considered by the Commission

(C) *Specific uses permitted.* Refer to ' 155.060.

(D) *Screening fences are required.*

(1) Where there is a common side or rear lot line or lot lines between commercial land (including apartment land) and developed residential areas, the owner of said commercial land (including apartment land) shall erect a fence that properly screens adjacent residential lots from adverse influences such as noise, vehicular lights, trespass, and other adverse influences as part of the normal construction of building dedicated to said non-residential usage (including apartment project construction).

(2) Such screening fences shall be at least six feet in height and shall form a solid continuous screen between the residential and non-residential land (including apartment land) uses. In the case of rear lot lines, such screening fence shall be continued from one side lot line along the rear lot line to the other side lot line. In the case of side lot lines, such screening fence shall be continued from the rear lot line along the side lot line to the front setback line, but no farther than a point 15 feet from the street right-of-way line. Each such screening fence shall be maintained in good condition by the owner of said commercial or apartment project, for as long a time period as may be needed to protect adjacent residential land uses.

(E) *Use of portable buildings.* A portable building may only be used in connection with an accessory use, except it may be used alone in the commercial or business district in connection with a temporary use authorized by a temporary use permit issued as provided in ' 155.059.

(F) *Setback requirements.* See ' 155.036(E).
(Ord. 81, passed 3-21-1977; Ord. 335, passed 6-17-1999; Ord. 339, passed 1-20-2000)

• **155.041 MANUFACTURED HOME LOCATION.**

(A) It shall be unlawful to locate or relocate any manufactured home that is more than five years old, as of June 15 of the year that it is sought to be located or relocated, that does not meet Zone 3 or better wind specifications within the village, Zone R-3 or R-4 District. Any HUD-code manufactured home shall be anchored in accordance with the manufacturer=s installation instructions and anchored as well as supported and blocked in accordance with those standards for manufactured housing found in the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Tex. Admin. Code 69. A permit must be issued by the authorized representative of the village if the manufactured home is approved following an inspection. A permit fee adopted by resolution of the Village Council shall be paid for the inspection of the said HUD-code manufactured home, which inspection shall include foundation for the home and the lot it shall be placed on. This permit fee does no include any permit fee for sewer, water, gas, or electricity.

(B) It shall be unlawful to locate or relocate any mobile home or HUD-code manufactured home that does not meet this standard. Wind loads (a lateral load) must be resisted by the home and the home must be capable of transferring these imposed lateral loads to the home=s stabilizing devices without exceeding the allowable stresses and other deflective requirements. The manufactured home producer designs the home to resist the wind load, which is measured in pounds per square foot. Wind Zone 3 equates to a 110 mph wind speed.

(Ord. 474, passed 11-18-2014) Penalty, see ' 155.999

BUILDING OFFICIAL; BUILDING PERMITS

• **155.055 BUILDING OFFICIAL.**

(A) The Building Official appointed pursuant to the provisions of the Building Code Ordinance shall also administer and enforce this chapter. He or she may be provided with the assistance of such other persons as the Village Council may direct and as provided in the Building Code Ordinance.

(B) If the Building Official shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall take any action authorized by this chapter to ensure compliance with, or to prevent violation of, its provisions.

(C) The Building Official under no circumstances is permitted to make other changes in this chapter or to vary the terms of this chapter in carrying out his or her duties as Building Official.

(Ord. 81, passed 3-21-1977)

• **155.056 BUILDING PERMITS REQUIRED.**

(A) (1) No building or other structure shall be erected, moved, added to, or structurally altered without a building permit therefor issued by the Building Official. No building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustments. A building permit to move any building or other structure must be obtained a minimum of 30 days prior to such move. Prior to issuing a permit to move any building or other structure, the Building Official shall inspect the same and advise the owner thereof in writing of all repairs, if any, that will be needed to make the building or other structure conform to all applicable standard codes then in force and effect within the village.

(2) No person shall occupy or use a structure that is moved to or within the village without obtaining from the Building Official a certificate of zoning compliance and occupancy for such structure. Such certificate shall be issued if the use of such building or other structure is a permitted use under ' ' 155.035 through 155.040 at the location to which it has been moved and when any needed repairs previously noted have been made.

