

Village of Webberville

ORDINANCE NO. 2004-04

HISTORIC PRESERVATION ORDINANCE

AN ORDINANCE OF THE VILLAGE OF WEBBERVILLE, TEXAS, ESTABLISHING REGULATIONS FOR THE PRESERVATION OF HISTORIC PLACES AND BUILDINGS WITHIN THE VILLAGE, INCLUDING PROVIDING FOR THE FOLLOWING: ADDITION OF CHAPTER __ TO CODE; DEFINITIONS; CREATION OF THE WEBBERVILLE HISTORIC PRESERVATION BOARD; PROCESS AND CRITERIA FOR DESIGNATION OF LANDMARKS AND DISTRICTS; RELATION TO STATE AND FEDERAL DESIGNATIONS; REQUIREMENTS FOR OBTAINING A CERTIFICATE OF APPROPRIATENESS; PROHIBITION AGAINST NEGLECT; RELATION TO OTHER ORDINANCES; NO VESTED INTEREST CREATED; ENFORCEMENT INCLUDING A CRIMINAL FINE NOT TO EXCEED \$2000, CIVIL PENALTIES NOT TO EXCEED \$1000, AND INJUNCTIVE RELIEF; REPEALER; FINDINGS OF FACT; SEVERABILITY; AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

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 laws of the State of Texas, including but not limited to Chapter 211 of the Texas Local Government Code, authorize the Village Commission to protect and preserve places and areas of historical and cultural importance and significance; to designate places and areas of historical and cultural importance; and to regulate the construction, reconstruction, alteration, or

razing of buildings and other structures in order to maintain the Village's heritage and property values; and

WHEREAS, this Ordinance serves a permissible goal in a reasonable fashion while curbing the possibility for abuse through the composition of a Historic Preservation Board, the provision of adequate guidelines and legislative direction to enable implementation consistent with due process, and the establishment of an elaborate decision-making process and appeal process; and

WHEREAS, the Village Commission finds that the spirit and direction of the Village are founded upon and reflected in the historic past, and both the cultural and historic foundations of the Village should be preserved as a living part of our community life and development in order to give a sense of orientation to the citizens of the Village; and

WHEREAS, the Village Commission finds that the loss or degradation of the Village's historic buildings and places would have an adverse effect on the shared sense of community and could potentially decimate tourism; and

WHEREAS, the Village Commission finds and declares as a matter of public policy that the protection, enhancement, preservation, and use of historic landmarks are public necessities and are required in the interest of the culture, prosperity, education, and general welfare of the citizens of the Village; and

WHEREAS, the Village Commission finds that the protection of architectural heritage and the preservation of this attractive community are worthy ends; and

WHEREAS, the Village Commission hereby declares that it is in the Village's interest to preserve the individuality and charm of the Village of Webberville by identifying and designating man-made and natural landmarks and districts of architectural, cultural, historical, and archeological significance in furtherance of history, prosperity, education, and commerce; and

WHEREAS, the implementation of the regulations established by this Ordinance is consistent with the Village Commission's comprehensive effort to preserve the cultural, historical, ecological and geological treasures of the Village.

NOW THEREFORE, be it ordained by the Village Commission of the Village of Webberville, County of Travis, State of Texas:

1. ENACTMENT CLAUSES

A. Popular Name

This Ordinance may be referred to as the Village of Webberville's "Historic Preservation Ordinance."

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. So that historic and archeological properties may have a long future, this Ordinance calls for their protection, preservation, and enhancement, and thereby is intended to:

- (1) Encourage stabilization, restoration, and improvements of such properties and their values;
- (2) Foster civic pride in the accomplishments and uniqueness of the Village's history and prehistory;
- (3) Safeguard and strengthen the Village's attraction to tourists and visitors and the support and stimulus to the economy thereby provided;
- (4) Promote the use of historical, cultural, and architectural landmarks for the education, pleasure, and welfare of the Village;
- (5) Contribute to orderly, efficient, and appropriate growth and development in the Village;

- (6) Provide opportunities for citizen participation in the preservation and enhancement of historical resources of the Village;
- (7) Furnish assistance to property owners, tenants, and civic organizations concerned with historic preservation; and
- (8) Preserve private property rights and demonstrate respect for property owners through the enactment of reasonable regulations and the establishment of a sensible administrative process.

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. Effective Date

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

G. Definitions - General

Words and phrases used in this Chapter shall have the meanings set forth in this section. Words and phrases which are not defined in this Chapter 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 Chapter.

B. Specific Definitions

- (1) "*Alteration*" means a physical change in or to a building.
- (2) "*Applicant*" means a person seeking a designation or authorization under this Chapter or the person's designated and duly authorized agent or

representative. This term may include the property owner, occupant of the site, the Historic Preservation Board (“HPB”) or Village Commission.

