

**Village of Timbercreek Canyon
Municipal Code**

CODE OF ORDINANCES
VILLAGE OF
TIMBERCREEK CANYON, TEXAS

**Village of Timbercreek Canyon
Municipal Code**

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Chapter I – General Provisions

1.01 How Code is Designated and Cited (Amended 2019-8)

The ordinances embodied in this and the following chapters and sections shall constitute and be designated the “Code of Ordinances, Village of Timbercreek Canyon, Texas” and may be so cited.

1.02 Headings

The heading of a title, sub-title, chapter, sub-chapter or section does not limit or expand the meaning of a rule or ordinance.

1.03 Rules of Construction and Definitions

In the construction of this Code and for all ordinances and resolutions passed by the Board of Aldermen, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of Aldermen:

Generally – words shall be construed in their common and usual significance unless the contrary is clearly indicated.

Village – the words “the Village”, “this Village”, or the “Village of Timbercreek Canyon” shall mean the Village of Timbercreek Canyon, Randall County, Texas.

City Secretary, Chief of Police, or other City Officers – the words “City Secretary”, “Chief of Police”, or other city officers or departments shall be construed to mean the City Secretary, Chief of Police or other such municipal officers as specified in Chapter 2, respectively, of the Village of Timbercreek Canyon, Texas.

Alderman – the words “Aldermen”, “Alderman”, or “Alderwoman” shall be construed as any of the duly elected or appointed members of the Board of Aldermen, Village of Timbercreek Canyon, Texas.

Board of Aldermen – whenever the terms “Board” or “Board of Aldermen” is used in this Code, it shall mean the Board of Aldermen of the Village of Timbercreek Canyon, Texas.

County – whenever the terms “county” or “this county” appears in this Code, it shall mean the County of Randall, Texas.

Delegation of Authority – whenever a provision of this Code requires or authorizes an officer or employee of the Village to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate, and authorize subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise, and unless specifically authorized by city ordinance, state or federal law.

Gender – a word imparting the masculine gender only shall extend and be applied to females, and to firms, partnerships, associations, and corporations as well as to males.

Month – the word “month” shall mean a calendar month.

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Owner – the word “owner”, applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by entirety, of the whole or of a part of such building or land.

Person – the word “person” shall extend and apply to associations, corporations, firms, partnerships, and bodies politic and corporate, as well as individuals.

State – the words “the state” or “this state” shall be construed to mean the State of Texas.

Tense – words used in the past or present tense include the future as well as the past and present.

Year – the word “year” shall mean a calendar year.

1.04 Amendments or Additions to the Code (Amended 2010)

All ordinances passed subsequent to this Code that amend, repeal, or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the Board. All amendments to the Code of Ordinances must be submitted in Ordinance form and such ordinances must be at 2 separate meetings, by the Board of Aldermen, prior to passage.

Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language:

“That section ____ of the Code of Ordinances, Village of Timbercreek Canyon, Texas, is hereby amended to read as follows:.....” The new provisions shall then be set out in full as desired.

In the event a new section not heretofore existing in the Code is to be added, the following language shall be used:

“That the Code of Ordinances, Village of Timbercreek Canyon, Texas, is hereby amended by adding a section, to be numbered _____, which said section reads as follows:.....” The new section shall then be set out in full as desired.

1.05 Altering Code

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village to be misrepresented thereby. Any person violating this section shall be subject to a penalty as provided in Section 1-6 hereof.

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1.06 General Penalty for Violations of Code; Continuing Violations (Amended 2019-8)

- A. Any person, partnership, corporation or entity who shall violate any provisions of this Code relating to fire, public safety, zoning, public health and sanitation or who shall commit an act relating to fire, public safety, zoning, public health and sanitation that is prohibited, declared to be unlawful or made and declared to be a misdemeanor in this Code or in any other ordinances shall be guilty of a misdemeanor and shall be liable to a fine not to exceed the maximum allowable by state statute.
- B. Any person, partnership, corporation, or entity who shall violate any other provision of this Code or who shall violate any other act prohibited, declared to be unlawful, or made and declared to be a misdemeanor shall be liable to a fine not to exceed the maximum allowable by state statute for such violations.
- C. Any condition designated a nuisance under any provision of this Code or any ordinance is hereby declared to be a misdemeanor.
- D. Any person, partnership, corporation or entity who shall create, maintain, or allow a nuisance relating to fire, public safety, zoning, public health and sanitation upon property owned or under the control of such person, partnership, corporation or entity shall be guilty of a misdemeanor and shall be liable to a fine not to exceed the maximum allowable by state statute.
- E. Any person, partnership, corporation, or entity who shall create, maintain or allow a nuisance upon property owned or under the control of such person, partnership, corporation, or entity shall be guilty of a misdemeanor and shall be liable to a fine not to exceed the maximum allowable by state statute.
- F. Each day any violation of this Code shall continue and shall constitute a separate offense and penalties may be cumulative.

1.07 Effect of Repeal of Ordinances

The repeal of an ordinance shall not revive any ordinances in force before or at the time the repealed ordinance took effect.

The repeal of an ordinance shall not effect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or caused of action arising under the ordinance repealed.

1.08 Severability of Parts of Code

It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional or unenforceable by the final judgment or decree of a court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses sentences, paragraphs, and sections of this Code,

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since the same would have been enacted by the Board without the incorporation in this Code of any such unconstitutional or unenforceable phrase, clause, sentence, paragraph or section.

1.09 Village Boundaries

The boundaries of the Village of Timbercreek Canyon are prescribed by the various enactments on file in the office of the Village Secretary, and as graphically displayed on a map of the City located in such office.

1.10 Incorporated under the General Laws of the State of Texas

The Village of Timbercreek Canyon is incorporated under the General Laws of the State of Texas as a Type B Municipality and is subject to all the provisions of said title and shall be vested with all rights, powers, privileges, immunities and franchises therein conferred (State law reference: Local Government Code, Title 2).

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Chapter II – Administration

Article 1 – General

2.01 Mayor Designated Agent to Release Liens (2019-9)

The Mayor is hereby authorized to represent the Village of Timbercreek Canyon in releasing judgment liens taken for delinquent taxes that have been paid, or when a release would be in order and in the best interest of the Village.

2.02 Claims against Village; Notice; Waiver (2019-9)

Before the Village shall be liable for personal injuries of any kind, the person injured, or an authorized person acting on his behalf, shall give the Mayor or the Board a duly verified notice in writing of such injury within 30 days after the same has been sustained. The notice shall specifically state when, where, and how the injury occurred and the apparent extent thereof.

If, as a result of the injury sustained the injured person is bedridden, then the period within which the above notice is required shall be extended to thirty days after the injured party becomes ambulatory.

The failure of any claimant to notify the Mayor or the Board of Aldermen of the Village of Timbercreek Canyon in the manner required by this section shall exonerate, and cause to be exempt, the Village from all liability whatsoever.

2.03 Records Management Program (Ord. 43) (Ordinance 2019-9)

The Village has adopted a records management program in accordance with the requirements of the Local Government Records Act which shall govern all activities regarding the management and preservation of official records. This policy is available for review upon request.

2.04 to 2.10 Reserved

Article II – Village Organization

2.05 Board of Aldermen Composition; Quorum

The municipal government of the Village shall consist of a Board of Aldermen composed of the Mayor and five aldermen to be elected from the Village at large. A majority of whom shall constitute a quorum for the transaction of business, except at all meetings for the imposition of taxes, when two-thirds of a full board shall be required, unless otherwise specifically provided elsewhere or by state statute.

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Term of Office: Exceptions (Ord. 18) (Ordinance 2019-9)

All of the elected officials of the Village of Timbercreek Canyon shall hold office for term of two years with said term beginning at the first meeting following the general election and ending two calendar years later at the first meeting following the general election. The exception to this shall be those members of the Board appointed to fill a vacancy or an un-expired term. In this case, the appointed member shall serve until the expiration of the term for which the appointment is made. All members of the Board of Aldermen will be elected or appointed each odd year.

2.11 Village Secretary (Ord. 4)

The office of Village Secretary has been created by the Board of Aldermen of the Village of Timbercreek Canyon and shall have all traditional powers, authorities, and responsibilities as assigned by state statute.

- A. The position of Village Secretary shall be filled by an action of the Board of Aldermen and a person appointed to the office of Village Secretary shall serve from the date of appointment by the Board of Aldermen until such time as the appointment is terminated by the Board of Aldermen in a formal action. Compensation for the Village Secretary shall be fixed by the Board of Aldermen.
- B. The Village Secretary shall have those duties as specified above and as shall be specified by the Village Board from time to time.
- C. The Village Secretary shall have the authority, subject to the approval of the Board, to employ such assistance as is necessary to the performance of the assigned and prescribed duties and compensation for such employees shall be fixed by the Board of Aldermen.

2.14 Village Treasurer (Ord. 5)

The office of Village Treasurer has been created by the Board of Aldermen of the Village of Timbercreek Canyon and shall have responsibility for the management of Village funds, including receipt, deposit, and expenditure in accordance with the duly adopted Village Budget.

- A. The position of Village Treasurer shall be filled by an action of the Board of Aldermen and a person appointed to the office of Village Treasurer shall serve from the date of appointment by the Board of Aldermen until such time as the appointment is terminated by the Board in a formal action.
- B. Compensation for the Village Secretary shall be fixed by the Board of Aldermen.
- C. The Village Treasurer shall have those duties as specified above and shall also serve as the Public Funds Investment officer for the Village and shall also have those duties as specified by the Village Board from time to time.

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2.15 Municipal Judge (Ord. 14)

The office of Municipal Judge has been established by the Board of Aldermen of the Village of Timbercreek Canyon and the office shall have those duties, powers, and authorities as prescribed and defined by the statutes of the State of Texas.

- A. The office of Municipal Judge shall be filled by an action of the Board of Aldermen and a person appointed to the office of Municipal Judge shall have a term of office concurrent to the Mayor.
- B. Compensation for the Municipal Judge shall be fixed by the Board of Aldermen.

2.16 Police Chief (Ord. 37A) (amended 2019-9)

The office of Chief of Police has been established by the Board of Aldermen of the Village of Timbercreek Canyon and the office shall have those duties, powers, and authorities as prescribed and defined by the statutes of the State of Texas to the Chief of Police.

- A. The office of Chief of Police shall be filled by an action of the Board of Aldermen and a person appointed to the office of Chief of Police shall serve until such time as the appointment is terminated by the Board in a formal action.
- B. Compensation for the Chief of Police shall be fixed by the Board of Aldermen.
- C. The Police Chief may designate and hire, with Mayoral approval, a paid Police Officer or Officers to hold the duties, powers and authorities as prescribed and defined by the statutes of the State of Texas and by the Code of Ordinances of the Village of Timbercreek Canyon. Compensation for Officer(s) shall be fixed by the Board of Aldermen.
- D. Members of the paid Police Force must comply with the minimum training standards established by the Texas Commission on Law Enforcement.

2.17 Police Reserve Force (Ord. 21) (amended 2019-9)

A Police Reserve Force has been established by the Village Board of Aldermen.

- A. Members of the Police Reserve Force shall be selected by the Chief of Police and shall be appointed to duty by the Board of Aldermen. All members selected by the Chief of Police and appointed by the Board shall serve until such time as the appointment is terminated by the Board in a formal action.
- B. Members of the Police Reserve Force shall be considered to be police officers of the Village of Timbercreek Canyon during the actual discharge of official duties.
- C. Members of the Police Reserve Force shall serve and perform duties at the discretion of the Chief of Police and may be called into active service at any time the Chief of Police considers it necessary to have additional officers to preserve the peace and enforce the law.

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- D. Members of the Police Reserve Force shall serve without compensation and such members shall act only in a supplementary capacity to the regular police force and shall in no case assume the full time duties of regular police officers or Chief of Police. Nothing in this provision shall be construed to limit or restrict the ability of the Board of Aldermen to reimburse members for actual and necessary expenses incurred in the performance of the specified duties or required training.
- E. Members of the Police Reserve Force must comply with the minimum training standards established by the Texas Commission on Law Enforcement (TCOLE) for all reserve law enforcement officers identical to the standards so established which must be fulfilled before a person appointed as a reserve law enforcement officer may carry a weapon or otherwise act in any capacity as a peace officer. The Chief of Police shall establish rules and regulations governing members of the Police Reserve Force and shall establish qualifications and standards of training that comply with at least the minimum standards established by (TCOLE) and all such rules, regulations, standards and qualifications shall be approved by the Board in a formal action.
- F. Nothing in this section shall be construed to limit the power of the Mayor to summon into service a special police force as provided by Article 996, Revised Civil Statutes of Texas, 1925.

2.18 Village Prosecutor (amended 2019-9)

The office of Village Prosecutor has been established by the Board of Aldermen of the Village of Timbercreek Canyon and the office shall have those duties, powers, and authorities as prescribed and defined by the statutes of the State of Texas.

- A. The office of Village Prosecutor shall be filled by an action of the Board of Aldermen and a person appointed to the office of Village Prosecutor shall serve until such time as the appointment is terminated by the Board in a formal action.
- B. Compensation for the Village Prosecutor shall be fixed by the Board of Aldermen.

2.19 to 2.28 Reserved

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Chapter III - Animals

3.01 Definitions (Amended 2016-6, 2019-12)

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires otherwise:

Animal- Any live, vertebrate creature, domestic or wild

At Large - Any animal not restrained

Domestic Animal – Those animals that are naturally tame and gentle or which, by long association with man, have become thoroughly domesticated and are now reduced to such a state of subjection to his will that they no longer possess the disposition or inclination to escape. This definition specifically includes household pets, such as dogs and cats.

Estray - Any stray horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, or any species of cattle.

Kennel – Any place where four or more dogs or cats over the age of four (4) months, or nine or more dogs or cats under the age of four (4) months, are raised, trained, boarded, harbored or kept.

Livestock – Shall include any horse, donkey, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, sheep, goat, or head of any species of cattle or other animal not defined as DOMESTIC or WILD.

Local Health Authority – Any person or officer designated by the Board. In the absence of a specific designee, it is the intent of the Board that the Chief of Police and his/her designees serve as the Local Health Authority.

Owner – Any person who owns, keeps, harbors, controls physically or orally, feeds, shelters, or aids any animal, or any person who is the owners agent left in charge of an animal.

Restrain – An animal shall be considered restrained if it is:

1. confined on the premises of the owner within a fenced enclosure capable of confining the animal: or,
2. fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises; or,
3. under the control of a person by a leash; or,
4. within a vehicle being driven or parked; or,
5. at heel and immediately obedient to oral command
6. confined with a commercially available and recognized electronic restraint system.

Stable – An outbuilding in which equine or animals are kept, a building that is divided

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into separate stalls for individual equine and covered from the elements. Construction for stabling falls under the Outbuilding Regulations.

Swine – Any of the various omnivorous ungulates of the family Suidae, including hogs and pigs.

Wild Animals – Those animals living in a state of nature and not ordinarily tamed or domesticated.

3.02 General (Ord. 11-B, 2019-12)

Domestic animals, birds, and pets may be kept on any property subject to the following provisions:

- A. Pets subject to rabies, including dogs and cats, shall have an annual rabies vaccination by a licensed Veterinarian and shall wear a current tag testifying to the animal's status as having a current vaccination.
- B. All domestic animals, birds or pets must be under restraint at all times.
- C. No person may keep within the Village animals, birds, or pets for commercial purposes.
- D. Pets shall not be construed to include animals traditionally classified as livestock or wildlife, excluding members of the equine family. However; nothing in this definition shall exclude a licensed Veterinarian from maintaining livestock or wildlife for a recognized veterinary purpose.
- E. Owners or responsible parties must maintain all animals in sanitary conditions so that flies, mice, other vermin and offensive odors are kept under control and the health, safety and welfare of the animal is not jeopardized.
- F. Animals, birds and other pets must not create noise that is offensive to other residents.
- G. No person shall keep a kennel.