(B) If any application for a building permit is not approved, the Building Official shall state in writing the cause for such disapproval.
(Ord. 81, passed 3-21-1977; Ord. 358, passed 1-15-2002)

• **155.057 FEES.**

The fee to cover the administrative and processing costs of building permit applications and the issuance of certificates of zoning compliance and occupancy shall be established by resolution of the Village Council.

(Ord. 81, passed 3-21-1977; Ord. 358, passed 1-15-2002)

• **155.058 EXPIRATION OF BUILDING PERMITS.**

(A) If the work described in a building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Building Official and written notice thereof shall be given to the persons affected.

(B) If the work described in a building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the Building Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

(Ord. 81, passed 3-21-1977)

• **155.059 TEMPORARY USE PERMITS.**

(A) A temporary use permit shall be required before the following temporary uses can be permitted:

- (1) Auction sales;
- (2) Automobile parking lot for a special event;
- (3) Batching plant, portland cement, concrete, non-commercial;
- (4) Carnival or circus;
- (5) Christmas trees and wreaths, retail;
- (6) Commercial amusements;
- (7) Construction building and/or yard; and

(8) Retail and wholesale of agricultural products not raised on the premises and sold from vehicles parked off-street, not over 500 square feet of retail and wholesale storage and sales area.

(B) A temporary use permit is a special exception to the chapter and allowable where the facts and conditions prescribed in the chapter as those upon which a temporary use permit may be granted are determined by the Board of Adjustment to exist.

(C) The applicant, in applying to the Board of Adjustment for a temporary use permit, shall simply demonstrate that he or she meets the requirements of the particular use and district and need not show unnecessary hardship.

(D) In considering any application for a temporary use permit, the Board of Adjustment shall give due regard to the nature and condition of all adjacent uses and structures. The Board of Adjustment may deny an application for a temporary use permit, and, in granting or renewing a temporary use permit, the Board of Adjustment may impose such requirements and conditions with respect to location, duration, construction, maintenance, and operation, in addition to those expressly stipulated in this chapter for the particular use, as it may deem necessary for the protection of adjacent properties and the public interest.

(Ord. 81, passed 3-21-1977)

• 155.060 SPECIFIC USE PERMITS.

(A) A specific use permit shall be required before the following specific uses can be permitted in R-1, R-2, R-3, R-4, and C Districts:

- (1) Cemetery or mausoleum;

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- (2) Church or other place of worship including parish houses and Sunday schools, but excluding missions or temporary revivals;
- (3) City, county, state, and federal government administrative buildings;
- (4) City, fire, and police station;
- (5) City, county, state, and federal government garage, maintenance yard, or similar government establishment;
- (6) Earth moving and excavations depositing of construction materials, clay, earth, gravel, minerals, rock, sand, or stone on the ground;
- (7) Electrical substation;
- (8) Game room for coin operated machines, in a C-Neighborhood Business District only;
- (9) Gas compressor or regulator station;
- (10) Institution, correctional, detention, penal, or for use of insane, feeble-minded, alcoholic, or narcotic patients on a minimum of 15 acres;
- (11) Institution for children and aged; non-profit;
- (12) Location for a training module for disabled adult;
- (13) Mining, including exploration for, or production of, gas or oil; extraction of clay, gravel, or sand, quarrying of rock or stone;
- (14) Public library or museum;
- (15) Radio or television broadcasting transmitter or tower, microwave relay tower;
- (16) Sanitorium on a site of ten acres or more;
- (17) Schools: elementary, high, college, and universities; public, private, or denominational;
- (18) School nursery, kindergarten, or daycare for children;
- (19) Shopping center on a site of five acres or more; and
- (20) Telephone exchange, but not including garage shop or service.

(B) A specific use permit is an amendment to the district regulations of the chapter that permits the permanent establishment of a specific use within a zoning district in which such specific use may be established. Specific use permits are granted by the Village Council after compliance with the provisions of ' ' 155.102 and 155.103.