- (3) “*Appurtenant features*” means the features that define the design of a building or property including but not limited to porches, railings, columns, shutters, steps, fences, attic vents, sidewalks, driveways, garages, carports, outbuildings, gazebos, and arbors.
- (4) “*Archeological property/site*” means any locale where there is physical evidence of past human activity that is either prehistoric or historic in age.
- (5) “*Architectural control*” means regulations governing the appearance or architectural style of buildings or structures. Architectural control is a form of aesthetic zoning.
- (6) “*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. The term also includes mobile homes, manufactured homes, and industrial housing.
- (7) “*Certificate of Appropriateness*” means a document issued by the Village certifying that the proposed actions by an applicant are found to be acceptable in terms of the design criteria relating to the individual property or the Local Historic District.
- (8) “*Village*” means the Village of Webberville, a duly incorporated municipality located in Travis County, Texas.
- (9) “*Commission*” means the governing body (i.e., the “*Village Commission*” or “*board of aldermen*”) of the Village of Webberville.
- (10) “*Comprehensive historic preservation plan*” means a document that integrates the various preservation activities and gives them coherence and direction, as well as relates the Village's preservation efforts to community development planning as a whole.
- (11) “*Contemporary*” means any feature marked by architectural elements or design characteristics of the present period.

- (12) “*Contributing property*” means a property that contributes to a district’s historical significance through location, setting, design, construction, workmanship, and/or association with historical persons or events.
- (13) “*Design review*” means the decision-making process conducted by an established review committee of the Village that is guided by the terms set forth in the Historic Preservation Ordinance.
- (14) “*Design review guidelines*” means a set of guidelines adopted by the Webberville Historic Preservation Board that details acceptable alterations of designated properties.
- (15) “*Exterior features*” means features including the architectural style, general design, and general arrangement of the exterior of a building or other structure, including but not limited to the kind and texture of the building material and the type and style of the windows, doors, walls, roofs, light fixtures, signs, and other appurtenant features.
- (16) “*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.
- (17) “*Historic designations*” means an official recognition of the significance of a building, property or district. Designation can occur on three different levels:

Federal – The National Register of Historic Places (for both individual buildings and entire districts);

State – Recorded Texas Historic Landmarks (only for individual buildings) and State Archeological Landmarks; or

Local – designated under a municipal historic ordinance either individually as a landmark or as a locally designated district.

- (18) “*Historic preservation*” means the protection, reconstruction, rehabilitation, repair and restoration of places and structures of historic, architectural, or archeological significance.

- (19) "*Historic Preservation Board*" or "*HPB*" means the citizen advisory board appointed by the Village Commission to perform certain functions under this Chapter.
- (20) "*Historic property*" means a district, site, building, structure, or object significant in American, Texas, or local history, architecture, engineering, archeology or culture.
- (21) "*Historic resource*" includes but is not limited to architectural, historical, and archeological properties, as well as landscape features.
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- (22) "*Historic structure*" means any individual building or object that is significant for historical, architectural, or archeological reasons.
- (23) "*Intensive survey*" means a systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance.
- (24) "*Integrity*" means the authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or prehistoric period.
- (25) "*Inventory*" means a list of historic properties that have been identified and evaluated as meeting specified criteria of significance.
- (26) "*Local Historic District*" means a geographically and locally defined area that possesses a significant concentration, linkage, or continuity of buildings, objects, sites, structures, or landscapes united by past events, periods, or styles of architecture, and that, by reason of such factors, constitute a distinct section of the Village. Historic sites within a local district need not be contiguous for an area to constitute a district. All sites, buildings, and structures within a local historic district, whether individually contributing or not, are subject to the regulations of the district.
- (27) "*Local Historic Landmark*" means any site, building, structure, or landscape of historic significance that receives designation by the Village pursuant to this Chapter.

- (28) “*National Register of Historic Places*” means the nation’s official list of buildings, districts, and sites (including structures and objects) significant in American history and culture, architecture, archeology, and engineering maintained by the National Park Service and administered on a state-wide basis by the Texas Historical Commission. Restrictions on these properties exist only when federal funds are used or when there is an undertaking that uses federal funds or that requires a federal permit or license.
- (29) “*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.
- (30) “*Official Texas Historical Markers*” means markers (or signs) administered through county historical commissions and the Texas Historical Commission that commemorate aspects of local history such as churches, schools, cemeteries, individuals, and businesses. These markers offer no protection as they are simply commemorative and educational in nature.
- (31) “*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.
- (32) “*Overlay zones*” means zoning requirements that are described in this Chapter or are mapped, and are imposed in addition to those of the underlying zoning district established by the Village. Development within the overlay zone must conform to the requirements of both zones. When in conflict, the more restrictive of the two applies.
- (33) “*Person*” means an individual, corporation, organization, business, trust, partnership, or any other legal entity, association or government agency.