3.03 Prohibited Animals

The following classes and types of animals are expressly prohibited from being kept or maintained within the Village unless specifically allowed by provisions elsewhere in this Chapter:

- A. Sheep or any member of the sheep family
- B. Goats or any member of the goat family
- C. Swine or any member of the swine family, including those domesticated swine known generally as "pot bellied pigs"
- D. Wildlife – wildlife shall not be kept, maintained or confined within the Village

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except for those authorized in 3.02 (D) above. Nothing in this provision shall be construed to prevent or prohibit individuals from providing feed or water to wildlife within in the Village as long as such wildlife is not being kept, maintained, or confined.

- E. Except as authorized elsewhere in this Chapter, Livestock shall not be kept, maintained, or confined.
- F. Animals not specifically authorized within this Chapter shall not be kept, maintained, or confined.

3.04 Prohibited Animals – Permitted Uses (2002-2)

The Board of Aldermen, upon a written request from a resident, may allow the keeping of no more than three (3) animals listed in Section 3.03 above under the following conditions:

- A. The resident desiring to keep a Prohibited Animal within the Village shall, prior to the location of said animal within the Village, present to the Board a written request specifically identifying the type of animal(s) to be kept, where it shall be kept, and why the resident believes that the keeping of such an animal(s) will not prove to be a nuisance to other residents; and,
- B. The resident shall provide a written acknowledgement with the written request that clearly shows the adjacent property owners do not object to the request to keep a Prohibited Animal on the specified property.

Upon receipt of a written request complying with the requirements of (A) and (B) above, the Board of Aldermen shall, in open session, hear the request and if sufficient information is available, shall rule on whether or not to allow the keeping of the requested Prohibited Animal. Should the Board rule in favor of the request, the requesting party agrees to and acknowledges the following conditions for the keeping of the animal:

- A. The Board or the Municipal Judge shall have the right to order the removal of the animal should a formal complaint be filed against the keeping of the animal if such complaint is found to be valid; and,
- B. The resident agrees to keep the animal in accordance with the terms and provisions contained elsewhere in this Chapter; and,
- C. The resident agrees that the permission granted by the Board is only granted for the unique and peculiar situation and animal that is requested and that should any other such animals be desired, it will constitute a separate request for a permitted use and that no precedent is set or established by the granting of any particular permitted use.

3.05 At-large, Packs, and Groups of Permitted Animals

- A. Any permitted animal shall not be allowed to run-at-large, in packs or groups of animals which pose a threat to persons, animals, other pets, and property damage.

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- B. If an animal is at large in violation of this Code, the Village authorizes:
 - 1. The capture and impounding of the animal,
 - 2. The sale of the animal for the cost of the sale proceeding and any penalties imposed,
 - 3. The destruction of the animal if the animal cannot be sold; and
 - 4. The imposition of a penalty on the owner.
- C. Owners or responsible parties who allow permitted animal(s) to run at-large, in packs or groups shall be considered to be in violation of this Code and shall be subject to punishment as defined in Chapter I of this Code.
- D. Permitted animal(s) found to be at-large, in packs or groups shall be handled by the law enforcement personnel appointed or approved by the Board of Alderman. The animal may be removed to an appropriate animal shelter whereupon the owner may, upon payment of all expenses associated with the permitted animal and the violations, may repossess the permitted animal(s).
- E. The individual animal shelter where the animal is taken may have rules concerning the length of time the animal may be impounded before being sold or disposed of. The owner of the animal(s) is responsible for contacting the shelter and repossessing their animal(s) after paying all applicable fines and fees. (Ord. 2005-2, 2-10-2005)

3.06 Dangerous Dogs (Ord. 45, Amended 2019-12)

A. Definition

Any dog shall be deemed dangerous upon the occurrence of any of the following events:

- 1. An unprovoked attack on a person or a restrained animal causing bodily injury by a dog outside a secure enclosure in which the animal is kept.
- 2. An unprovoked act of aggression by a dog outside a secure enclosure which causes a person to reasonably believe the dog will attack and cause bodily injury.
- 3. Certification by a Doctor of Veterinary Medicine that a dog poses a danger to human life, animal life or property based on a reasonable medical probability after observation.

B. Procedures and Requirements

- 1. Compliance with state law. As a public safety requirement, it shall be unlawful for any person to keep or harbor any dangerous dog(s) within the Village limits without complying with the Texas Health and Safety Code, sections 822.041–.047 (Vernon’s Supp. 1991).
- 2. Complaints. When a person reports a dangerous dog to the police office, the officer or county sheriff’s officers shall investigate the complaint and notify the owner of the report.

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3. Notice. After a complaint has been filed and an investigation duration has been completed, the Village police will notify the animal's owner by certified mail, return receipt requested, that the municipal court will hear the complaint at the next scheduled meeting.
4. Hearing. The municipal court shall then hear the complaint and the dog owner's defense, if any. After hearing the facts, the municipal court shall determine whether the animal is considered a dangerous dog. When the dog is determined to be dangerous, then the animal's owner shall comply with state law requirements concerning dangerous dogs.
5. Penalty. A violation of any provision of this section shall constitute an offense punishable by a fine not to exceed two thousand dollars (\$2,000.00). Each day a violation exists shall constitute a separate offense after the time limit prescribed by sections 822.041–822.047 of the Texas Health and Safety Code.

(State law reference—Authority of city to regulate the keeping of dangerous dogs, V.T.C.A., Health and Safety Code, sec. 822.041 et seq.)

3.061 Enforcement and Process (Amended 2019-12)

The following process and enforcement provisions shall be followed in the event there is a suspicion or allegation of a DANGEROUS DOG:

- A. Complaint - When a person reports a DANGEROUS DOG to the Chief of Police, the Chief of Police shall investigate the complaint and notify the owner of the dog of the report. Any complaint filed concerning a DANGEROUS DOG shall contain a sworn, written statement to the Village of Timbercreek Canyon Chief of Police containing the following information:
 1. Complainant's name(s), address(es), telephone number(s)
 2. Witness(es) name(s), address(es), and telephone numbers(s)
 3. Dates, times and locations of incidents involving the dog
 4. Dog's description
 5. Dog's Owner or responsible party(ies) name(s), address and telephone number, if known.
 6. A statement regarding the facts of the complaint and incident
 7. A statement of the dog's exhibited dangerous acts in the past, if known.
 8. Other facts and circumstances concerning the incident.
- B. Notice - After a sworn complaint has been filed and an investigation has been completed by the Chief of Police, the Chief of Police shall submit the same to the Municipal Judge. The Municipal Judge shall notify the animal's Owner or Responsible Party by certified mail, return receipt requested, that the Judge will hear the complaint at a time and date to be determined by the Judge.
- C. Hearing - The Municipal Judge shall hear the complaint and the dog owner or

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responsible party's defense, if any. After hearing the facts, the Municipal Judge shall determine whether the animal in question is to be declared a DANGEROUS DOG. If the dog is determined DANGEROUS, the animal's owner or responsible party shall comply with all State Law requirements concerning DANGEROUS DOGS. The Hearing shall be conducted in accordance with the relevant State Statutes for the conduct of such hearings.

- D. Appeal - An owner, not later than the 15th calendar day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the Municipal Court to a justice, county, or municipal court of competent jurisdiction.
- E. Penalty - A violation of any provision of this ordinance shall constitute an offense punishable by a fine not to exceed the maximum amount proscribed by State Law, as such may be amended from time to time. Each day a violation exists shall constitute a separate offense after the time limit prescribed by Section 822.041-822.047 of the Texas Health and Safety Code.

3.07 Equine (Ord. 11-B, Amended 2016-6, 2019-12)

Equine may be kept within the Village of Timbercreek Canyon provided:

- A. The Owner of any tract shall be permitted to keep a maximum of one (1) equine per acre for personal use only. There shall not be allowed more than three (3) equine per tract, regardless of the size of the tract.

EXCEPTION – AOUDAD RANCH

The Owner of any tract in the Aoudad ranch area shall be permitted to keep a maximum of one (1) equine per acre for personal use only for lots equal to or greater than ten (10) acre acres per tract. There shall not be allowed more than six (6) equine per lot that is between a ten (10) acre tract and under nineteen (19) acre tract. There shall not be allowed more than twelve (12) equine per lot that is equal to or greater than a nineteen (19) acre tract, regardless of the size of tract. All tracts less than ten (10) acre shall not be allowed more than three (3) equine per tract.

- B. Each owner shall provide an exercise area appropriate for an equine that includes adequate stabling for each equine. No exercise area shall be larger than 6,000 square feet and no more than one exercise area per tract shall be allowed. All stabling will be constructed in accordance with the relevant provisions of the Village Zoning and Building Codes (Chapters VIII and IX).
- C. Owners shall use reasonable and prudent measures to prevent overgrazing and trampling of the soil by their animals. To avoid wind and rain erosion, Owners shall ensure that bare spots are not developed in the animal enclosure, except for the exercise area described above.

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- D. Where necessary, Owners shall install appropriate fencing or other devices to prevent runoff and eroded material from negatively impacting vegetation on other property or from contaminating stream or creek beds. Appropriate fencing shall be of a type that is less than 30 inches in height and allows the passage of water while retaining other runoff material.
- E. Owners shall ensure that manure is removed from stabling or exercise areas and is placed in a location to prevent runoff from the manure from leaving the property.
- F. The owner of any equine shall provide at all times adequate fencing to properly restrain equines from other properties.

Any person in violation of any portion of this Chapter shall be considered to be in violation of this Code and shall be subject to punishment as defined in Chapter 1 of this Code and the provisions stated in Section 3.05 (2 and 4) shall apply as the remedy for the at-large equine. (Ordinance 2005-2, 2-10-2005)

3.08 4-H or FFA Project Animals (Ord. 11-B)

4-H and FFA project animals may be located within the Village subject to the following:

- A. Any animal other than those listed specifically in Sections 3.02 or 3.06 of this Code must be individually approved by the Village Board of Aldermen prior to their placement in the Village.
- B. Approval of a particular individual project animal shall be for that individual animal only, in the situation and use as presented to the Board of Aldermen and shall not be construed as a precedent to allow additional animals of a similar species either for the Owner of the animal that receives the approval or for others who desire to locate a similar animal within the Village. Each individual project animal must be approved on an individual basis by the Village Board of Aldermen.
- C. Any approved project animal must be owned by a Village resident who is enrolled in a verifiable 4-H or FFA program and the animal must be a required element of the program.

3.09 Penalty

Violation of a provision of this Code other than that in 3.06 shall be considered a Class C misdemeanor and shall be punishable by a fine up to the maximum amount allowed by State Law at the time of the offense and each and every day of violation shall be considered a separate violation and penalties may be cumulative.

3.11 to 3.15 Reserved

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4.01 Firearms – Unlawful to Discharge (Ord. 9 – Amended 2010)

It shall hereafter be unlawful for any person to discharge any gun or firearm at any place within the corporate limits of the Village of Timbercreek Canyon.

- A. Gun or Firearm Defined: For the purposes of this article, the term “gun” or “firearm” shall be defined as follows: Any center fire, rim fire or black powder gun.
- B. Penalty: Any person who shall violate any provision of this article shall be guilty of a misdemeanor; and, upon conviction, shall be punished by a fine not to exceed the maximum specified under Chapter I of this Code.
- C. Persons to be specifically excluded and excepted from the provisions of this article are peace officers and other authorized personnel in pursuing their official duties, and also private persons in defense of themselves or their property and in emergencies.

4.02 Hunting (Ord. 9 – Amended 2010)

- A. Trapping of domestic and/or non-game animals, as defined by Texas Parks and Wildlife, on personal property, is allowed by a homeowner or his representative or law enforcement officials.
- B. Homeowner or his representatives may remove trapped animal(s) from the Village or may contact the Village Police Department to facilitate removal of the animal by County officials. Upon removal by County officials, the Village shall, from current revenues, pay to the County any fees associated with removal upon receipt of a written invoice from the County to the Village stating the date of services provided and the number of animals captured and controlled on each date. The Village will then invoice the homeowner for the fees associated and paid for the removal of the animal by County Officials according to the Interlocal Contract for Animal Control Services.
- C. Any person who violates the above provisions shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed the maximum specified under Chapter I of this Code.

4.03 Burning (Ord. 34. 12-A(E))

No person shall intentionally or negligently burn or allow to burn any material, including but not limited to: grass, trash, brush, waste building materials, or debris of any type whatsoever.

The preceding section shall not apply to burning contained entirely within a code- approved fireplace located within a dwelling or to common wood, charcoal, or gas fired cooking devices, whether located or used inside or outside the dwelling.

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Any person who violates the above provisions shall be punished by a fine not to exceed the maximum specified under Chapter I of this Code.

4.04 Removal of Creek Water Prohibited (Ord. 52)

Removal of water from any creek within the corporate limits of the Village of Timbercreek Canyon for commercial or residential purposes is prohibited.

- A. Exception - Nothing in this Section shall be construed to prevent a duly authorized Fire Department from removing creek water for the purposes of fire suppression and prevention.
- B. Penalty - Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the maximum specified under Chapter I of this Code.

4.05 Fireworks Prohibited (Ord. 13)

No fireworks of any type may be possessed, ignited, or otherwise exploded within the corporate limits of the Village of Timbercreek Canyon.

Penalty - Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the maximum specified under Chapter I of this Code.

4.06 Bridges and Dams (Ord. 16)

The following activities are prohibited on all bridges and dams located within the corporate limits of the Village of Timbercreek Canyon:

- 1. Fishing from or across
- 2. Parking any vehicle or conveyance
- 3. Jumping or diving
- A. Exception - Nothing in this Section shall be construed to prevent Emergency, Maintenance, or Repair Vehicles from parking on a bridge or dam when necessary to complete the required maintenance or repairs or to perform a valid Emergency service.
- B. Penalty - Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the maximum specified under Chapter I of this Code.

4.65 Park Use Regulation (Ord. 2018-1)

The following activities are prohibited on Park property:

- 1. Consumption of beverages in glass containers

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2. Open fires of any kind, see section 4.03
3. Littering or discarding trash, see section 4.075
 - A. Exception – Common wood, charcoal, gas, and electric grills are permitted.
 - B. Penalty – Any person who violates the provisions in this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the maximum specified under Chapter I of this Code.

4.07 Trespass Prohibited (Ord. 8)

No person shall enter upon the enclosed real property of another person, or trespass thereon without having the invitation and consent of the owner of the same or the agent of the owner to come upon such property.

No person shall enter or trespass upon the personal property of any other person without his invitation or consent.

Definitions:

1. Property shall be defined as any kind or character of property, real or personal, of any person, including the property of the Village of Timbercreek Canyon or any corporation owning or leasing real property within the limits of said Village. It shall also include any body of water or lake situated within the boundaries of said Village whether owned or under lease, unless such body of water or lake is publicly owned.
2. Owner shall mean any lessee, renter, or sub-lessee of any property defined above or any person having title or other lawful ownership of such property defined above.
3. Trespass shall mean any interference with the exclusive possession of property or any injury or damage to any property, however slight.

4.75 Littering Prohibited (Ord. 2003-4)

Definitions

Refuse – shall include but not be limited to garbage, trash, aluminum cans, ashes, rubbish, junk, automobile parts, paper and litter.

Place (and its derivatives) – shall include but not be limited to throw, dump, unload, discharge, and deposit.

Right-of-way – shall mean street or other area generally accessible by the residents of Timbercreek Canyon.

Littering Prohibited

- A. It shall be unlawful for any person to place or cause to be placed any refuse on any

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privately owned lot, tract or parcel of land located within the Village limits with the intention of abandoning the same.

- B. It shall be unlawful for any person to place or cause to be placed any refuse on any right-of-way or on any other Village owned property within the Village limits.

4.08 Penalty

Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the maximum specified under Article I of this Code.

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5.01 Environmental Safety – General (Ord. 12-A)(Amended 2018-3, 2020-1)

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires otherwise:

Improved Land: Property that has been groomed around a home or building for human habitation.

Unimproved Land: Property that has remained untouched by the owner and has not been developed.

