

Village of Webberville

COMMERCIAL & INDUSTRIAL MORATORIUM

ORDINANCE NO. 2003- 03

AN ORDINANCE OF THE VILLAGE OF WEBBERVILLE, TEXAS, REQUIRING PERMITS FOR THE ALTERATION, MODIFICATION, RENOVATION, EXPANSION OF BUILDINGS, SITES, STRUCTURES, AND PLACES USED FOR COMMERCIAL AND INDUSTRIAL PURPOSES; ESTABLISHING A TEMPORARY MORATORIUM; AND PROVIDING FOR THE FOLLOWING: POPULAR NAME; FINDINGS OF FACT; A PURPOSE; DEFINITIONS; COMPLIANCE REQUIRED; SCOPE OF JURISDICTION; APPLICABILITY; EFFECTIVE DATE; DURATION; ENFORCEMENT, INCLUDING CRIMINAL FINES NOT TO EXCEED \$500 AND CIVIL PENALTIES NOT TO EXCEED \$1,000 PER VIOLATION; A REPEALER; SEVERABILITY; AND PROPER NOTICE AND MEETING.

WHEREAS the Village of Webberville is a newly-created governmental entity that was incorporated pursuant to the laws of the State of Texas as a Type C General-Law Municipality following an election held on February 1, 2003; and

WHEREAS pursuant to the laws of the State of Texas, the Mayor and Village Commission were duly elected following an election held February 1, 2003; and

WHEREAS the Village Commission of the Village of Webberville seeks to provide for the orderly and safe development of land and use of property within its Village Limits (i.e., incorporated municipal boundary); and

WHEREAS the Village Commission finds that the historically agricultural and residential community needs special protection from the adverse impacts of the growing commercial and industrial operations in the Village; and

WHEREAS the Village Commission seeks a better understanding of the effects of commercial and industrial enterprises in the Village; and

WHEREAS the Village Commission needs a reasonable amount of time to study land use management and planning techniques for the purpose of devising a responsible land use plan for the Village; and

WHEREAS the Village Commission seeks public input and professional assistance in order to preserve the rural, small community lifestyle of the Village while also allowing for compatible uses and protecting private property rights; and

WHEREAS the Village Commission plans to gather and disseminate to the public vital information relating to land use and development; and

WHEREAS the Village Commission seeks to promote a positive Village image reflecting order, harmony, and pride, thereby strengthening the Village's commercial, cultural, historical, residential and scenic areas; and

WHEREAS the Village Commission seeks to preserve the health, safety and general welfare of the community by enacting comprehensive land use regulations that provide for orderly growth; and

WHEREAS the Village Commission has the general authority to regulate land use and development and nuisances pursuant to the Texas Constitution, the Village's police power and by the Texas Local Government Code, Chapters 51, 54, 211, 212 and 217; and

WHEREAS the Village Commission is in the process of diligently researching and preparing to adopt comprehensive subdivision, zoning ordinances, and building codes, and

WHEREAS the Village Commission has provided ample public notice and conducted at least one public hearing at which citizen input was solicited on this Ordinance; and

WHEREAS the Village Commission finds that a temporary moratorium is necessary and prudent in order to protect the *status quo* so that the Village Commission may adopt the appropriate administrative and regulatory rules and procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF WEBBERVILLE, TEXAS:

1. ENACTMENT CLAUSES

A. Popular Name

This Ordinance may be referred to as the Village of Webberville's "Commercial & Industrial Moratorium."

B. Findings of Fact

All of the above premises are hereby found to be true and correct legislative and factual findings of the Village Commission of Webberville, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

C. Purpose

This Ordinance is adopted so that the Village Commission may promote the public health, safety, morals and general welfare within the Village through the regulation of commercial and industrial uses in this primarily residential and agricultural community. The purpose of this Ordinance is to preserve the *status quo* in order to allow the Village Commission to conduct research, receive public input, establish reasonable policies, and prepare necessary ordinances. This Ordinance provides temporary regulations while the Village Commission enacts the appropriate administrative and regulatory rules and procedures.

D. Compliance Required

It shall be unlawful for any person to alter, build, construct, remodel, or modify a building, site place, or structure that is used primarily for commercial or industrial purposes in a manner not in compliance with this Ordinance.

