

Village of Webberville

HISTORIC PRESERVATION MORATORIUM

ORDINANCE NO. 2003- 04

AN ORDINANCE OF THE VILLAGE OF WEBBERVILLE, TEXAS, REQUIRING PERMITS FOR THE ALTERATION, MODIFICATION, RENOVATION, MODIFICATION; DESTRUCTION AND DEMOLITION OF HISTORICAL BUILDINGS, OBJECTS AND PLACES; ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, REVIEW AND APPROVING OF HISTORIC PRESERVATION PERMITS; 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 historic buildings and other places of historic or cultural importance are key features of the Village that warrant protection and preservation; and
- WHEREAS** the Village Commission seeks a better understanding of the places within the Village that have cultural, historic, or architectural significance; and
- WHEREAS** the Village Commission needs a reasonable amount of time to study historic preservation techniques for the purpose of gaining knowledge concerning the value of historic buildings and places and their importance on the community and region; and

WHEREAS the Village Commission seeks public input, professional assistance, and guidance from state and federal agencies in order to understand the conservation, adaptation, improvement, and restoration of historic places so to enact regulations, policies and methods of governmental administration necessary to protect and preserve the Village's historic resources; and

WHEREAS the Village Commission plans to gather and disseminate to the public vital information relating to land use and development with regard to historic places; 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 United States Supreme Court and Texas courts have recognized that historic preservation is a legitimate public purpose and that municipalities have the constitutional power to regulate the use of private property in the interest of promoting the social and economic goals of preserving historic places deemed to have public value; 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, 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 "Historic Preservation 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 construction and renovations upon historic sites. The purpose of this Ordinance is to preserve the *status quo* in order to allow the Village Commission a reasonable time 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, modify, remove, demolish or destroy a historic structure or place 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) **Alteration** means a physical change in or to a building, object, site or structure.
- (2) **Building** means a dwelling, such as a house, barn, church, hotel, or similar structure created to shelter any form of human activity. The term may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.
- (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) **Historic Area** means a place that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.
- (5) **Historic Designations** means an official recognition of the significance of a building, property or district. Designation can occur on three different levels:
 - a. **Federal** – The National Register of Historic Places (for both individual buildings and entire districts);
 - b. **State** – Recorded Texas Historic Landmarks (only for individual buildings) and State Archeological Landmarks; or
- (6) **Historic Property** means a district, site, building, structure, or object significant in American, Texas, or local history, architecture, engineering, archeology or culture. For purposes of this ordinance, a historic property might or might not have received historic designation.

- (7) **Historic Resource** includes but is not limited to architectural, historical, and archeological properties, as well as landscape features.
- (8) **Historic Site** means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of any existing structure.
- (9) **Historic Structure** means any individual building or object that is significant for historical, architectural, or archeological reasons.
- (10) **Object** means a physical item associated with a specific setting or environment that is movable by nature or design, such as statuary in a designed landscape. The term object is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed.
- (11) **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.
- (12) **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.
- (13) **Repair** means the maintenance of or the return to a state of utility of a building, object, site or structure.
- (14) **Structure** means those functional constructions made usually for purposes other than creating shelter. The term is used to distinguish these items from buildings.
- (15) **Village** means the Village of Webberville, an incorporated municipality located in Travis County, Texas, its agents and employees.

3. PERMIT REQUIRED

- A. It shall be unlawful for any person to alter, clear, modify, repair, construct upon, destroy or demolish a historic building, object, resource, site, structure without first applying for and receiving an Historic Preservation Permit from the Village of Webberville.
- B. Historic Preservation Permits are not required under this ordinance for projects consisting of ordinary maintenance or repair the total cost of the project being less than five thousand dollars (\$5,000).

4. TEMPORARY SUSPENSION

The Village's acceptance, review and approval of all Historic Preservation 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

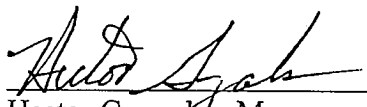
It is hereby declared to be the intention of the Village Commission that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree 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.

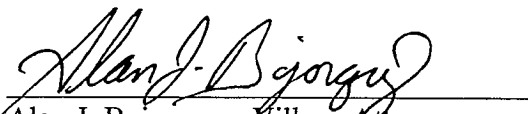
VILLAGE OF WEBBERVILLE

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