Noxious Weeds: A weed that is harmful to horticultural crops, natural habitats or ecosystems, humans, or livestock.

Volatile Vegetation: Plant life that can become fuel for a fire or intensify fire conditions.

It shall be unlawful for any person, corporation or other entity to perform or permit the performance of the following acts on any premise, whether improved, unimproved, or vacant:

- A. Accumulation of lumber, boxes, bricks, stones, noxious weeds, or plant growth or materials that constitute a fire or health hazard.
- B. Placement or storage of inoperable vehicles where such vehicles are visible to the public. For the purposes of this sub-section, inoperable vehicles shall include vehicles that are not currently registered and inspected in accordance with the motor vehicle laws of the State of Texas.
- C. Allow any premise to accumulate any item identified in sub-section 1 or 2 of this Section when such accumulation may serve as a breeding or hiding place for any vermin or vector or when such accumulation renders said premise unsanitary.
- D. Deposit, dump, discard, or place trash, refuse or any type of discarded item or items on the property of others, whether such property is owned individually, publicly, or corporately.
- E. To allow trash, debris, or other refuse to blow or fall from a vehicle transporting said trash, debris, or refuse.
- F. To dump erodible earth where it may wash into any waterway within the Village of Timbercreek Canyon.
- G. To allow the existence or stockpile on any property of earth or other material in such a state where erosion may lead to silting of any waterway within the Village of Timbercreek Canyon.

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5.02 Environmental Safety - Waterways (Ord 12-A)

It shall be unlawful for any person, corporation or other entity to obstruct, bridge, divert or confine an existing channel through or across which surface water in time of rain or storms naturally flows.

5.03 Penalty (Amended 2020-1)

- A. Violation of the provisions of Section 5.01 or 5.02 shall be punishable by a fine not to exceed the maximum amount specified in Article I of this Code.
- B. Violations of the provisions of Section 5.01 or 5.02 that constitute a fire safety or public health hazard shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed the maximum amount specified in Article I of this Code.
- C. For the purposes of this Article, each day a violation occurs shall be considered a separate offense and shall be punishable by fines as specified above for each separate day the violation exists.
- D. For the purposes of this Article, any criminal penalties shall be cumulative of the cause of action reserved in favor of the Village in the nature of a mandatory injunction, and any person violating any of the foregoing provisions of this Section shall be subject to mandatory injunctive relief in a Court of Law having proper jurisdiction over such actions together with a suit for all damages that may occur on account of such violation.

5.04 Enforcement, Notice, Failure to Comply & Appeal (Ord. 12- A)(Amended 2018-3, 2020-1)

The Village Board of Aldermen shall designate itself, a Village Officer, or a committee, whether existing or created specially for the purpose of the enforcement of the provisions of this Chapter, to perform the duties required in the enforcement of the provisions of this Chapter. In the absence of the specific designation of the Board, a Village Officer, or a committee, it is the intent of the Board that the Chief of Police be designated to perform the duties required in the enforcement of the provisions of this Chapter.

The following provisions shall be followed in the enforcement of the provisions of this Chapter.

- A. Notices –
 - 1. Compliance Advisory – A Compliance Advisory (CA) will be presented to the violator and/or other responsible parties through hand delivery on site, or by certified mail.
 - 2. Notice of Violation – A Notice of Violation (NOV) will be issued either in person or by certified mail, when the requirements of the Compliance Advisory have not

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been met. A NOV may also be directly issued in the violator(s) on the property are a second occurrence within a short timeline (e.g. a similar violation within 6-18 month period.)

3. Notice of Noncompliance – A Notice of Noncompliance (NONC) will be issued either in person or by certified mail when the requirements of the NOV, and/or CA have not been met.
 4. Other Correspondence – Other means of correspondence, such as letters, may be sent to violators at the discretion of Code Enforcement, the Village Attorney, and City Manager.
 5. Voluntary Compliance without Penalty or Legal Action – It is the Village’s policy to encourage and promote voluntary code compliance by providing violators the opportunity to correct the violation with little or no penalty, by working with them, using available resources, and avenues. Voluntary compliance is generally less expensive for all parties and provides a more satisfactory and lasting result than involuntary compliance.
 6. Notice of Pending Citation – Issuance of a Notice of Pending Citation (NOPC) is for violations easily corrected or minimal in nature.
 7. Issuance of Citation – Citations shall be issued in accordance with law and shall state the violation in common language and cite the Village Ordinance Reference.
- B. Failure to Comply - Should a property owner fail to take corrective action the Village may perform, or cause to be performed, such corrective action as is necessary to ensure compliance with the provisions of this Article.
- C. Should the Village perform, or cause to be performed, the necessary corrective action(s), the Property Owner shall be charged for the actual cost incurred in taking such corrective action(s) plus an additional fee equal to one hundred and twenty- five dollars (\$125.00) plus ten percent (10%) of the actual cost of such corrective action. In the event the Village shall perform the work, it shall charge a competitive rate as if such work was performed by a third party not connected with the Village. The Village shall present a demand to the property owner requesting payment for the costs above within 30 days.
- D. If the Property Owner fails to remit the payment requested within the 30 day period, the Village shall recover its costs by securing a lien against the property subject to the corrective action, and such lien shall be subject to foreclosure in a Court of Law and to forced sale of the property involved, in keeping with the procedure for foreclosure of all other statutory liens under the provisions of the revised Civil States of Texas, herein referred to for all appropriate procedures.
- E. Appeal - Any action of such Committee, Village Officer, or Village Board requiring any Property Owner to take a corrective action may be appealed to the Board upon

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thirty days (30) advance written notice. Action of the Board upon majority vote of the members of the Board shall be final.

5.05 Inspection (Ord. 12-A) (Amended 2020-1)

Any Property Owner or Agent may request an inspection of any apparent condition in violation of this Article. Requests shall first be directed to the Police Department.

Nothing in this section shall be construed to prohibit or prevent an appropriate Village Officer, Committee, or member of the Board from requesting an inspection of an apparent violation of their own volition.

5.06 Reserved

5.07 Noise (Ordinance 2010-6) (Amended 2020-1)

A. Prohibited Noises

1. Any unreasonably loud and/or continuous unnecessary noise which causes material distress, discomfort, or injury to a reasonable person in the immediate vicinity thereof is hereby declared to be a nuisance and is prohibited particularly between 10:00 PM and 7:00 AM.
2. Continuous, interferes with enjoyment of homes. Any noise of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, is hereby declared to be a nuisance and is prohibited.

B. Acts Resulting in Noise Violations – The following acts, which shall not be deemed exclusive, are declared to be nuisances if they cause material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity or if they continually disturb the peace.

3. Musical Instruments. The playing of any radio, stereo or other musical instrument in such manner or with such volume, which disturbs the peace.
4. Animals and Birds. The keeping of any animal or bird which by causing frequent or continual noise shall disturb the peace with residents in the immediate vicinity.
5. Horns. The continual or frequent sounding of any horn on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.
6. Cars. The running of any automobile, motorcycle or vehicle in such a manner as to create loud or unnecessary grating, grinding, jarring or rattling noise or vibrations.
7. Exhaust. The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle except through a muffler or other device which

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will effectively prevent loud or explosive noises.

8. Construction and repairs. The erection, including excavation, demolition, alteration or repair work on any building other than between the hours of 7:00a.m. and 10:00p.m. except in case of urgent necessity.
9. Unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle.

5.08 Lighting (Ordinance 2014-)

- A. The intent of this ordinance is to mitigate light pollution and restrict the permitted use of certain light fixtures emitting into the night sky, and onto adjacent and nearby properties, undesirable light rays.
- B. All outdoor light fixtures shall be located, aimed or shielded so as to minimize stray light from entering onto neighboring properties either adjacent to or below the affixed light in order to redirect offending light distribution.
- C. Directional fixtures such as floodlights or spotlights shall be installed or aimed so that they do not shine onto any other property.

5.09 Noxious Weeds and Plant Growth (Ordinance 2018-3, 2020-1)

It is prohibited to have noxious weeds and volatile vegetation located on improved land. The natural plant growth in the Village of Timbercreek Canyon that is located on unimproved land can remain undeveloped.

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Chapter VI
Emergency Management**

Chapter VI – Emergency Management (Ord. 48)

6.01 Emergency Management Director and Coordinator

The office of Emergency Management Director for the Village of Timbercreek Canyon has been established and exists in accordance with state law. The Mayor shall serve as the Emergency Management Director and shall appoint an Emergency Management Coordinator. The Emergency Management Coordinator serves at the pleasure of the Emergency Management Director.

The Emergency Management Director shall be responsible for a program of comprehensive emergency management within the Village and shall be responsible for carrying out the duties and responsibilities set forth in this Article. The Emergency Management Director may delegate authority for the execution of these duties to the Emergency Management Coordinator, but the Director shall retain ultimate responsibility for such execution.

The operational Emergency Management organization of the Village of Timbercreek Canyon shall consist of the officers of the Village so designated by the Director in the Emergency Management Plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers in accordance with the terms of the Emergency Management Plan.

6.02 Emergency Management Director - Powers & Duties

The duties, powers and responsibilities of the Emergency Management Director shall include, but is not limited to, the following:

- A. Conduct an on-going survey of actual or potential hazards which threaten life or property within the Village and an on-going program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- B. Supervision of the development and approval of an Emergency Management Plan for the Village of Timbercreek Canyon and shall recommend for adoption by the Board of Aldermen all mutual aid agreements deemed necessary for the implementation of such plan.
- C. Authority to Declare a Local State of Disaster - the declaration may not be continued or renewed for a period in excess of 7 days except by or with the consent of the Board of Aldermen. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the Village Secretary.
- D. Issuance of necessary proclamations, regulations, or directives, which are necessary for carrying out the purposes of this Article. Such proclamation, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to

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the attention of the general public, and unless circumstance attendant on the disaster prevent or impede, shall be promptly filed with the Village Secretary.

- E. Direction and Control of the operations of the Village of Timbercreek Canyon Emergency Management Organization as well as the training of Emergency Management personnel.
- F. Determination of all questions of authority and responsibility that may arise within the Emergency Management organization of the Village.
- G. Maintenance of Liaison with other municipal, county, district, state, regional or federal Emergency Management organizations.
- H. Marshaling of all necessary personnel, equipment, or supplies from any department of the Village to aid in the carrying out of the provisions of the Emergency Management Plan.
- I. Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with Randall County and with other municipalities within the county, for the county-wide coordination of Emergency Management efforts.
- J. Supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving Emergency Management within the Village.
- K. Authorizing of agreements, after approval by the Village Attorney, for use of private property for public shelter and other valid purposes.
- L. Survey of the availability of existing personnel, equipment, supplies and service which could be used during a disaster, as provided for herein.
- M. Other requirements as specified in the Texas Disaster Act of 1975 (V.T.C.S. Article 6889-7)(Texas Government Code Ann. Chapter 418 [Vernon 1988], as same may be amended from time to time)

6.03 Emergency Management Plan

A comprehensive Emergency Management Plan shall be developed and maintained in a current state. The Plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties and powers, and designate officers to carry out the provisions of this Article. As provided by state law, the Plan shall follow the standards and criteria established by the State Division of Emergency Management of the State of Texas. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the State Division of Emergency Management. When approved, it shall be the duty of all departments and agencies to

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perform the functions assigned by the Plan and to maintain their portion of the Plan in a current state of readiness at all times. The Emergency Management Plan itself shall be considered supplementary to this Article and shall have the effect of law during the time of a disaster.

6.04 Inter-jurisdictional Program

The Mayor is hereby authorized to join with the County Judge of Randall County in the formation of an Emergency Management Council for Randall County and shall have the authority to cooperate in the preparation of a joint Emergency Management Plan and in the appointment of a joint Emergency Management Coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the Village of Timbercreek Canyon.

6.05 Override

At all times when the orders, rules, and regulations made and promulgated pursuant to this Ordinance shall be in effect, they shall supersede and override all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

6.06 Liability

This Article is an exercise by the Village of its governmental functions for the protection of the public peace health, and safety and neither the Village of Timbercreek Canyon, agents and representatives of said Village, nor any individual receiver, firm, partnership, corporation, association, or trustee, nor any agents thereof, in good faith carrying out complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this Article shall not be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the Village of Timbercreek Canyon license of privilege, or otherwise permits the Village to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or man-made disaster shall, together with his successors in interest, if any not be civilly liable for the death or, or injury to persons on or about such real estate or premises under such license privilege or other permission or for loss of, or damage to, the property of such person.

6.07 Commitment of Funds

No person shall have the right to expend any public funds of the Village in carrying out Emergency Management activity authorized by this Article without prior approval of the Board of Aldermen, nor shall any person have any right to bind the Village by contract, agreement or otherwise without prior and specific approval of the Board of Aldermen unless during a declared disaster. During a declared disaster the Mayor may expend and/or commit public funds of the Village when deemed prudent and necessary for the protection of health,

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life or property.

6.08 Offenses, Penalties

- A. It shall be unlawful and shall be considered an offense for any person to willfully obstruct, hinder, or delay a member of the Emergency Management Organization in the enforcement of a rule or regulation issued pursuant to this Article, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this Article.
- B. It shall be unlawful and shall be considered an offense for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of Village of Timbercreek Canyon Emergency Management Organization unless authority to do so has been granted to such person by the proper officials.
- C. Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning signal, shall be deemed guilty of a violation of this Chapter as a misdemeanor and shall be subject to the penalties imposed by this Code.
- D. Convictions for violations of the provisions of this Chapter shall be punishable by a fine not to exceed the maximum specified in Chapter I of this Code.

6.09 Severability

If any portion of this Article shall, for any reason, be declared invalid, such invalidity shall not affect the remaining provisions thereof.

6.10 Limitations

This Article shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

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Chapter VII
National Flood Insurance Program**

**Chapter VII – National Flood Insurance Program
Flood Damage Prevention Ordinance (Ord. 6-A – Amended 2010)**

Article I – Statutory Authorization, Findings of Fact, Purpose and Methods

Section A. Statutory Authorization

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Aldermen of The Village of Timbercreek Canyon, Texas does ordain as follows:

Section B. Finding of Facts

- (1) The flood hazard areas of The Village of Timbercreek Canyon 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 affect the public health, safety and general welfare.
- (2) 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.

Section C. Statement of Purpose

It is the purpose of this ordinance 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, 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

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- (7) Insure that potential buyers are notified that property is in a flood area.

Section D. Methods of Reducing Flood Losses

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

- (1) 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;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Article 2 -Definitions

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

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

APPURTENANT STRUCTURE – means 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 – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 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 - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

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BASE FLOOD - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

BREAKAWAY WALL – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE - means 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 - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION - means 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 - means 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 before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means 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, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

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FLOOD ELEVATION STUDY – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – see *Flood Elevation Study*

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means 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 - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a 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.

FLOOD PROTECTION SYSTEM - means 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 area within a community 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.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – see *Regulatory Floodway*

FUNCTIONALLY DEPENDENT USE - means a use, which 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.

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

HISTORIC STRUCTURE - means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the

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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 as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-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 - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, 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, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation

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adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means 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 floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - means 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 – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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. L. 97-348)), 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. The actual start means 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. 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 basement, 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. For a 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 – means, for floodplain management purposes, 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 - means 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 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other

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improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which 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 which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Article III – General Provisions

Section A. Lands to Which This Ordinance Applies

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of The Village of Timbercreek Canyon.

Section B. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for The Village of Timbercreek Canyon," dated December 29, 2009, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated December 29, 2009 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Section C. Establishment of Development Permit

A Floodplain Development Permit shall be required to ensure conformance with the provision of this ordinance.