(C) Application for a specific use permit shall be made by the property owner or certified agent thereof to the Zoning Commission on forms prescribed for this purpose by the Village Council. Such application shall be accompanied by a site plan as set forth in ' 155.062. Specific use permits, revocable, conditional, or valid for a term period may be issued for any of the uses or purposes for which such permits are required or permitted by the terms of this chapter. Granting of a specific use permit does not exempt the application from complying with the requirements of the Building Code or other ordinances.

(D) The fee to cover administrative and processing costs of a specific use permit application shall be as established by the Village Council.

(E) (1) Every specific use permit granted by the Village Council shall be considered as an amendment to this chapter, but applicable only to the premises described therein.

(2) In granting such permit, the Village Council may impose conditions which shall be complied with by the grantee. Such conditions shall not be construed as conditions precedent to the granting of the specific use permit.

(Ord. 81, passed 3-21-1977; Ord. 294, passed 2-17-1994; Ord. 416, passed 6-16-2009)

' 155.061 APPLICATIONS.

(A) Building permits issued on the basis of site plans and applications approved by the Building Official authorize only the use, arrangement, and construction set forth in such approved site plans and applications.

(B) Any other use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by ' 155.999.

(Ord. 81, passed 3-21-1977) Penalty, see ' 155.999

' 155.062 SITE PLAN.

(A) All applications for building permits shall be accompanied by a site plan drawn to scale indicating:

- (1) The location and arrangement of buildings on subject property;
- (2) Building setbacks and yards;

(3) Landscaping and/or walls and fences for screening purposes; and

(4) Off-street parking and loading areas and design of ingress and egress to and from abutting streets.

(B) A building permit shall not be issued until the site plan has been approved by the Building Official.

(C) The Building Official may disapprove a site plan or, in approving a site plan, may require revisions of the proposed arrangement of buildings, streets, parking areas, and ingress and egress.

(D) Disapproval, approval, or conditional approval of a site plan, together with the date of review and the signature of the Building Official, shall designate the official copy, which shall be kept on file, together with all previous site plans.

(E) A duplicate copy of the official site plan disapproved, approved, or conditionally approved shall be given to the applicant together with all the recommendations of the Building Official.
(Ord. 81, passed 3-21-1977)

BOARD OF ADJUSTMENT

• 155.075 ESTABLISHED.

(A) A Board of Adjustment is hereby created which shall consist of five members, each to be appointed for a term of two years and removable for cause by the Village Council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. All cases to be heard by the Board of Adjustment will always be heard by a minimum number of four members.

(B) In addition, the Village Council shall appoint four alternate members of the Board of Adjustment who shall serve in the absence of one or more regular members when requested to do so by the Mayor. These alternate members shall serve for the same time period as the regular members and any vacancies shall be filled, and alternate members shall be subject to removal in the same manner as regular members.

(Ord. 81, passed 3-21-1977)

• 155.076 PROCEEDINGS.

(A) The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such times

as the Board may determine. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(B) The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Village Secretary/Administrator.

(Ord. 81, passed 3-21-1977)

▪ **155.077 APPEALS.**

(A) Any person aggrieved, or any official or department of the governing body of the village affected by any decision or judgment of the Building Official concerning interpretation or administration of this chapter, may appeal such decision or judgment to the Board of Adjustment. Such appeals shall be taken within a reasonable time, not to exceed ten days or such other period as may be provided by the rules of the Board, by filing with the Building Official and with the Board of Adjustment a notice of appeal accompanied by a fee as established by the Village Council specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(B) The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

(Ord. 81, passed 3-21-1977)

▪ **155.078 STAY OF PROCEEDINGS.**

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Official from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal is filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Building Official from whom the appeal is taken and on due cause shown.

(Ord. 81, passed 3-21-1977)

▪ **155.079 ADMINISTRATIVE REVIEW.**

To hear and decide appeals where it is alleged there is error to any order, requirement, decision, or determination made by the Building Official in the enforcement of this chapter.

(Ord. 81, passed 3-21-1977)

▪ **155.080 SPECIAL EXCEPTIONS.**

To hear and decide special exceptions to the terms of this chapter including, but not limited to, the granting of temporary use permits.