E. Scope of Jurisdiction

The provisions of this Ordinance shall apply within the Village Limits (i.e., incorporated municipal boundary) of the Village.

F. Applicability

This Ordinance shall not apply to properties upon which construction commenced prior to February 27, 2003.

G. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

H. Duration

This Ordinance is enacted for a limited duration and shall be in effect for an initial term of one hundred and twenty (120) days from the effective date, or until expressly repealed by the Village Commission. The Village Commission may vote to extend the duration of this Ordinance as reasonable and necessary.

2. DEFINITIONS

A. General

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases that are not defined in this Ordinance but are defined in other ordinances of the Village shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

B. Specific

- (1) **Alter** means to make a physical change in or to a building, object, site or structure.
- (2) **Building** means an improvement or change to the property which substantially reduces the permeability of the natural ground underneath the building or structure to absorb rainfall. This term also includes a dwelling, such as a house, barn, church, hotel, or similar structure created to shelter any form of human activity.
- (3) **Clear** means to make a material change in the character of the land, including but not limited to the extraction of vegetation, removal of brush, cutting of trees, or modification of the natural grade or slope of the land.
- (4) **Commercial Use** means establishments engaged in the sale, rental, servicing and distribution of goods and the provision of services. This term does not include single family residential uses.
- (5) **Construct** means to excavate or grade property in connection with construction of a foundation for any improvement to be located on the land. The term also means to form a building by combining materials or parts.
- (6) **Develop** means to make a material change in the use or character of the land, including but not limited to the placement of any building or other structure on the land.
- (7) **Expand** means to add any square footage of impervious cover on the property, regardless of whether such addition will be covered or uncovered.
- (8) **Industrial Use** means establishments engaged in the manufacturing or transformation of raw materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer. For purposes of this ordinance, this term includes mining and quarrying activities.

- (9) **Ordinary Maintenance** means activities relating to a property that would be considered ordinary or common for maintaining the property, including but not limited to the replacement of a porch floor with identical or in-kind materials and painting. The term expressly omits activities involving the expansion, modification, enlargement, reduction, renovation or remodeling of buildings or structures.
- (10) **Person** means any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.
- (11) **Repair** means the maintenance of or the return to a state of utility of a building, object, site or structure.
- (12) **Structure** means those functional constructions made usually for purposes other than creating shelter. The term is used to distinguish these items from buildings.
- (13) **Village** means the Village of Webberville, an incorporated municipality located in Travis County, Texas, its agents and employees.

3. COMMERCIAL & INDUSTRIAL USE PERMITS

- A. It shall be unlawful for any person to alter, build, clear, construct, develop, erect, expand or modify any building, facility, site or structure used or intended for commercial or industrial uses without first making application to the Village and securing a Commercial & Industrial Use Permit issued by the Village.
- B. Commercial & Industrial Use Permits are not required under this ordinance for projects consisting of ordinary maintenance or repair to buildings, facilities, sites or structures that existed on the effective date of this ordinance and the total cost of the project is less than five thousand dollars (\$5,000).

4. TEMPORARY SUSPENSION

The Village's acceptance, review and approval of all Commercial & Industrial Use Permit applications within the Village Limits (i.e., incorporated municipal boundary) is hereby temporarily suspended and prohibited.

5. ENFORCEMENT

A. Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (1) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- (2) a civil penalty up to one thousand dollars (\$1,000.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- (3) other available relief.

6. REPEALER

All Ordinances or parts of Ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

7. SEVERABILITY

It is hereby declared to be the intention of the Village Commission that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

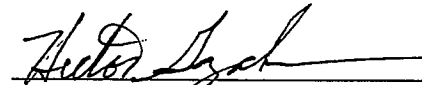
8. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this the 27th day of February, 2003, by a vote of 3 (ayes) to 0 (nays) to 0 (abstentions) of the Village Commission of the Village of Webberville, Texas.

VILLAGE OF WEBBERVILLE


by:


Hector Gonzales, Mayor

ATTEST:


Carol Goodrich, Village Clerk

APPROVED AS TO FORM:


Alan J. Bojorquez, Village Attorney

Attachments Upon Passage:

- meeting agenda
- meeting minutes
- publisher's affidavit & newspaper notice