Section D. Compliance

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No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. Interpretation

In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

Section G. Warning and Disclaimer or Liability

The degree of flood protection required by this ordinance 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 man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Article 4 - Administration

Section A. Designation of the Floodplain Administrator

The Mayor is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

Section B. Duties & Responsibilities of the Floodplain Administrator

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

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- (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) 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) the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall 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 Article 5.
- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community'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 community.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

Section C. Permit Procedures

- (1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood

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hazard. Additionally, the following information is required:

- (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);
 - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - (e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);
- (2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- (a) The danger to life and property due to flooding or erosion damage;
 - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (c) The danger that materials may be swept onto other lands to the injury of others;
 - (d) The compatibility of the proposed use with existing and anticipated development;
 - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (f) 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;
 - (g) 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;
 - (h) The necessity to the facility of a waterfront location, where applicable;
 - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

Section D. Variance Procedures

- (1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
- (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

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Administrator in the enforcement or administration of this ordinance.

- (3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts 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) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) 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 designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) Prerequisites for granting variances:
 - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (b) Variances shall only be issued upon:
 - (i) showing a good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) 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, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base

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flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- (11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) 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.

Article 5 – Provisions for Flood Hazard Reduction

Section A. General Standards

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) 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;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) 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;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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Section B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

- (1) **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 subsection as proposed in Article 4, Section C (1) a., is satisfied.
- (2) **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 so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, 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 subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
- (3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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:
 - (a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than 1 foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) **Manufactured Homes** -
 - (a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood

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damage. For the purposes 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.

- (b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on 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.
 - (c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either: (i) the lowest floor of the manufactured home is at or above the base flood elevation, or (ii) 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. 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.

Section C. Standards for Subdivision Proposals

- (1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
- (2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is

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greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

- (4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All subdivision proposals including the placement of 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.

Section D. Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 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; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).
- (2) All new construction and substantial improvements of **non-residential** structures;
 - (a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or
 - (b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads 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 Article 4, Section C are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

Section E. Floodways

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the

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following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.

Section F. Severability

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section G. Penalties for Non-Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Board of Aldermen from taking such other lawful action as is necessary to prevent or remedy any violation.

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Zoning**

Article VIII - Zoning (Ord. 17-E, 2-B)

8.01 Statement of Purpose

The Village of Timbercreek Canyon believes that it is in the public interest to promote the health, safety and general welfare of the residents of the Village of Timbercreek Canyon, Texas through the equitable regulations, protection, preservation, and enhancement of the value of lands and the improvement of land use activities. Accordingly, the Village has adopted the following regulations concerning the zoning and development of property within the corporate limits.

8.02 Definitions (Amended 2020-2)

The following definitions shall apply to the terms and provisions of this Chapter:

- A. **Board**- the Mayor and Aldermen as the governing body of the Village.
- B. **Police Chief** - the Village Police Chief, or his/her deputies charged with the keeping of the peace and enforcement of the Village Ordinances and Code.
- C. **Owner** - Any person, firm, or corporation who is owner of any lot within the boundaries of the Village, or said person, firm or corporation's heirs, representatives, or assigns.
- D. **Structure** - Any building, whether residential or non-residential in function, either attached to or detached from any existing building or separate building.
- E. **Alteration** - Any change to the exterior of a structure.
- F. **Front Lot Setback** - Shall be the smallest distance from the front property line to the front line of any building, covered porch or terrace, or attached accessory building.
- G. **Side and Back Lot Setbacks** - Shall be the smallest distance from the side or back property line(s) to the side or back line of any building, covered porch or terrace, or attached accessory building.
- H. **Outbuildings and Accessory Buildings** - for the purpose of this definition, Outbuildings and Accessory Buildings are synonymous. They are defined as any structure on a lot that is intended to house anything other than persons. I.E: being designed, adapted, modified, or used for vehicles, tools, or other articles or purposes other than as a permanent residence.
- I. **Completed Construction** - shall be defined as having the structure in a finished state, ready for final inspection by the Building Committee or lending institution, with all building materials, scrap and waste removed from the site.
- J. **Building Committee** - the Board of Aldermen has created a Building Committee consisting of no more than 7 members appointed by the Board for two-year terms. The Building Committee is specifically authorized and charged with the implementation of

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zoning and building regulations. This Committee's authority shall specifically include the authority to consider and issue building permits, conduct or arrange for the conduct of required or necessary inspections, and other items directly related to the implementation of the Zoning and Building regulations of the Village.

- K. **Planning and Zoning Commission** - the Village Board of Aldermen has created a Planning & Zoning Commission. This Commission is responsible for approving plats, maintaining and developing and comprehensive plan, recommendation of zoning regulations, recommendation of zoning boundaries, and other issues directly related to Zoning issues. This Commission is to be composed of 5 members appointed by the Board for two-year terms.
- L. **Zoning Board of Adjustment** - the Village Board of Aldermen has been designated as the Zoning Board of Adjustment and shall hear and consider requests related to: a claim of error in the interpretation of zoning regulations; a request for a special exception from a condition of the zoning regulations; a request for a variance from a condition of the zoning regulations; a request for any item specifically noted in the zoning regulations.
- M. **Living Area** - shall be defined as the total square footage of the residential structure that is heated and/or air conditioned.
- N. **Square Footage** - for the purpose of issuing permits and/or calculating fees, square footage of a structure shall be defined as the total square footage of the structure contained within the exterior walls.

8.03 Zoning Districts

The Village has been divided into Zoning Districts which match the existing plats of record within the Village and are designated as follows:

- Unit 1
- Unit 2
- Unit 3
- Unit 4
- Unit 5
- Unit 6
- Unit 7
- Unit 8
- Unit 9
- Unit 10 (shall be defined as all land not located within Units 1 through 9)

8.04 General District Regulations (amended 2002-3, 2020-2)

Subject to the Specific Use Permits listed in 8.10 below, the following District Regulations shall apply:

- A. All Zoning Districts within the Village are hereby designated for use as Single Family

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Residence only. However, nothing in this regulation shall be construed to prevent the Village of Timbercreek Canyon from using a lot, tract, or parcel of land for purposes other than Single Family Residential that benefits the general health, safety and welfare of the residents.

- B. Single Family Residence shall be defined as exclusively for residential purposes only, and not otherwise. Any lot, tract, or parcel of land shall not be used or occupied for any purpose or activity incidental to or in any manner connected with the operation or conduct of a business or profession if such business or profession holds itself out to the general public as a business or profession and which requires members of the general public to enter into the premises to enjoy goods or services preferred by such business or profession. Businesses or professions which utilize an office which is situated within a Single Family Residence shall be permitted, provided that no sign signifying the presence thereof is displayed.
- C. No tract/lot shall be used for more than one Single Family Residence

8.05 Specific Unit Regulations

Each District shall have specific regulations regarding minimum square footage within the living area as follows:

Unit 1

Lots 1 through 18 –	1,600 square feet
Lots 19 through 27 -	2,000 square feet
Lots 28 and 29 -	1,800 square feet
Lots 30 through 38 -	2,500 square feet

Unit 2

Lots 1 through 5, 12 through 22, and 29 through 54 -	1,600 square feet
Lots 6 through 11 -	1,800 square feet
Lots 23 through 28 -	2,000 square feet

Unit 3

Lots 2, 14 through 21, and 26 through 29 -	1600 square feet
Lots 3 through 6, 12, 13, 23, 24 and 25 -	2,000 square feet
Lots 1, 7,8,9,10,11 and 22 through 30 -	2,500 square feet

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Unit 4

Lots 1 through 33 and 37 through 45 -	1,600 square feet
Lots 34, 35, and 36 -	1,800 square feet

Unit 5

Lots 1 through 22, 24, 25 26, 28, 29, and 30 -	1,600 square feet
Lots 23 and 27 -	1,800 square feet
Lots 31 and 32 -	2,000 square feet

Unit 6

All lots in Block 1 -	1,800 square feet
All lots in Blocks 2,3,4 & 5 -	1,600 square feet

Unit 7

All lots in all Blocks -	1,600 square feet
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Unit 8

Lot 1, Block 1 -	2,000 square feet
Lot 18, Block 1	1,800 square feet
other lots in all Blocks -	1,600 square feet

Unit 9

Lots 1 through 67 and 74 -	1,600 square feet
Lots 68 and 73 -	2,000 square feet

Unit 10

All lots -	2,000 square feet
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Future Units – Annexations

All lots shall have a minimum square footage requirement of 1,600 square feet in the living area.

8.06 Reserved (Amended 2020-2)

8.07 Division of Tracts/Lots

No tract or lot within the Village of Timbercreek Canyon shall be divided into two or more smaller tracts or lots.

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8.08 Plats (amended 2019-4)

The Village of Timbercreek Canyon shall not accept any plat that causes an individual lot or tract to be less than one (1) acre in size if such lot or tract is located outside of Units 1 through 9.

8.09 Signs (amended 2002-3)

Subject to the exceptions listed below, no signs, billboards, posters, or advertising devices of any kind shall be erected or maintained on any tract or lot.

- A. No more than two (2) signs no larger than ten square feet (10 s.f.) each may be erected upon property which is actively offered for sale.
- B. Signs advertising or espousing political candidates or campaigns may be erected upon property during an active political campaign. These signs may be no larger than ten square feet (10 s.f.) each and must be removed within 5 days following the completion or cancellation of the election.
- C. No more than two (2) signs no larger than ten square feet (10 s.f.) each may be erected upon privately owned property within the Village if such signs are of a type commonly used to recognize or commend students, student athletes, or students engaged in educational pursuits.
- D. Contractor signs may be added before permitted construction, during construction and removed 30 days after construction completion.

8.10 Specific Use Permits (2002-4)

The Village of Timbercreek Canyon shall consider the following uses on a Specific Use Permit Basis:

- A. Churches, other Structures or Uses for Commonly Recognized Faith- Based Activities the Board of Aldermen as the Zoning Board of Adjustment will consider requests for Churches, Other Structures or Uses for Commonly Recognized Faith-Based Activities on a case-by- case basis. The Board of Aldermen shall consider whether or not the requested use or structure shall unduly infringe upon the spirit and intent of this Code in general and whether or not the requested use or structure shall unduly infringe upon property owners within 300 linear feet of the exterior of the proposed structure or use.
- B. Telecommunications Towers and Other Aerial Structures – the Board of Aldermen as the Zoning Board of Adjustment will consider requests for telecommunications towers and other Aerial Structures on a case- by-case basis. The Board of Aldermen shall consider whether or not the requested telecommunications tower or other aerial structure shall unduly infringe upon the spirit and intent of this Code in general and whether or not the proposed structure shall unduly infringe upon the use, pleasure, and enjoyment of property owners within a reasonable line-of-sight of the proposed tower

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or structure. When considering such a request, the Board shall call a public hearing duly posted 10 days prior to the hearing to solicit public comment and input on the proposed tower or structure.

- C. Community Centers and other Structures for the general use and benefit of the residents of Timbercreek Canyon – the Board of Aldermen as the Zoning Board of Adjustment will consider requests for Community Centers and other Structures for the general use and benefit of the residents of Timbercreek Canyon on a case-by-case basis. When considering such a request, the Board of Aldermen shall consider whether or not the proposed structure will unduly infringe upon the use, pleasure, and enjoyment of property owners within 300 linear feet of the exterior of the proposed structure.

8.11 Annexations

Any property annexed into the Village that is not included in Units 1 through 10 shall be subject to the same Zoning requirements as exists at the time of annexation for property within Units 1 through 10.

8.12 Previously Existing Uses

Any plat, lot, or structure legally in existence at the time of the adoption of this Code that is not in compliance with the foregoing provisions shall be termed “legally non-conforming use” and any change in the use of such plat, lot, or building for a period of time exceeding 6 months shall result in the elimination of the “legally non-conforming use” privilege and any future use shall be required to be in full compliance with this Article.

8.13 Variances (Amended 2003-9)

It is the intent of the Village Board of Aldermen to issue variances in only those cases where a unique hardship due to special circumstances exists and where substantial justice can only be had through a variance that still upholds the spirit and purpose of the Zoning Article. Self-induced hardships shall not be considered a unique hardship for the purpose of considering a variance request.

Procedure:

- A. An application for a variance must be filed in writing with the Planning & Zoning Commission together with a non-refundable fee in the amount currently in effect and approved by the Board of Aldermen. The written request for a variance must specifically state the provision(s) from which the variance is requested and must clearly identify the unique hardship or special circumstance that exists which causes the variance to be necessary. In addition, the requestor should provide sufficient detail in the request to allow the Board of Aldermen to consider all relevant facts in the matter.

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- B. The Planning & Zoning Commission shall meet and review the request to determine if it is in proper form to proceed to the Board of Aldermen or if additional information is required. The Planning & Zoning Commission shall also develop a recommendation to the Board of Aldermen regarding whether or not the variance request, in their opinion, should be approved or disapproved. The Board of Aldermen shall consider, but is not bound by, the recommendation of the Planning & Zoning Commission. Once the Planning & Zoning Commission has determined that the request is in proper form and has developed a recommendation regarding approval or disapproval of the request, then it shall be forwarded to the Mayor for consideration at the next appropriate meeting of the Board of Aldermen.
- C. The Mayor shall cause a Notice of Public Hearing to be posted at least ten (10) days prior to the next meeting of the Board of Aldermen which allows for time to satisfy this requirement and shall ensure that all resident property owners within one quarter (1/4) mile of the location subject to the variance are notified in writing of the public hearing.
- D. The Board of Aldermen shall conduct a Public Hearing on the variance request and shall allow those members of the public present to provide testimony to the Board regarding the request. In addition, the Board shall cause any written comments received to be read into the record during the public hearing.
- E. The Board of Aldermen, after receipt of oral and written comments, shall consider the variance request in open session. Variances must be approved by a majority of the total members of the Board of Aldermen. In the event a written protest from the owners of at least twenty (20) percent of the lots or land located within one quarter (1/4) mile of the location subject to the variance is received, the variance shall not be granted except by a three quarters (¾) majority of the total members of the Board of Aldermen.
- F. Any approved variance shall be granted in the form of an ordinance and shall be a permanent part of the Village record.
- G. The Village Board of Aldermen shall not consider the same or substantially same request for a variance more than once in any twelve (12) month period.

8.14 Penalties

- A. Any person who violates any provision of the foregoing articles shall be guilty of a Class “C” Misdemeanor, and any such violation shall be punishable by a fine of not less than one dollar (\$1.00) nor more than the maximum amount allowed by state law. Be it further known that each and every day of an action in violation of the provisions of the foregoing articles shall constitute a separate offense and shall be subject to cumulative penalties.

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- B. Notwithstanding any criminal penalty that may be applicable and that may result from any conduct herein prohibited in this Zoning Article, it is further provided that any violation or threatened violation of any of the foregoing provisions shall be subject to an action in the form and nature of a Temporary Restraining Order and Temporary Injunction, and a Permanent Injunction at the insistence of the Board of Aldermen or by any citizen of the Village of Timbercreek Canyon and any District Court or County Court at Law of Randall County, Texas shall have jurisdiction and venue to entertain and grant any relief herein provided for together with any other relief provided for under the laws and statutes of the State of Texas for the enforcement of ordinances of cities, towns, or villages.

8.15 Severability

In the event that any provision contained in this article shall be declared unconstitutional or contrary to State or Federal statutes and therefore invalid, it shall not impair or affect the validity of any other provision hereof and all other provisions hereof shall remain in full force and effect.

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Chapter IX - Building (Ords. 15-G, 15-H, 49, 49-A, 49-B, 17E)

9.01 Statement of Purpose

The Village of Timbercreek Canyon believes that it is in the public interest to promote the health, safety and general welfare of the residents of the Village of Timbercreek Canyon, Texas through the equitable regulation of building and other construction activities within the Village. Accordingly, the Village has adopted the following regulations concerning construction activities within the corporate limits.

9.02 International Residential Code (amended 2016-3)

The Village of Timbercreek Canyon operates under the 2015 of the International Residential and International Building Codes as adopted by the International Code Council and its terms and provisions shall govern all relevant activities unless otherwise specified in this chapter. If conflicts arise between any provisions of the International Residential Code and the Timbercreek Canyon Building Regulations, then the Timbercreek Canyon Building Regulations shall govern.