(Ord. 81, passed 3-21-1977)

▪ **155.081 VARIANCES.**

To hear and decide on appeal such variances from the terms of the chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

(Ord. 81, passed 3-21-1977)

▪ **155.082 PROCEDURE FOR SPECIAL EXCEPTIONS AND VARIANCES.**

(A) The written application for a special exception or variance, together with the fee, shall be submitted to the Board of Adjustment, accompanied by an accurate legal description, maps, site plans, drawings, and any necessary data, indicating the section of this chapter under which the exception or variance is sought and stating the grounds on which it is requested.

(B) Prior to the granting of a special exception or variance, a public hearing must be held. Notice of such public hearing shall be given to the owner of the property for which the special exception or variance is sought or his or her agent, and to all owners of real property lying within 200 feet of the subject property; such notice to be given not less than ten days before the date for hearing to all owners who have rendered their said property for county and school taxes as the ownership appears on the last approved county and school tax rolls. Such notice may be served by depositing the same, properly addressed and postage paid, in the U.S. post office. Notice of the time and place of such hearing shall also be given by one publication in the official newspaper of the village or in a newspaper having general circulation within the corporate limits of the village at least 15 days prior to such hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken. At the public hearing, any party may appear in person or by agent or attorney.

(C) At the conclusion of the hearing, the Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception or variance and that the granting of the special exception or variance will not adversely affect the public interest. In addition, before granting a variance from the terms of such section of this chapter, the Board of Adjustment shall find that, owing to special conditions therein specified, a literal enforcement of the provisions of the chapter will result in unnecessary hardship but the granting thereof will still permit the spirit of the chapter to be observed and substantial justice done. In granting any special exception or variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity

with this chapter.

(D) Any violation of such conditions or safeguards, when made a part of the terms under which the special exception or variance is granted, shall be deemed a violation of this chapter and punishable as provided in ' 155.999. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception or variance is required shall be begun or completed, or both. The failure to begin or complete, or both, such action within the time limits set shall void the special exception or variance.

(Ord. 81, passed 3-21-1977)

155.083 DECISIONS OF THE BOARD.

(A) In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and may make such order, requirements, decision, or determination as ought to be made, and to that end shall have powers of the Building Official from whom the appeal is taken.

(B) The concurring vote of four members of the Village Council shall be necessary to reverse any order, requirement, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to grant any special exception or to affect any variation in the application of this chapter.

(Ord. 81, passed 3-21-1977)

155.084 APPEALS FROM THE BOARD.

(A) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the village, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality.

(B) Such petition shall be presented to the court within ten days after the filing of the decision in the office of the Village Secretary/Administrator.

(C) Upon the filing of such petition in such court, the case shall proceed as prescribed by the laws of the state.

(Ord. 81, passed 3-21-1977)

155.085 DUTIES OF OFFICIALS DURING APPEALS.

(A) It is the intent of this chapter that all questions of interpretation and enforcement shall be first

presented to the Building Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Building Official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by the laws of the state.

(B) (1) It is further the intent of this chapter that the duties of the Village Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise.

(2) Under this chapter, the Village Council shall have only the duties of:

(a) Considering and adopting or rejecting proposed amendments or repeal of this chapter, as provided by law;

(b) Establishing a schedule of fees as stated in ' 155.115; and

(c) Appointing and removing members and alternates of the Board of Adjustment in the manner provided in this chapter.

(Ord. 81, passed 3-21-1977)

AMENDMENTS AND REVIEW

' 155.100 AMENDMENTS.

The Village Council may from time to time amend this chapter by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and general welfare require such amendment.

(Ord. 81, passed 3-21-1977)

' 155.101 APPLICATION.

(A) Amendment may be initiated by the Village Council or the Zoning Commission, or by an application of one or more owners of property affected by the proposed amendment.

(B) An application for an amendment shall be accompanied by an accurate legal description, maps, site plans, drawings, and any data necessary to demonstrate that the proposed amendment is in general conformance with this chapter and that public necessity, convenience, and general welfare require the adoption of the proposed amendment.

(1) *Filing of application.* All petitions for amendments to this chapter shall be in writing, signed, and filed in triplicate with the Secretary/Administrator for presentation to the Village Council.