9.03 Definitions (amended 2016-3, 2020-3)

The following definitions shall apply to the terms and provisions of this Article:

- A. Abatement of substandard structures – Refer to Section 9.12 to all definitions regarding abatement of substandard structures.
- B. Board- the Mayor and Aldermen as the governing body of the Village.
- C. Police Chief - the Village Police Chief, or his/her deputies charged with the keeping of the peace and enforcement of the Village Ordinances and Code.
- D. Owner - Any person, firm, or corporation who is owner of any lot within the boundaries of the Village, or said person, firm or corporation's heirs, representatives, or assigns.
- E. Structure - Any building, whether residential or non-residential in function, either attached to or detached from any existing building or separate building.
- F. Alteration - Any change to the exterior of a structure.
- G. Front Lot Setback - Shall be the smallest distance from the front property line or to the edge of the road to the front line of any building, covered porch or terrace, or attached accessory building.
- H. Side and Back Lot Setbacks - Shall be the shortest distance from the side or back property line(s) to the side or back line of any building, covered porch or terrace, or attached accessory building.

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- I. Outbuildings and Accessory Buildings - for the purpose of this definition, Outbuildings and Accessory Buildings are synonymous. They are defined as any structure on a lot that is intended to house anything other than persons. I.E: being designed, adapted, modified, or used for vehicles, carports, tools, or other articles or purposes other than as a permanent residence.
- J. Completed Construction - shall be defined as having the structure in a finished state, ready for final inspection by the Building Committee or lending institution, with all building materials, scrap and waste removed from the site.
- K. Building Committee - the Board of Aldermen has created a Building Committee consisting of no more than 7 members appointed by the Board for two-year terms. The Building Committee is specifically authorized and charged with the implementation of zoning and building regulations. This Committee's authority shall specifically include the authority to consider and issue building permits, conduct or arrange for the conduct of required or necessary inspections, and other items directly related to the implementation of the Zoning and Building regulations of the Village.
- L. Planning and Zoning Commission - the Village Board of Aldermen has created a Planning & Zoning Commission. This Commission is responsible for approving plats, maintaining and developing and comprehensive plan, recommendation of zoning regulations, recommendation of zoning boundaries, and other issues directly related to Zoning issues. This Commission is to be composed of 5 members appointed by the Board for two-year terms.
- M. Zoning Board of Adjustment - the Village Board of Aldermen has been designated as the Zoning Board of Adjustment and shall hear and consider requests related to: a claim of error in the interpretation of zoning regulations; a request for a special exception from a condition of the zoning regulations; a request for a variance from a condition of the zoning regulations; a request for any item specifically noted in the zoning regulations.
- N. Living Area - shall be defined as the total square footage of the residential structure that is heated and/or air conditioned.
- O. Square Footage - for the purpose of issuing permits and/or calculating fees, square footage of a structure shall be defined as the total square footage of the structure contained within the exterior walls.
- P. Remodeling – remodeling shall be defined as work on a structure that causes the existing walls to be opened, moved or otherwise physically altered. Removal, replacement, or addition of common items such wall coverings, paint, tile, etc are not considered remodeling.
- Q. Registered Builder/Contractor-(bonded) and must be on the Village registry.

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9.04 Permits and Village Inspections Required (amended 2002-5, 2010, 2016-3, 2020-3)

A. General Conditions

No one shall erect, construct, add to or remodel any building or structure without first applying to and obtaining a permit from the Building Committee. No permit shall be issued unless the application is in conformity with the requirements of this Article. Construction or work for which a permit is required shall be subject to inspection by the Village Inspector and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the Owner or owner's authorized agent or owner's registered builder to cause the work to remain accessible and exposed for inspection purposes. Neither the Village Inspector, the Building Committee nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

Permits and Village Inspections Shall Be Required for the following activities:

1. New home construction
2. Remodeling of existing home
3. Permanent fences (fences over 3' in height and to remain for more than 6 months or that are permanently attached to the ground surface)
4. Construction of any outbuilding or accessory building of more than 200 square feet. (2015 IRC 105.2)
5. Construction of swimming pools and permanent, in-ground spas
6. Any item not specifically mentioned that is regulated by the International Residential Code
7. New Roofing
8. Retaining Walls
9. Decks of more than 200 square feet (2015 IRC 105.2)
10. Above or Below Ground Storm Shelters/Safe Rooms
11. Carports

B. Permit Time Limits (amended 2016-3)

Every permit issued in accordance with this chapter shall become void unless the work authorized by the permit is commenced within 30 days, or if the work authorized by the

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permit is suspended or abandoned for the time period. The Building Committee may grant extensions of time for additional periods not exceeding the time periods. Requests for extensions shall be in writing and justifiable cause demonstrated to the Building Committee. If the permit is not commenced in the time specified, the permit becomes void and a new permit is required, except for special, unusual or justifiable causes submitted in writing and demonstrated to the Building Committee.

C. Inspections, additional inspections, re-inspections (amended 2016-3)

1. Fees - If inspections, additional inspections or re-inspections are required, the fee for each inspection, additional inspection or re-inspection shall be in accordance with Appendix A's inspection fee amount.
2. Notification responsibility - The Contractor or Homeowner shall be responsible for notification that construction is ready for inspection or re-inspection in a timely manner; no work shall be concealed prior to inspection and approval. The Inspector shall not inspect or re-inspect construction until the required fee/re-inspection fee has been paid. Failure to notify for inspection will result in an offense under 9.04 E (d) or 1.06 of this Code.

D. Authority to withhold and suspend contractor registrations, permits, and inspections (amended 2016-3, 2020-3)

1. Under the following conditions, the Building Committee is authorized to deny registration of, to suspend the registration of, and to withhold renewal registration of a contractor who:
 - a. Fails to correct a defect, error or deficiency in work installed under the authority of a permit within thirty (30) calendar days after written notification from the Building Committee or Village Inspector or his authorized agents;
 - b. Has an expired permit issued under this chapter;
 - c. Fails to pay any indebtedness, when due, to the Village for inspection fees, permit fees or registration fees;
 - d. Allows unlicensed construction trades persons, who are required to be licensed by the State, to perform work in their respective trade on a building structure or construction site; or
 - e. State License has expired or Village registration requirements have not been maintained in accordance with this Chapter.
2. The Building Committee or Village Inspector is authorized to withhold and suspend permits and inspections to any contractor who(se):
 - a. Is either not registered with the Village, or whose registration with the

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Village has expired in accordance with this Chapter. This does not allow the Building Committee to withhold inspections on expired permits to comply with Section 9.04 D (a)(2);

- b. License and Permit Surety Bond or Certificate of Insurance required by this section has expired.
- c. License, license endorsement, or certification with the State in the respective trade has expired, has been suspended, or which has become invalid for any reason;
- d. Fails to correct a defect, error or deficiency in work installed under the authority of a permit within thirty (30) calendar days after written notification from the Building Committee or Village Inspector or his authorized agents;
- e. Fails to pay any indebtedness, when due, to the Village for inspection fees, permit fees or registration fees;
- f. Allows unlicensed construction trades persons, who are required to be licensed by the State in their respective trade, to perform work in that trade on a building, structure, or construction site.

E. Late fee; offense (amended 2016-3, 2020-3)

1. When work for which a permit is required is begun prior to obtaining such permit, or otherwise receiving approval from the Building Committee to begin work, a late fee of two hundred fifty dollars (\$250.00) shall be assessed in addition to the required permit fee. A person who fails or refuses to obtain a required permit on a second or subsequent occasion within a twenty-four month period shall pay a late fee of five hundred dollars (\$500.00) in addition to triple the required permit fee for each subsequent violation occasion.

EXCEPTION: A person who owns and occupies a single-family dwelling will not be charged the above late fee for work on their dwelling provided such owner makes an application for the required permit by the end of the next work day following notification of the requirement to obtain a permit. However, this exception does not apply to a person who fails or refuses to obtain a required permit on a second or subsequent occasion within a twenty-four month period. Such person shall be subject to the above late fee provisions.

2. Unless specifically excepted, it is an offense, punishable in accordance with Section 1.06 and 9.14 of this Code, to perform any construction for which a permit is required, before having obtained the appropriate permit.
3. Unless specifically excepted, it is an offense punishable in accordance with Section 1.06 and 9.14 of this Code, either to perform any construction without

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being registered, or to otherwise not comply with the requirements of this Article. The purpose of this Article is to preserve public health, safety, and welfare.

4. Unless specifically excepted, it is an offense punishable in accordance with Section 1.06 and 9.14 of this Code, for failure to notify the Village or Village Inspector by the time of permit expiration to conduct a required inspection, or to otherwise not comply with the requirements of this Article. The purpose of this Article is to preserve public health, safety, and welfare.

9.05 Permit Applications, Fees & Prerequisites (amended 2016-3, 2018-2)

- A. Building Permits are issued by the Building Committee.
- B. Before groundbreaking of any structure or the commencement of any alteration, the owner or registered builder shall present one set of plans and sketches of such structure or alteration to one or more members of the Building Committee and shall present a completed Application for a Building Permit in the form adopted and approved by the Committee. The plans and sketches must contain sufficient information to allow the Building Committee to verify the elevation difference between the existing grade and the proposed grade for all structures.
- C. All plans and sketches **NOT MEETING THE EXCEPTIONS LISTED BELOW** must be accompanied by a plot plan certified by a registered surveyor of the land upon which the improvements are to be erected, which shall show the exact location of all proposed structures, setbacks, fences, retaining walls, patios, driveways, sidewalks, culverts, well, septic tank, septic field and any proposed removal of natural flora or boulders or any proposed fill.

EXCEPTION 1: SHOULD THE OWNER NOT CHOOSE TO SUBMIT a plot plan certified by a registered surveyor, the owner shall provide, on the ground, clear references to the location of the lot line and other relevant features for the determination of proper setbacks. Should the owner not provide a plot plan certified by a registered surveyor, the liability of ensuring that any proposed improvements are in compliance with the Village Code shall rest solely upon the owner and nothing in this Article or the issuance of a permit shall relieve the owner of such liability. The Building Committee shall not attempt to make interpretations as to lot lines or other features in the absence of a plot plan prepared by a registered surveyor. In case of a written challenge to the location of the proposed improvements submitted by a resident or official of Timbercreek Canyon, construction activities shall cease and the owner shall provide a plot plan as described above.

EXCEPTION 2: If the proposed improvements are attachments to or extensions of an existing structure and no portion thereof is closer than **60 feet** to any lot line, the owner shall certify in the permit application that this exception applies and shall provide clear

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references on the project site to allow the building committee to confirm the exception.

EXCEPTION 3: If the proposed improvements are not attachments to or extensions of an existing structure and no portion thereof is closer than **60 feet** to any lot line, the owner shall certify in the permit application that this exception applies and shall provide clear references on the project site to allow the building committee to confirm the exception.

- D. Permits shall be valid for one (1) year from the date of issuance. To continue with any building or construction after the one (1) year initial permit time, the owner shall, prior to the expiration of the original permit, reapply to the Building Committee for a six (6) month extension. An application for a six (6) month extension shall be accompanied by a fee in the amount of one-half the cost of the original permit. Prior to the expiration of the six (6) month extension, the owner may apply to the Building Committee for a permit renewal on a month to month basis, paying the full permit amount each month.
- E. Posting – all building permits shall be clearly posted in a location visible from the nearest roadway at all times. Construction shall be stopped at the order of the Village Police or Mayor in any location where a valid permit is not clearly displayed in a location visible from the nearest roadway.
- F. Fees – Building Permit fees shall be charged in accordance with the latest schedule of fees adopted and approved by Ordinance by the Board of Aldermen and shall be attached to this municipal code of ordinances as Appendix A.

9.06 Building - General Conditions (amended 2002-5, 2003-13, 2016-3, 2016-6, 2017-6, 2018-5, 2019-6, 2020-3)

A. Wire Fences

Barbed Wire or any fence material that is designed to injure people or animals, shall not be used on any fence.

B. Solid Fences

For the purpose of this article, a solid fence shall be defined as any fence that is six (6) foot or taller and restricts view from either side. These typically are made of wood or vinyl pickets. If these pickets are spaced closer together than four (4) inches, the fence would be considered a solid fence. What ever size the picket is would require the same size gap between pickets to be considered a non-solid fence. (Example) A six (6) inch wide picket requires a six (6) inch gap. Due to the potential to block natural views of the area, solid fences shall not be permitted unless the owner meets all of the following conditions or requests in advance and receives a variance issued in accordance with the terms of this Article.

Conditions:

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1. the proposed solid fence must be a distance of at least ten (10) feet from the side property line or the side of the residence
2. the proposed solid fence must maintain a twenty (20) foot setback from all front and back lot-lines.
3. the proposed solid fence must be no closer than fifty (50) feet to any cliff top
4. the proposed solid fence must be six (6) feet or less in height
5. all vertical supports (posts) must be on the inside (residence side) of the fence
6. the proposed solid fence may not enclose more than four thousand (4,000) square feet
7. the requestor must seek and receive a valid building permit and must meet all other provisions of the Village Code.
8. Exceptions will be considered through a variance request.

C. Other Types of Fences

Using traditional construction methods, a chain link fence, decorative wrought iron, pipe and wire panel used for animal confinement, wood or vinyl split rail fences may be built as needed and where needed so long as they do not impede view and follow all other restrictions and codes. Any fence that restricts access to pasture property or residence must have at least a twelve (12) foot wide fire control access gate, marked with bright yellow paint for nighttime visibility, conveniently located to roadways or driveways that would allow fire apparatus to gain entry to property.

D. New Construction Only

All Construction within the Village shall be of new material only. Upon receipt of permit for new construction and prior to final inspection, all homeowners will be required to install at least one reflective address sign showing home number for emergency identification purposes (Address Identification – See Section 9.06 Sub Chapter P).

E. Permanent Construction Only

All construction within the Village shall be of a permanent nature only with no moved-in or portable structures being allowed. In order to comply with the requirements of the Manufactured Housing Act, any manufactured housing shall be installed in a permanent fashion and the owner shall provide to the Village a certification from the Texas Department of Housing and Community Affairs that such manufactured housing is installed in a permanent fashion (Exception, please see 9.06, M). Due to concerns similar to those of move-in structures, metal siding on primary structures shall not be allowable in excess of 10% of the exterior building material.

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F. Sanitary Facilities

During construction activities, workers shall have permanent sanitary facilities available on-site or shall have access to an approved, portable chemical toilet. No portable chemical toilet facility shall remain on-site for longer than 30 days past completion of construction. The owner of the lot being improved shall be responsible to ensure that any portable chemical toilets in use are in compliance with the relevant laws and regulations of the State of Texas and the Amarillo Area Health District.

G. Lot Leveling

Lot leveling, either through installation of fill or through a cut of the natural grade, shall not be allowed unless such activity is directly necessary for the leveling of a pad for the construction of a structure.

H. Landscaping

Traditional landscaping activities shall be allowed so long as such activities do not involve leveling, filling, or cutting activities of more than twenty-four (24) inches above or below the natural grade of the lot.

I. Removal of flora

Removal of natural flora shall only be allowed for what is reasonably necessary to construct improvements and provide access to a lot and to adhere to the safety standards as adopted by the Village for the Firewise Program. The Building Committee, as part of the permit approval process, shall determine and note what flora may be removed for construction or access activities. Nothing in this provision shall be construed to prevent the removal of mesquite, yucca, cactus, or other noxious plant growth.

J. Refuse

During construction activities of any type, all construction sites shall be kept clear of refuse, trash, rubbish, or other unsightly debris.

K. Retaining Walls

All retaining walls to be constructed within the Village that are:

1. over four feet in height above grade; and,
2. are for structural purposes

must be permitted and must have an Engineers Seal on the plans for the retaining wall when presented for a permit. **(2015 IRC 105.2) (Ord. 2003-5, Ord. 2016-3)**

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L. Docks and Piers

Any and all docks and/or piers constructed in the Village shall meet the following requirements:

1. No dock or pier shall extend more than 10 feet into the creek as measured from the cut-bank
2. No dock or pier shall comprise more than 120 square feet of area
3. All docks or piers shall be permanently anchored in a rigid fashion (no floating construction allowed)
4. Not more than one (1) dock or pier shall be allowed on any one lot
5. All docks and/or piers must seek and receive a building permit

M. Above or Below Ground Storm Shelters/Safe Rooms

Storm Shelters/Safe Rooms – All above ground or below ground storm shelters/safe rooms shall be permitted and meet the following requirements.

1. Permit applicants must provide copy of documentation that shelter has been constructed to meet National Storm Shelter Association or American Tornado Shelter Association Standards.
2. All setbacks must be observed.

N. Roofs

1. New construction - The roof covering will be included in the permit issued for the new construction. A separate permit is not required.
2. Minor Roof Repair - A building permit and inspection is not required for minor roof repair totaling less than 100 square feet.
3. Roof replacement - A building permit is required for removing an existing roof covering, repairing any damaged substrate of 100 square feet or more and installing a new roof covering. One inspection (minimum) is required.
4. Roof recover - A roof recover shall be prohibited, with the exception of certain metal roofs.
5. Wood roof covers - A roof cover made of any type of wood shall be prohibited.
6. Metal roof covers – Metal roof coverings used on residential structures shall comply with the relevant provisions of the 2015 edition of the International Residential Code. Screws and/or threaded fasteners are the only approved attachment method for fastening metal roof coverings to residential structures. All

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exterior metal panels used for roofs must meet the following specifications:

- a. Prohibited Metals: Corrugated ‘Strongbarn’ or similar metal profiles are not allowed.
- b. All exterior panels must be 26 gauge or better.
- c. All exterior panels must be fastened with screws/threaded fasteners designed for the attachment of metal panels to the appropriate wood or metal framing members.
- d. Plans must clearly show the gauge of the panels; and the type of fasteners to be used for attachment.
- e. Paint/coating must be rated “20 year” or better.
- f. No bare or natural metal colored panels shall be allowed.
- g. The Building Committee may, at their discretion, require additional information to document compliance with the provisions of this section. (Ord. 2016-3)

O. Carbon Monoxide Alarms

1. Any building permit which requires an inspection must include an inspection for carbon monoxide detection.
2. New construction - For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. Approved alarms shall be installed in accordance with manufacturer’s installation instructions or located on the wall at a height 42 to 90 inches above floor, avoiding locations near heating/cooling vents or areas which provide turbulent airflow, and minimum 36 inches away from openings to areas of high humidity. Avoid installing CO alarms in kitchens or above fuel-burning appliances.
3. Existing dwellings - Where a permit is required for re- roofing or for an addition to existing dwellings that have attached garages or to existing dwellings within which fuel-fired appliances (e.g. fireplaces) exist, then carbon monoxide alarms shall be installed in accordance with Section (b). (Ord. 2016-3)

P. Address identification

1. Any building permit which requires an inspection must include address identification.
2. The address identification shall be legible and placed in a position that is visible

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from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102mm) in height with a stroke width of not less than 0.5 inch (12.7mm). Where required by the building committee, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the road/street, a monument, lighted (as complied by Light Ordinance), reflective lettering, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained. (Ord. 2016-3).

Q. Utilities

All utilities on lots located below the caprock shall be underground utilities only.

R. Aerials, Antennas and Other Devices

1. Antennas and other devices located on the exterior of a structure shall not extend more than ten (10) feet above the roof line of the residence.
2. Aerials, windmills, and other free-standing structures not intended for use as outbuildings shall not extend above the roof line of the residence.

S. Building Pads

Building pads shall not be elevated above the natural grade more than what is actually necessary and justifiable for the proposed construction.

9.07 Building – Public Health – On-Site Sewage Facilities

- A. All lots improved by the addition of a residence shall be required to install an on-site sewage facility (OSSF).
- B. The OSSF shall be permitted through the Amarillo Area Health District and shall be constructed in strict compliance with the provisions governing OSSF installation.
- C. Prior to occupancy, the owner shall provide to the Village a copy of the final inspection and approval of the OSSF.
- D. In no instance shall a single OSSF be used by structures on more than one lot nor shall a single OSSF be used by multiple structures on a single lot without the prior approval of the Building Committee.

9.08 Setbacks (amended 2020-3)

To ensure the orderly development of property within Timbercreek Canyon and to protect and enhance the value of property, the following setbacks are required of all structures:

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- A. Front Lot Setback – Any structure located on a lot shall maintain a front lot setback of a minimum of thirty (30) feet from the lot line or edge of the existing roadway if the roadway encroaches upon the lot line. The only instance in which a structure shall be located less than thirty (30) feet from the lot line shall be in those instances where an existing improved roadway encroaches upon the lot line, in which case, the setback shall be thirty (30) feet from the edge of the existing improved roadway.
- B. The Front Lot Setback described in (A) above shall be required of any lot line that is adjacent to a roadway or street.
- C. Side Lot Setback – Any structure located on a lot shall maintain a side lot setback of a minimum of 10% of the width of the structure. However, in no case shall any structure other than a fence be located less than eight (8) feet from any side lot line.
- D. Back Lot Setback – Any structure located on a lot shall maintain a back lot setback of a minimum of 10% of the width of the structure. However, in no case shall any structure other than a fence be located less than eight (8) feet from any back lot line.
- E. Cliff Faces – Construction of any structure other than a fence within fifty (50) feet of the top or bottom of a cliff is prohibited in the following circumstances:
 - 1. When such construction is deemed a hazard to neighboring properties due to erosion potential or water diversion;
 - 2. When naturally occurring events such as high rains or winds could reasonably cause the relocation or movement of said structure;
 - 3. When construction of said structure can be reasonably foreseen to lead to other undesirable circumstances that could affect the public health, safety, or welfare.

The Building Committee, as part of the permit approval process, shall examine the proposed construction and determine whether any of the 3 conditions above apply. For the purposes of this section, a cliff shall be defined as a “high, steep face of rock or soil subject to potential erosion from rain, wind, or run-off.” (Ordinance 2003-8)
- F. Garages – in no case shall any structure designed, modified, or used for the parking or storing of a vehicle have its opening for such vehicle closer than thirty (30) feet from any alley or existing roadway. For the purposes of this provision, any structure with a door or opening large enough to allow the entrance or partial entrance of a vehicle shall be considered a garage. (Ordinance 2003-8)
- G. Outbuildings used for the housing or feeding of livestock – outbuildings used for the housing or feeding of livestock allowed under Chapter 3.02, 3.07, and 3.08, Village Code, shall not be constructed or modified for such purposes if located within thirty (30) feet of a side lot line or back lot line. This clause specifically excludes existing or proposed outbuildings that may be used for the housing or feeding of domestic pets

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such as cats, birds, and dogs. However, nothing in this clause shall allow or permit the operation of a kennel as such is defined in Chapter 3, Village Code. (Ord. 2004-5)

9.09 Outbuildings or Accessory Buildings – General (Amended 2004-4, 2016-3, 2016-6, 2020-3)

This section shall govern all Outbuildings or Accessory Buildings –activities regarding framing and other types of construction, including “Metal Buildings”. All metal roof construction, including those for Metal Buildings is defined under Section 9.06 Building - General Conditions (N) (f) Metal roof covers.

A. Metal Framed

All outbuildings proposing a metal framework must present a set of plans that are for this area’s weather conditions and are:

- (a) approved and sealed by a licensed professional engineer or;
- (b) include a manufacturer’s letter of certification prior to the issuance of a building permit; and,
- (c) All plans must include a foundation plan sealed by a licensed professional engineer (slab or pier).

B. Wood Framed

- 1. All outbuildings proposing a pre-engineered wood framework must present a set of plans that are:
 - (a) approved and sealed by a licensed professional engineer or;
 - (b) are drawn in accordance with commonly accepted framing standards as outlined in the 2015 edition of the International Residential Code.
- 2. Plans for an engineer-approved structure must include approved and sealed foundation plans.
- 3. Plans for a structure built in accordance with commonly accepted framing standards for nonresidential construction must include foundation plans as required by the 2015 edition of the International Residential Code.

C. Exterior Requirements – All exterior metal panels used for buildings must meet the following specifications:

- 1. Paint/coating must be rated “20 year” or better.
- 2. No bare or natural metal colored panels shall be allowed.
- 3. Prohibited Metals: Corrugated ‘Strongbarn’ or similar metal profiles are not

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allowed.

4. All exterior panels must be 26 gauge or better.
5. All exterior panels must be fastened with screws/threaded fasteners designed for the attachment of metal panels to the appropriate wood or metal framing members.
6. Plans must clearly show the rating of the paint/coating; the gauge of the panels; and the type of fasteners to be used for attachment.
7. The Building Committee may, at their discretion, require additional information to document compliance with the provisions of this section.

D. Prohibited Metal Buildings

A-Frame and Quonset buildings are strictly prohibited.

E. Size and Height

1. Lots 5 acres or under can have a single out building with maximum of 2,500 square feet and the total square footage for all out buildings cannot exceed 3,500 square feet .
2. Lots over 5 acres can have a single out building with maximum of 2,500 square feet and the total square footage for all out buildings cannot exceed 4,500 square feet.
3. Dimensions of roof overhangs must be included in the original plans but will not be included in calculating the total square footage unless they extend more than 8 feet from the adjacent wall.
4. A PRAD description or a licensed survey will be reputable proof for out building dimensions.

5. EXCEPTION – AOUDAD RANCH

The Owner of any tract in the Aoudad ranch for lots equal to or greater than nineteen (19) acre acres per tract. The Owner shall be permitted to construct a maximum of 5,000 square feet under the roof, with a total maximum of all outbuildings not to exceed 10,000 square feet under the roof.

6. A maximum eave height of 16 feet for the sidewalls not including the gabled portion of the structure.
7. A minimum of a 3:12 pitch on the roof.
8. Carports may be no larger than 625 square feet under the roof and accompanied with an approved engineer-seal plan.

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F. Setbacks

1. The outbuilding or any part thereof cannot be located within 30 feet of any road or cliff bottom.
2. The outbuilding or any part thereof shall not be constructed past the setback established by the front of the residence on the lot.
3. The outbuilding or any part thereof cannot be located any closer than 50 feet from the top of a cliff face when the outbuilding is constructed on the top of the cliff.

G. Residence Required

1. No outbuilding shall occupy a lot without a residence being located on the same lot.
2. If the outbuilding is to be constructed on a lot or lots adjacent to a lot in which the residence is located, the owner of the lots may request that the lots be replatted into one larger lot to meet this requirement. All fees associated with the replatting will be at the expense of the owner. All replatts are required to be filed with the Village of Timbercreek Canyon (**LGC 212**). (Ord. 2016-3)
3. No more than three (3) outbuildings shall be constructed on any one lot. (amended 2003-14)

H. Compliance with approved Plans

All structures must be built in accordance with the relevant approved plans. Deviations from approved plans require pre- approval of the Building Committee or work shall be stopped immediately.

I. Special considerations and limitations for an outbuilding variance request

The following items listed shall be used in addition to the requirement of 9.1 of this code of ordinances for the consideration of a variance request.

1. If a size or height variance is requested, a lot must be greater than one acre in size with an adequate amount of surrounding land to accommodate such a structure without blocking the view of the neighbors. The intent of this additional consideration is to ensure adequate green space and limit the density of the building structures located on a lot.
2. If a height variance is requested for construction on top of a cliff face, an additional setback requirement will be necessary. The visual pitch of 12:50 must be maintained with no construction allowed above the established visual pitch. The setback will be increased in proportion to the requested eave height to maintain an unobtrusive appearance of the outbuilding on the top of a cliff face. (i.e. $12/50=14/58.4$)

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9.10 Dumpsters and Similar Large Containers (Ord. 12-B, 2002-3, 2010-5, 2016-3)

- A. Dumpsters or similar large containers (roll-offs) for the storage of trash, garbage, or refuse may be located on a property during construction activities if such container is necessary to control trash, blowing debris, and other refuse. Should such a container be located on a property during construction, the container must be removed within 10 business days following final inspection by a Village Approved Inspector. The term “dumpsters” is construed to mean any trash container not utilized for normal residential garbage containment. All trash must be contained within the dumpster and must not be allowed to blow out of the container.
- B. Dumpsters or similar large containers (roll-offs) for the storage of trash garbage, or refuse may be located in the Village limits as a part of a clean- up effort provided that a Building Committee member approves of the need for the container, when it will be placed, where it will be located, when it will be removed, and the purpose that necessitates the container. Private landowners using these dumpsters must place them on their own legal property. Should such a container be located in the Village for a civic clean-up effort, the container must not remain in the Village for more than four (4) weeks per clean-up effort.
- C. MODS/PODS or other similar temporary storage roll-offs are allowed by permit only for no longer than a 2-week period for purposes of moving and/or vacating the property and/or home. Regarding moving/vacating of property/home, after 2 weeks a permit extension may be requested. However, if required for more than 4 weeks, a variance must be sought and obtained from the Village Board of Aldermen.

MODS/PODS or other similar temporary storage roll-offs are allowed by permit for all other purposes that correspond in conjunction with an active permit for work being done. After completion of the permitted work, the MODS/PODS or other similar temporary storage roll-offs will be removed no longer than 10 days after completion.

Permits may be sought through the Village Building Committee. MODS/PODS or other similar roll-offs must be enclosed, must be situated on the applicant for permit’s personal property not to include the bar-ditch or on the road. After 2 weeks, a permit extension may be requested. However, if required for more than 4 weeks, a variance must be sought and obtained from the Village Board of Aldermen.

9.11 Rainwater Harvesting Systems – Amended Ordinance 201-1

A. Permits Required

- 1. Rain Barrel Systems using collection vessels of 500 gallons and less do not require permits.
- 2. Rain barrel/catchment systems using vessels greater than 500 gallons require

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permits.

B. Definitions

Cistern: The central storage component of the rainwater harvesting system or any storage vessel greater than 100 gallons.

Downspout: The rain leader from the roof gutter to the rainwater storage vessel.

Rain Barrels: Storage vessels 100 gallons or less capturing flow directly from the down spout.

C. Requirements

1. Rain barrels shall be sited at or below grade on a sound and level surface at gutter downspouts.
2. Device height may not exceed eave height of building being utilized to collect water.
3. Rain barrel openings shall be screened with a corrosion resistant metallic fine mesh (.05 inch x .05 inch) to prevent mosquitoes from entering or shall be fitting with a plumbing connection.
4. Openings 6” or greater in the barrels shall be securely fastened to prevent accidental drowning.
5. Rain barrels shall be located within approved setbacks.
6. Overflow or discharge from rain barrels may not discharge across a right-of-way or onto adjacent property, or in any way create a nuisance.
7. The system shall be used and maintained in a manner that does not cause a public nuisance and may be subject to inspection and/or enforcement action as a result of a complaint.

D. Structural Requirements

1. All tanks shall be anchored per manufacturer’s specifications. Permitted containers shall have designed anchorage.
2. Underground cisterns shall be structurally designed to withstand all anticipated earth or other loads. All holding tank covers shall be capable of supporting a load of 00 psf. Tanks shall be ballasted or anchored or otherwise secured against buoyancy.

9.12 Grading, Excavation, Earthwork, and Erosion Control (Amended 2022-3)

A. Definitions

1. Building Committee Chairman – The Building Committee Chairman of the Village

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of Timbercreek Canyon or the Building Committee's authorized representative.

2. Erosion Control – A measure that prevents erosion.
3. Grading – Any stripping, cutting, filling, stockpiling or combination thereof which modifies the existing land surface contour.
4. Sediment Control – Measures that prevent eroded sediment from leaving the site.

B. Applicability of Section

The provisions of this section shall apply to property owners, persons or their agents filling, grading, excavating, or otherwise disturbing the surface of real property within the Village, whether they be contractors, subcontractors, supervisors, inspectors, managers, agents, employees, or otherwise. Failure to comply with the requirements of this section shall constitute an offence, and each day such failure continues shall constitute a separate offense.