Each application by a property owner shall be accompanied by a fee as established by the Village Council to cover administrative and processing costs.

(2) *Contents of petition.* All petitions for amendments to this chapter, without limiting the right to file additional, shall contain at least the following:

(a) The petitioner=s name, address, and interest in the petition, as well as the name, address, and interest of every person having a legal or an equitable interest in the land covered by the petition;

(b) The nature and effect of the proposed amendment;

(c) If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing:

1. The land which would be affected by the proposed amendment;

2. A legal description of such land;

3. The present zoning classification of the land;

4. The zoning classification of all abutting zoning districts; and

5. All public and private rights-of-way and easements bounding and intersecting the land under consideration.

(d) If the proposed amendment should require a change in the Zoning Map, the names and addresses of the owners of all land within the area to be changed by the proposed amendment;

(e) The alleged error in this chapter which would be corrected by the proposed amendment, together with a detailed explanation of such error in the chapter which is alleged, and detailed reasons as to how the proposed amendment will correct the same;

(f) The changed or changing conditions, if any, in the area or in the municipality generally that make the proposed amendment reasonably necessary;

(g) Evidence that the petition is in accordance with this chapter; and

(h) All other circumstances, factors, and reasons which applicant offers in support of the proposed amendment.

(Ord. 81, passed 3-21-1977)

• **155.102 PUBLIC HEARING BEFORE THE ZONING COMMISSION.**

(A) *Public hearing.* Upon filing of the application, the Zoning Commission shall call a public hearing on said application as provided herein.

(B) *Notice of public hearing.* Written notice of such hearing shall be sent to the owner of the property or his or her agent and to all owners of real property lying within 200 feet of the property on which the change in classification is proposed, such notice to be given not less than ten days before the date set for hearing to all such owners who have rendered their said property for school and county taxes as the ownership appears on the last approved school and county tax rolls, such notice may be served by depositing the same, properly addressed and postage paid, in the post office. Where property lying within 200 feet of the property proposed to be changed is located in territory which was annexed to the village after the final date for making the renditions which are included on the last approved county and school tax rolls, notice to such owners shall be given by one publication in the official newspaper at least 15 days before the time of hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.

(C) *Action by Zoning Commission at conclusion of hearing.* If, at the conclusion of the hearing, the Zoning Commission decides to recommend amendment of this chapter to the Village Council, said recommendation shall be by resolution of the Zoning Commission carried by the affirmative votes of not less than a majority of its total membership. A copy of any recommended amendment shall be submitted to the Village Council and shall be accompanied by a report of findings, summary of hearing, and any other pertinent data.

(D) *Appeal of Zoning Commission's denial of application.* In the event the Zoning Commission recommends denial of an application after public hearing, the applicant may appeal said determination to the Village Council by filing a written notice of appeal with the Secretary/Administrator within ten days after the determination by the Zoning Commission. If a joint public hearing is held by the Village Council and the Zoning Commission, a notice of appeal is not required.
(Ord. 81, passed 3-21-1977)

• **155.103 ACTION BY THE VILLAGE COUNCIL.**

(A) If the Zoning Commission has recommended approval of an application or if the Zoning Commission has recommended denial of an application, and a notice of appeal has been filed pursuant to ' 155.102(D), the Village Council shall set said application for public hearing and shall give notice of the time and place of the hearing by one publication in the official newspaper at least 15 days prior to such hearing and, in addition, shall send written notices to the owner of the property or his or her agent and to all owners of real property lying within 200 feet of the subject property pursuant to ' 155.102(B).

(B) (1) Whenever it is made known to the Village Council that the Zoning Commission has scheduled a public hearing required by the provisions of ' 155.102, with respect to any proposed amendment, supplement, change, or repeal of this chapter; the Village Council may, by resolution adopted by a majority vote of the Aldermen present and voting at any regular or any special meeting of the Council, direct that the public hearing required to be held by the Village Council under division (A)

above with respect to any such proposal shall be held jointly with such public hearing required by ' 155.102 to be held by the Zoning Commission; but no action shall be taken on any such proposal by the Village Council until it has received the final report of the Zoning Commission.

(2) Where such a resolution is adopted, a joint notice of such jointly held public hearing shall be published in the official newspaper or a newspaper having general circulation within the corporate limits of the village stating the time and place of such joint public hearing, which time shall be not less than 15 days from the date of publication.

(3) Additionally, the notice to property owners required by ' 155.102 shall include a statement that the public hearing of the Zoning Commission and the public hearing of the Village Council on such proposal shall be held jointly.

(C) The Village Council may, by simple majority vote, recommend disapproval of an application for amendment of this chapter, or in recommending approval of an amendment of this chapter, the Village Council may impose such requirements and conditions or changes as they may deem necessary pursuant to ' 155.100.

(D) A vote of three-fourths of the Village Council is required in order to adopt proposed amendments that have been recommended for disapproval by the Zoning Commission or to adopt proposed amendments that have been recommended for approval by the Zoning Commission against which a written protest has been filed with the Secretary/Administrator, duly-signed and acknowledged by any one of the following:

(1) The owners of 20% of the land included in the proposed amendment; or

(2) The owners of 20% of the land immediately adjacent to the land included in the proposed amendment and extending 200 feet therefrom.

(E) In case an application for an amendment to this chapter is denied by the Village Council, said application shall not be eligible for reconsideration for one year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Zoning Commission, to be eligible for consideration within one year of the denial of the original application.

(Ord. 81, passed 3-21-1977)

' 155.104 COMPREHENSIVE REVIEW OF CHAPTER.

The Zoning Commission shall from time to time, at intervals of not more than two years, examine the provisions of this chapter and the location of the zoning district boundary lines and shall submit a report to the Village Council recommending changes and amendments, if any, which are deemed desirable in the interest of public health, safety, and general welfare.

(Ord. 81, passed 3-21-1977)

SCHEDULE OF FEES**▸ 155.115 VILLAGE COUNCIL TO DETERMINE FEES.**

The Village Council shall establish by resolution a schedule of fees, charges, and expenses for building permits, temporary use permits, variances, specific use permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Building Official and may be altered or amended only by resolution of the Village Council.

(Ord. 81, passed 3-21-1977)

▸ 155.116 FEE REQUIRED FOR PERMITS AND THE LIKE.

No building permit, specific use permit, temporary use permit, or variance shall be issued unless or until such fees have been paid in full, nor shall any action be taken or public hearing be held unless or until preliminary fees have been paid in full.

(Ord. 81, passed 3-21-1977)

▸ 155.117 SPECIFIC USE PERMITS.

(A) Permit application fee: \$50 (non-refundable).

(B) If and when the permit is issued and chapter amended: a minimum fee of \$150 or actual costs involved, whichever is greater. Example:

(1) Attorney fees: \$180;

(2) Administration fee: \$35;

(3) Mailouts (certified): \$40; and

(4) Newspaper notices: \$65 or more.

(Ord. 81, passed 3-21-1977)

▸ 155.118 TEMPORARY USE PERMITS.

(A) Variances: \$75.

(B) Appeal to Board of Adjustments regarding decision of Building Official: \$75.

(C) Petition of amendment for zoning change:

- (1) Attorney fees: \$180;
- (2) Administration fee: \$35;
- (3) Mailouts (certified): \$40; and
- (4) Newspaper notices: \$65 or more.

(D) The above fees are minimum charges. Actual cost could be greater and will be estimated by the Village Secretary/Administrator.
(Ord. 81, passed 3-21-1977)

▪ **155.119 BUILDING PERMITS AND INSPECTIONS.**

All building permit and inspection fees are adopted by resolution of the Village Council.
(Ord. 81, passed 3-21-1977)

▪ **155.999 PENALTY.**

(A) (1) Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$2,000 and, in addition, shall pay all costs and expenses involved in the case.

(2) The owner or tenant of any building, structure, premises, or part thereof, and any architect, building, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(3) Nothing herein contained shall prevent the village from taking such other lawful action as is necessary to prevent or remedy any violation.

(B) Any person who violates ' 155.041 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.
(Ord. 81, passed 3-21-1977; Ord. 419, passed 6-16-2009; Ord. 474, passed 11-18-2014)