C. Grading permit required for filling, grading, excavation, etc.

No person shall fill, grade, excavate or otherwise disturb the surface of real property within the Village without first having secured a grading permit from the Building Committee Chairman or the Building Committee's authorized representative. In addition, if the property to be filled, graded, excavated or otherwise disturbed is within a flood hazard area, a development permit must be secured from the Floodplain Administrator as required in Chapter 7 of this Code.

D. Duty of property owner to prevent dirt, mud, etc., from washing onto streets, rights-of-way, etc.

It shall be unlawful and an offense and shall constitute a nuisance for any person owning or having control of real property within the Village to suffer or permit soil, mud, rock, pollutants, or debris to wash, slide, erode, or otherwise be moved from said real property onto streets, utility facilities, drainage facilities, rights-of-way, or easements. It shall be the duty of the each property owner or party in control thereof to prevent soil, mud, rock, pollutants, or debris from real property being deposited or otherwise transported onto the streets, utility facilities, drainage facilities, rights-of-way, or easements of the Village and to inspect such property and acquaint themselves with the conditions existing to remedy any conditions likely or calculated to allow soil, mud, rock, or debris to wash, slide, erode, or otherwise be transported onto the streets, utility facilities, drainage facilities, rights-of-way, or easements and failure to do so shall be deemed criminal negligence for the purpose of the offense described herein.

E. Requirements for filling, grading, excavation, etc.

The Building Committee shall prepare a list of allowable fill materials and minimum required compaction requirements. All filling shall use only the materials listed for fill.

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All fill placed on a site and visible from a public thoroughfare shall be leveled and have a final cover of topsoil, six inches minimum depth, that will support vigorous plant growth, immediately following completion of filling operations. Intermediate leveling and cover shall be required at intervals not to exceed 30 days for filling operations that will exceed 30 days in duration. In areas where fill is being placed to control erosion, the Building Committee may substitute an alternate cover that is resistant to erosion for the requirement to cover fill with topsoil.

F. Issuance of permits; criteria

1. The Building Committee shall issue permits for the grading, filling, excavating or otherwise disturbing the surface of real property upon satisfaction of the following criteria:
 - a. Applicant provides adequate assurance that the Village will be reimbursed for any expense of cleaning or removal of dirt, rock, debris or other pollutants from Village streets, alleys, utility facilities, rights-of-way and easements or the barricading thereof by the posting of a deposit of cash with the Village to guarantee same.
 - b. The amount of such deposit shall be established by the Village council from time to time and is hereby established as follows:

Area	Amount
One acre or less	From one acre up
\$500.00 minimum	\$100.00 for each additional acre

- c. The applicant provides a notarized statement from the property owner giving permission for the applicant to fill, grade, excavate or otherwise disturb the property and acknowledgment by property owner of the responsibilities of the property owner as described in section 9.12H of this Code.
 - d. Submission by the applicant of a storm water pollution prevention plan (SWP3) for all work disturbing one acre of land or more. This storm water pollution prevention plan (SWP3) must be prepared by a licensed professional engineer in accordance with applicable Environmental Protection Agency (EPA) and Texas Commission on Environmental Quality (TCEQ) regulations and approved by the Building Committee prior to issuing the grading permit.
 - e. Submission by the applicant of a copy of notice of intent (NOI) and/or a construction site notice (CSN) as required by the Texas Commission on Environmental Quality (TCEQ) regulations for all work disturbing one acre of land or more.

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- f. The Building Committee may exclude that portion of tracts in excess of ten acres that he/she determines to be so situated as to not contribute to erosion due to location and topography.
2. If removal by the Village of soil, rock, mud and debris from streets, utility facilities, rights-of-way or easements is required by reason of work performed on property for which a deposit has been made pursuant to subsection (F), reasonable charges shall be billed to the applicant and subtracted from balance of the applicant's deposit. The Village will attempt to notify applicant to clean the affected area unless deemed an emergency requiring immediate attention.
3. Upon written request by the applicant to the Building Committee, the unused portion of the applicant's deposit shall be refunded if the following criteria is met:
 - a. The site for which the deposit exists has been stabilized against erosion; and permanent ground cover has been established.
 - b. No further hazard of erosion is present at the site;
 - c. All temporary erosion control structures have been removed;
 - d. Permanent erosion control facilities are in place and functioning properly as designed; and
 - e. The Building Committee Chairman or his designee has given written acceptance of public improvements.
4. An applicant who has submitted a written request for return of their deposit who meets the requirements of subsection (F3) shall be refunded all funds not used to reimburse the Village for the removal of soil, rock, mud, debris and pollutants from streets, utility facilities, drainage facilities, rights-of-way or easements. Should an applicant fail to meet all requirements for a refund, the applicant's request will be rejected until such time as they are met. When the requirements have been met, the funds subject to refund will be sent via first class mail to the address on the applicant's grading permit application or if such address has been updated pursuant to application instructions to the applicant's updated address. If the refund mailed to the applicant is returned by the United States Postal Service as undeliverable, the funds shall be forfeited to the Village and placed in the general fund if Village Board of Aldermen is unable to determine the legal address.
5. If a written request for return of a deposit is not made within twenty-four (24) months of the date the project on the property for which the deposit has been made receives written acceptance from the Building Committee Chairman or his designee of the public improvements, the unused portion of the applicant's deposit shall be forfeited to the Village and placed in the general fund after the Village

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notifies the applicant.

6. Grading permits shall be valid for twenty-four (24) months after date of issuance by the Village. Grading permits may be extended for twelve (12) additional months (for a total of thirty-six (36) months) upon written request by the applicant to the Building Committee. The Building Committee will have the site inspected to verify compliance with the permit conditions and the provisions of the submitted SWP3 before making the permit extension. Failure of the applicant to maintain compliance with the permit conditions and the provisions of the submitted SWP3 shall be adequate cause to deny a request for grading permit extension.

G. Exceptions to the permit; permit fee and deposit

Construction, grading, filling or excavation undertaken by the Village, franchised utility companies and existing individual single-family lots with existing residences under one acre in size shall be exempt from the permit, deposit and permit fee as required by this article.

H. Owner's responsibility

1. The property owner shall be responsible for implementation and operation of a storm water pollution prevention plan (SWP3) in accordance with applicable Environmental Protection Agency (EPA) and Texas Commission on Environmental Quality (TCEQ) regulations and all cleanup operations incidental to the grading, filling, excavation, construction or other disturbance of the surface of real property including leveling, establishment of ground cover, erosion and sediment control and removal of all trash, debris or other materials not suitable for fill including those deposited on streets, utility facilities, rights-of-way or easements.
2. In addition, the property owner shall be responsible for compliance with the approved grading plan.
3. If the property owner fails in any respect to fulfill the requirement of this article, the Village may go upon the owner's property and perform such work as may be necessary to fulfill such requirements and may level, establish ground cover, construct erosion control, remove all soil, rock, debris and other materials not suitable for fill including those deposited on streets, alleys, utility facilities, rights-of-way or easements, at the property owner's expense and charge same against the deposit of the applicant unless deemed an emergency requiring immediate attention, the Village will first contact applicant to address the matter.
4. If a deposit has not been made with the Village, or if the cost incurred by the Village exceeds the amount of the deposit, the Village shall bill the property

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owner for the unpaid expenses and if the owner fails to pay the Village for such expenses within 30 days of being billed for same, the Village shall have the right to place a lien on the owner's property which shall be filed with the county clerk as in the case of paving assessment liens for all amounts expended by the Village in excess of the deposit plus interest at the current lawful rate. If the property owner fails to fulfill the requirement of this article the Village may revoke the grading permit, issue citations or take other legal remedies as may be necessary to enforce compliance with this article.

I. Exemptions

1. Customary and incidental routine grounds maintenance, landscaping, and gardening which does not affect stormwater drainage on or through the site;
2. Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property, and which are made under circumstances where it would be impossible or impracticable to obtain a grading permit.

9.13 Abatement of substandard structures (Ordinance 2016-3, 2020-3)

A. Definitions; Declaration of Nuisance

1. Definitions. The following definitions shall apply to the terms and provisions of this Article:
 - a. Good Repair - Means (1) that a premises is safe and habitable for its ordinary intended use; or, (2) that materials, equipment, and systems used in, on or under any structure are sound, stable, and performing the function for which intended without substantial defect that is detrimental to normal or intended operation or functionality. It does not mean or include purely cosmetic or aesthetic aspects of a structure, equipment, system, or material.
 - b. Interested Persons - Means jointly and severally any and all persons holding or claiming a legal interest in land or improvements thereon as either owner, tenant, occupant, lien holder, or other party with a legal interest discoverable by reasonable diligence.
 - c. Structure - That which is built or constructed or a portion thereof.
2. Declaration. All Structures are hereby declared to be Dangerous Structures which are:
 - a. Structurally unsafe; or
 - b. Not provided with adequate egress; or
 - c. Which constitute a fire hazard; or

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- d. Are otherwise unfit for human habitation and are dangerous to human life, or which by way of existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, or dilapidation, or obsolescence, or fire hazard, or abandonment; or
- e. Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or by children, animals, or vermin; or
- f. Boarded up, fenced, or otherwise secured in any manner but: (1) the building constitutes a danger to the public even though secured from entry; or (2) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

All such Dangerous Structures are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this Article. This Declaration of Nuisance and all terms of this Article shall be applicable to and enforceable within the Village limits.

B. Initial Notice; Service

- 1. The Building Committee will conduct a preliminary inspection and shall examine or cause to be examined every Structure or portion thereof suspected to be substandard and, if such is found to be a Dangerous Structure, the Building Committee shall report such to the Board of Aldermen for action in accordance with this section. The Board of Aldermen shall conduct an inspection by the Village Inspector to determine the violation status. The Village Inspector will submit an inspection report with the substandard deficiencies to the Board of Aldermen. Upon receipt of the inspection report, the Board of Aldermen shall give Interested Persons in such Dangerous Structure written notice stating the defects found to exist.
- 2. The Initial Notice from the Board of Aldermen shall require the Interested Persons in the Dangerous Structure or premises to temporarily secure the structure from entry by persons and animals and repair or abate the defects without delay and no later than the tenth (10th) day after receipt of the notice. Such notice may also require the Dangerous Structure or portion thereof to be vacated forthwith and not occupied until the required repairs and improvements are completed, inspected and approved by the Village Inspector. Failure to secure, repair, or abate defects within the specified time may result in the Village to cause the work to be done and charge the costs against the property or its owner.
- 3. Service of notice is sufficient if it is deposited into the U.S. mail with proper postage for certified mail return receipt requested or is personally delivered to the Interested Persons in the property. In addition, the Village shall file in the real

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property records of the county clerk in the county where the property is situated, a copy or summary of the Initial Notice and the existence of the proposed condemnation proceeding, in a form acceptable to the County Clerk.

4. The Police Chief or his/her agents shall cause to be posted at or on any Dangerous Structure ordered to be vacated, a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY, Police Chief, Village of Timbercreek Canyon." Such notice shall not be removed without written permission of the Board of Aldermen except for the purpose of making the required repairs or demolishing the building with proper permits. The Village may also cause the Dangerous Structure to be secured from unlawful entry if the Interested Persons who received the Initial notice fail, refuse or neglect to so secure the place by the tenth day after receipt of such notice.

C. Provisional permit; opportunity to cure or remove structure

1. If the Interested Persons in the property cannot secure the Dangerous Structure and remedy the defects within ten (10) days after receipt of the notice, but desires more time to do so, then the Interested Persons must apply for a provisional permit within the ten (10) days from the date such notice is received. A provisional permit authorizes the Interested Persons to either remove the structure in accordance with this Code of Ordinances or take such corrective remedial work that can be substantially complete within sixty (60) days, as agreed in writing with the Building Committee.
2. The Building Committee shall issue a provisional permit for the agreed corrective work or removal of the structure when the Interested Persons (i) demonstrates the structure has been temporarily secured as required in the notice letter; (ii) tenders a plan and schedule of work that is feasible to accomplish within sixty (60) days or less, in consideration of: the season; availability of materials; skills of the owner or availability of skilled or licensed contractors in the local market; the scope and amount of work to be performed; and other objective factor reasonably bearing on likelihood of success of the endeavor; (iii) demonstrates reasonably adequate financial resources to accomplish the agreed corrective work within sixty (60) days, such as cash on hand, revenue stream, pre-approved loan, line of credit or a combination of these or other liquid resources readily available to allow substantial completion within sixty (60) days; and, (iv) pays the required fee of three hundred fifty dollars (\$50.00) for the permit.
3. Abatement Inspection. Apart from any ordinarily required construction inspection as required by another applicable code, the Village shall cause an abatement re-inspection of the property after the 60th day, and shall issue a written determination that either: finds substantial completion of the work authorized by the provisional permit (and thereupon may grant an extension of the provisional permit as provided

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for above or issue a standard building permit and other permits for additional work to continue on the Structure); or, finds that there is not substantial compliance and the condemnation process provided in this Article shall continue.

D. Prosecution

Failure, refusal or neglect of the Interested Persons in a Dangerous Structure to abate such a nuisance after the Initial Notice of violation is an offense punishable in accordance with Section 1.06 and 9.14. However, the Village or agents of the Village shall delay filing of any charges in municipal court until such as time as there is probable cause to believe that the Interested Persons shall fail, neglect or refuse: (1) to comply with the Initial Notice of violation and need to secure or to repair the Dangerous Structure; or (2) to demolish the Dangerous Structure or portion thereof; or, (3) to timely and substantially complete the terms of a provisional permit, then the Village may proceed to prosecute same in the Timbercreek Canyon Municipal Court.

E. Notice of Condemnation Hearing

1. In the event that the Interested Persons shall fail, neglect or refuse: (1) to comply with the Initial Notice of violation to repair or rehabilitate; or (2) to demolish the Dangerous Structure or portion thereof; or, (3) to timely and substantially complete the terms of a provisional permit, then the Building Committee or Village Staff shall notify the Board of Aldermen of such fact.
2. The Building Committee or Village Staff shall cause to be presented to the Board of Aldermen a resolution setting a date for a condemnation hearing, which allows for not less than ten (10) days' notice to the Interested Persons in the property, and ordering that a written notice of such hearing be promptly sent to such person(s) at the last known address for such person(s), and by publication of a notice of such hearing one (1) time in a newspaper of general circulation in the Village prior to the date of such hearing. In addition, the Police Chief may post notice of the hearing on the property. The condemnation hearing will be held by the Board of Aldermen.

F. Conduct of Hearing

1. The Mayor shall announce the case and administer an oath or affirmation to all persons desiring to testify in the matter.
2. The Building Committee, Police Chief, Village Inspector, Village Staff Member or designee shall present photographs, documents, and other relevant and material testimony and evidence concerning (i) the conditions existing on and at the property; (ii) problems and nuisances arising out of same, (iii) the notices sent or effort to locate Interested Persons; and (iv) the existence and status of any provisional permit or reasons for denial of same by the Building Committee. At the conclusion of the Building Committee, Police Chief, Village Inspector, Village

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Staff Member or designee's testimony, the Mayor shall admit the file into the record of the proceeding and for individual review and questioning by any Board of Aldermen Member.

3. The Interested Persons in the property shall then have the right to cross- examine the Building Committee, Police Chief, Village Inspector, Village Staff Member or designee and challenge any aspect of the evidence or testimony offered by the Village Representative. The Interested Persons shall then be allowed to offer direct testimony, photos, and other relevant and material evidence in support of that person's position or in opposition to the Village Representative.
4. Any other person desiring to offer testimony about the matter shall then be heard by the Board of Aldermen.
5. If the Interested Persons who were sent notice of the hearing fails, refuses, or neglects to appear at the hearing, then such person is deemed to admit liability for the defects and violations stated in the initial notice.
6. The Board of Aldermen may adopt such other procedural rules it deems reasonable and helpful for the conduct of such hearings. The Mayor shall, in consultation with the Village Attorney as needed, rule on all procedural questions in order to do substantial justice with due regard for notions of fair play, judicial efficiency, private property rights, and public health and safety concerns posed by the condition of property.
7. Upon conclusion of all testimony from interested persons, the Mayor shall close the hearing. The Board of Aldermen shall publicly deliberate its decision, giving due consideration to and weighing the following factors: validity of the violations as alleged by the Village Staff Representative; the severity of such violations and any corresponding danger to the public; due regard for private property rights; fair opportunity for the Interested Persons to have been notified of the problems and a corresponding opportunity to repair, remediate, or remove the defects or Dangerous Structure; weighing the private property interests of neighbors affected by further delay or deterioration of the subject property; and any other relevant consideration unique to the circumstances of that case but which may materially affect due process and equal protection of involved persons. The Board of Aldermen shall then announce its decision during that meeting and issue its resolution order:
 - a. Finding that the Structure is not a dangerous one or one marked by accumulation of vegetation, debris or trash, and ordering the matter be dismissed and Village to dismiss the notice filed in the county real property records; or,
 - b. Finding the Structure or any other improvement of any kind, or any part

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thereof, is dangerous and ordering its removal ten (10) days after notice of decision; or,

- c. Finding the Structure is a danger and ordering its removal ten (10) days after notice of decision, however, further finding that good cause exists to grant a reprieve on that order to allow the Interested Persons in the property to seek to qualify for and obtain a provisional permit during that period, and if obtained then the reprieve shall continue for the duration of such permit or successor permit, as provided in this Section. The reprieve granted under this subsection shall expire upon the later of the expiration of time to apply for and obtain a provisional permit or the expiration of such permit. If at expiration of the reprieve the Building Committee finds that the defects that gave rise to the finding of a Dangerous Structure have been abated, then the prior order of the Board of Aldermen to remove the Structure is moot; or, if the defects remain, then the Building Committee or Village Staff shall proceed to carry out the Board of Aldermen's prior order to remove the Dangerous Structure; or,
- d. Finding good cause exists to defer the adjudication of the case and directing reinstatement or extension of a prior provisional permit, for a period of time determined by the Board of Aldermen not exceeding sixty (60) days from date of the hearing. If at the end of the deferral period, the Building Committee or Village Staff finds that there has been no substantial progress toward abatement of the defects, then such fact shall be reported to the Mayor who shall request the Board of Aldermen to set a new hearing and proceed with an adjudication of whether the Structure is dangerous or not, in accordance with the procedures of subsection (E).

G. Notice of Decision

A copy of the decision (resolution, order, or other document) of the Board of Aldermen shall be promptly sent to the Interested Persons in the Dangerous Structure or Premises in the same manner provided in subsection (B)(3) of this Section.

H. Default; assessment of costs; lien; law suit

- 1. If the Interested Persons shall fail, refuse, or neglect: (i) to remove or remedy the Dangerous Structure in accordance with the Board of Aldermen's resolution order not later than ten (10) days after notice of same is sent or posted; or (ii) either to apply for or to timely and substantially perform the terms of a provisional permit or extended provisional permit as ordered by the Board of Aldermen, (iii) or to timely and fully comply with the terms of a deferred adjudication, then the Building Committee or Village Staff shall proceed to execute the Board of Aldermen's finding and order to remove the Dangerous Structure.
- 2. All expenses incurred by the Village in the course of sending notices, removing and

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disposing of the Dangerous Structure or other improvements, as well as any other work performed on the premises or Structure, shall be invoiced to the owner of the property, with notice to any occupant and lien holder of record.

3. If the Interested Persons in the Premises shall fail, refuse, or neglect for a period of thirty (30) days to pay or discharge the expenses assessed by the Village, then the Village shall have a privileged lien second only to tax liens, and may file a record of such lien against such property in the appropriate county deed records, which shall bear interest at the rate of ten (10) percent per annum or as otherwise allowed by law. In no case shall the Village foreclose such lien by forced sale, except as may otherwise be prescribed by applicable state law.
4. Apart from any other action, right, or remedy mentioned in this section, the Village Attorney may file a civil law suit for any or all of the following: injunctive relief, declaratory judgment against the nuisance, for recovery of expenses incurred with interest.

I. Appeal

The findings and decision of the Board of Aldermen may be appealed to district court within thirty (0) days after rendering of the decision, for a trial in accordance with City of Dallas v. Stewart, No. 09-0257 (Tex.) (op. on reh., Jan. 2012).

J. Other Authority

Nothing in this section is intended as and shall not be construed as any limitation on the legal authority, right to enter, right to abate, or the procedures related thereto, that may be exercised by the Building Committee, Police Chief, or other government official acting in the scope of duty, as to any substandard building, or other condition existing on a premises that poses a clear and imminent hazard to human life, health, or safety.

State Law reference— Authority to define and prohibit nuisances, V.T.C.A., Local Government Code § 217.042, and § 54.04 pertaining to alternate adjudication procedures.

9.14 Variances (2002-6, 2010-1, 2016-3)

Variances to this Code shall be granted only upon a finding by the Board of Aldermen that a unique situation exists where substantial justice and preservation of the spirit and intent of this Code can be found by the granting of such a variance. All variances considered and granted shall be considered the result of a careful study of the specific facts and circumstances regarding each individual situation. Further, the existence or granting of a particular variance shall in no way be considered a precedent for the granting of other variances. Each variance request shall be a separate request that will be studied and judged on its own merits. Self-Induced hardships shall not be considered a unique hardship for the purpose of considering a variance request.

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Procedure:

1. An application for a variance must be filed in writing with the Building Committee together with a non-refundable fee in the amount currently in effect and approved by the Board of Aldermen. The written request for a variance must specifically state the provision(s) from which the variance is requested and must clearly identify the unique hardship or special circumstance that exists which causes the variance to be necessary. In addition, the requestor should provide sufficient detail in the request to allow the Board of Aldermen to consider all relevant facts in the matter.
2. The Mayor shall cause a Notice of Public Hearing to be posted at least ten (10) days prior to the next meeting of the Board of Aldermen which allows for time to satisfy this requirement and shall ensure that all resident property owners within one quarter (1/4) mile of the location subject to the variance are notified in writing of the public hearing.
3. The Board of Aldermen shall conduct a Public Hearing on the variance request and shall allow those members of the public present to provide testimony to the Board regarding the request. In addition, the Board shall cause any written comments received to be read into the record during the public hearing.
4. The Board of Aldermen, after receipt of oral and written comments, shall consider the variance request in open session. Variances must be approved by a majority of the total members of the Board of Aldermen. In the event a written protest from the owners of at least twenty (20) percent of the lots or land located within one quarter (1/4) mile of the location subject to the variance is received, the variance shall not be granted except by a three quarters (3/4) majority of the total members of the Board of Aldermen.
5. Any approved variance shall be granted in the form of an ordinance and shall be a permanent part of the Village record.
6. The Village Board of Aldermen shall not consider the same or substantially same request for a variance more than once in any twelve (12) month period.

9.15 Penalties and Enforcement

- A. Violation of a provision of this Code shall be considered a Class C misdemeanor and shall be punishable by a fine up to the maximum amount allowed by State Law at the time of the offense and each and every day of violation shall be considered a separate violation and penalties may be cumulative.
- B. Commencement of construction activities prior to the receipt of an approved building permit shall be punishable by Section 9.04 E.
- C. Injunction and Restraining Order – construction activities without a valid building

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permit or activities which deviate from the activities approved in a valid building permit shall be subject to a temporary injunction and/or restraining order from the Municipal Court of the Village of Timbercreek Canyon to cause such activities to cease and desist until a permit is issued or activities are brought into compliance with a valid building permit.

- D. Enforcement – the Village Police Chief and his/her designees shall be the enforcement officer for the terms and conditions of this Code and separately or together with certified information from the Building Committee shall be authorized to act upon any apparent violations.

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Chapter X – Traffic (Ord. 2002-7) (Amended Ordinance 2003-16, 2013-2, 3, 4 &5, 2016-1,)

10.1 Statement of Purpose

The Village of Timbercreek Canyon has been granted the authority to regulate traffic on the private roads contained within the Village through the authority granted under the Texas Transportation Code, Subchapter A, Chapter 542, Section 542.008. Accordingly, traffic on all roads is regulated by the Village of Timbercreek Canyon through the Village Police Department, which is expressly granted the authority to enforce the following provisions.

Drivers using the roads within the boundaries of Timbercreek Canyon are specifically advised that all general traffic rules and laws, “Rules of the Road”, enforceable by the State of Texas or a political subdivision of the State are enforceable within the Village of Timbercreek Canyon by any appropriate law enforcement official. Statutory authority to place, maintain, and enforce necessary traffic control devices is granted under Section 544, Texas Transportation Code.

Definitions

All words and regulations are intended to be interpreted with their commonly used meanings and definitions and in accordance with those definitions contained in the Transportation Code of the State of Texas.

10.2 Speed Limit

Unless specifically noted either in this Chapter or by clearly posted traffic signage, the maximum speed limit on any road within the Village of Timbercreek Canyon is **30 miles per hour**. However, nothing in this shall be construed to prohibit the Village of Timbercreek Canyon from requiring lower speed limits on any roads, when such lower limit is adopted by an affirmative vote of the Board of Aldermen and such lower speed limit is clearly posted on the road segment in question. When such lower speed limits have been considered and adopted, such provisions shall be added to this section of the Code by ordinance and shall be numbered 10.2.1, 10.2.2, etc.

10.2.1 Speed Limit Zones of 15 miles per hour

The speed limit on South Timbercreek Drive on the North and South side of the South Timbercreek Dam shall be 15 miles per hour in the posted sign area.

10.2.2 Speed Limit Zones of 20 miles per hour

The speed limit on McAfee Lane on the North and South side of the McAfee Bridge shall be 20 miles per hour in the posted sign area.

10.2.3 Reserved

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10.3 Stop Signs

The following locations shall be designated for a “STOP” sign due to the inherent benefit to the public health, safety, and welfare.

- A. On Caprock Drive, at the intersection of Caprock Drive and North Timbercreek Drive. All traffic on Caprock shall STOP before entering onto North Timbercreek Drive.
- B. On Quail Ridge, at the intersection of Quail Ridge and South Timbercreek Drive. All traffic on Quail Ridge shall STOP before entering onto South Timbercreek Drive.
- C. On Wildflower Drive, at the intersection of Wildflower Drive and South Timbercreek Drive. All traffic on Wildflower Drive shall STOP before entering onto South Timbercreek Drive.
- D. On South Timbercreek Drive, at the intersection of South Timbercreek Drive and McAfee Lane. All traffic on South Timbercreek Drive shall STOP before entering onto McAfee Lane.
- E. On Pinto Drive, at the intersection of Pinto Drive and Roberts Drive. All north-west bound traffic on Pinto Drive shall STOP before entering onto Roberts Drive or before proceeding on Pinto Drive. Traffic on Pinto Drive approaching Roberts Drive from the north-west does not have a STOP sign, although all rules of the road and yielding of the right of way to other traffic shall apply.
- F. On McKenzie Road, at the intersection of McKenzie Road and McAfee Lane. All traffic on McKenzie Road shall STOP before entering onto McAfee Lane.
- G. On Roberts Drive, at the intersection of Roberts Drive and Cactus Drive. All south-bound traffic on Roberts Drive shall STOP before entering onto Roberts Drive west-bound or Cactus Drive south-bound.
- H. On Pinion Drive, at the intersection of Pinion Drive and Pinto Drive. All traffic on Pinion Drive shall STOP before entering onto Pinto Drive.
- I. On Fox Ridge, at the intersection of Fox Ridge and Pinion Drive. All traffic on Fox Ridge shall STOP before entering onto Pinion Drive.
- J. On North Timbercreek Drive, at the intersection of North Timbercreek Drive and South Timbercreek Drive. All traffic east-bound on North Timbercreek Drive shall STOP before entering onto South Timbercreek Drive or continuing onto North Timbercreek Drive.

10.4 Yield Signs (Amended 2003-16)

The Village of Timbercreek Canyon has designated the following locations for a “YIELD” sign due to the inherent benefit to the public health, safety, and welfare.

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- A. On Hackberry, at the intersection of Hackberry and Wild Plum Drive. All traffic on Hackberry shall YIELD before entering onto Wild Plum Drive.
- B. On North Timbercreek Circle, at the intersection of North Timbercreek Circle and North Timbercreek Drive. All traffic on North Timbercreek Circle shall YIELD before entering onto North Timbercreek Drive.
- C. On Deer Haven Trail, at the intersection of Deer Haven Trail and South Timbercreek Drive. All traffic on Deer Haven Trail shall YIELD before entering onto South Timbercreek Drive.
- D. On Viewpoint, at the intersection of Viewpoint and Roberts Drive. All traffic on Viewpoint shall YIELD before entering onto Roberts Drive.
- E. On Palomino Drive, at the intersection of Palomino Drive and Fox Ridge. All traffic on Palomino Drive shall YIELD before entering onto Fox Ridge.
- F. On Pinion Drive, at the intersection of Pinion Drive and Palomino Drive. All traffic on Pinion Drive shall YIELD before entering onto Palomino Drive.
- G. On Pinto Drive, at the intersection of Pinto Drive and Palomino Drive. All traffic on Pinto Drive shall YIELD before entering onto Palomino Drive.
- H. On Quail Ridge, at the intersection of Quail Ridge and Cactus Drive. All traffic on Quail Ridge shall YIELD before entering onto Cactus Drive.

10.5 Motorized Vehicles – ATVs, Golf Carts, etc.

- A. General Rules and Regulations
 - 1. All traffic rules and laws enforceable by the State of Texas or an authorized Political Subdivision of the State are hereby adopted and enacted for the roads within the Village of Timbercreek Canyon. Drivers are advised to operate vehicles in full compliance with all State Laws and regulations and the specific regulations contained in this Chapter.
 - 2. All traffic rules must be followed including, but not limited to, posted speed limits, stopping at stop signs, etc. Vehicles must be operated safely at all times. When in operation of any vehicles listed in this section, all operators will yield to other traffic.
 - 3. Number of riders per vehicle is limited to how the vehicle is equipped for seating.
 - 4. Youth under 16 years of age will not be permitted to operate the vehicles described in this section unless accompanied by an adult.
 - 5. Hours of operation for operators 16 years of age and younger described in this section shall be from sunrise until 30 minutes prior to sunset. Hours of operation for operators 17 years of age and older of vehicles described in this section shall be from

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sunrise until 30 minutes prior to sunset unless a vehicle is equipped with head and tail lamps.

6. Vehicles in this section are allowed on roads but will not be allowed on non-paved portions of land owned by the Village. (i.e., public recreation areas, portions of the creek bed owned by the Village, etc.)

B. All-Terrain Vehicles

1. Riders under the age of 18 shall wear a helmet.
2. All ATVs must be properly muffled.

C. Golf Carts

1. Any golf cart operated will have a rear-view mirror and must display an orange safety flag displayed above the height of the vehicle.
2. If driven at night by an adult operator, golf carts are to be equipped with front and rear lamps. During night-time driving, adult operators will pull to the right of the road and allow other vehicles to pass when approached from the rear.

10.6 Penalty

Any person who violates any provision of this Chapter shall be guilty of a Class “C” Misdemeanor, and any such violation shall be punishable by a fine not to exceed the maximum allowed under State Law.

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APPENDIX-- A

APPENDIX A—FEE SCHEDULE

1. New Home--\$0.20/Square Foot Under Roof with \$175.00 minimum
2. Remodel Existing Home--\$0.15/Square Foot Under Roof with \$75.00 minimum.
3. Outbuilding--\$0.10/Square Foot with \$50.00 minimum
4. Roofs and Fences--\$50.00 Flat Fee
5. Decks and Patios--\$50.00 Flat Fee
6. Variance Fee--\$75.00 to be Paid Prior to Variance Submission and Decision
7. Registered Builder Fee--\$100.00 Valid for 3 Years
8. Inspections—Current rate approved by the Board of Aldermen with a minimum of \$75 per inspection. All inspections must be completed by the Village Contracted Inspector
9. All other projects governed by the IRC--\$50.00 Flat Fee with Building Inspections as Required