- (34) “*Preservation*” means the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.
- (35) “*Preservation planning*” means planning for the continued identification and evaluation of historic properties and for their protection and enhancement.
- (36) “*Recorded Texas Historical Landmark*” means a designation for buildings important for their historical associations and which have retained a high degree of their original historic fabric. They must be at least fifty (50) years of age and retain their original exterior appearance. State historical landmarks receive greater legal protection than National Register of Historic Place designations.
- (37) “*Rehabilitation*” means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.
- (38) “*Repair*” means the maintenance of or the return to a state of utility of a Local Historic Landmark.
- (39) “*Restoration*” means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.
- (40) “*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.
- (41) “*State Archeological Landmark*” means a designation made by the Texas Historical Commission and, in the case of privately owned property, with the landowner’s permission. Although called “archeological” landmarks,

this designation can include buildings as well as archeological sites. For a building to be designated as a State Archeological Landmark, it must first be listed on the National Register of Historic Places. Damage to a State Archeological Landmark is subject to criminal, not civil, penalties.

- (42) “*Structure*” means those functional constructions made usually for purposes other than creating shelter. The term is used to distinguish these items from buildings.
- (43) “*Zoning*” means a police power measure, enacted by a municipality, including the Village, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards.

2. HISTORIC PRESERVATION BOARD

A. Board Created

The Village Commission hereby establishes a Historic Preservation Board (hereafter referred to as the "HPB").

- (1) The HPB shall consist of ____ members to be appointed by the Village Commission and Mayor. Members of the Village Commission and Mayor shall each appoint ____ member to the Board. ____ additional members shall be appointed by consensus of the Village Commission. At least ____ Board members shall be residents of the Village. No more than ____ members may reside outside of the Village or the Village's extra-territorial jurisdiction. All of the HPB members shall have a demonstrated interest, competence, or knowledge in historic preservation of the Village. The Village Commission shall endeavor to appoint members with skills and knowledge appropriate to the duties of the HPB, including, to the extent possible, persons from the following categories:
 - (a) Architect, planner, or design professional;
 - (b) Historian;
 - (c) Licensed real estate broker;
 - (d) Lawyer;
 - (e) Owner of a landmark or property in a historic district;
 - (f) Archeologist or person from a related discipline;
 - (g) Member of the Travis County Historical Board; and
 - (h) Business person.
- (2) A member of the Planning and Zoning Board shall be appointed by the Mayor to serve as a nonvoting, ex-officio member and liaison to the HPB.

- (3) The HPB members shall serve for a term of two (2) years, with the exception that the initial term of ____ members shall be one (1) year, and ____ members should be two (2) years, to be determined upon the drawing of lots.
- (4) Any vacancy in the membership of the HPB shall be filled for the remainder of that term in the same manner as provided herein for the initial appointment of the HPB members.
- (5) Members of the HPB may be removed from office at any time by a simple majority vote of the full Village Commission either upon its own motion or upon recommendation of the HPB. HPB members shall regularly attend meetings and public hearings of the Board, and shall serve without compensation. Voluntary absences from three (3) meetings of the HPB in a calendar year will result in the automatic resignation. The Chair may excuse an absence if the HPB member concerned seeks an excuse.
- (6) The Chairperson, Vice-Chairperson, and Recording Secretary of the HPB shall be elected by and from members of the HPB.
- (7) The Chairperson of the HPB or his/her designee shall be the designated Historic Preservation Officer of the Village for the purpose of maintaining communication with the Texas Historical Commission and the Travis County Historical Commission.

B. Board Authority

- (1) The Historic Preservation Board shall be empowered to:
 - (a) Adopt rules and procedures as necessary to carry out the business of the HPB. In order to become effective, such rules and procedures shall be ratified by the Village Commission.
 - (b) Make recommendations to the Village Commission for employment of staff and professional consultants as necessary to carry out the duties of the HPB.
 - (c) Recommend to the Village Commission criteria for the designation of historic, architectural, cultural, and archeological places.

- (d) Suggest Local Historic Districts and Local Historic Landmarks that the HPB recommends be designated by the Village Commission pursuant to the criteria established by this Chapter.
- (e) Receive applications for historic designation of areas, sites, districts, or buildings.
- (f) Approve or disapprove applications for Certificates of Appropriateness pursuant to this Chapter.
- (g) Conduct surveys and maintain an inventory of significant historic, architectural, cultural, and archeological landmarks and properties located in historic districts within the Village.
- (h) Prepare or cause to be prepared a recommended comprehensive preservation plan for the Village.
- (i) Establish committees as needed.
- (j) Maintain written minutes that record all actions taken by the Board.
- (k) Develop public outreach, education, and awareness programs.
- (l) Recommend to the Village Commission conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques, or markers.
- (m) Recommend to the Village Commission sources of state, federal, or private funds for preservation and restoration activities.
- (n) Prepare and recommend to the Village Commission specific design guidelines for the review of landmarks or districts.
- (o) Propose tax abatement programs and other incentives for the preservation of historic landmarks and districts.
- (p) Submit an annual report to the Mayor and Village Commission on the status of preservation in the Village and the work of the HPB.

- (q) Perform any other such activities necessary to achieve the goals of this Chapter, and other duties as assigned by the Village Commission.
- (2) The HPB shall meet on a monthly basis, if business is at hand. Special meetings may be called at any time by the Chair or on the written request of any two (2) HPB members. All meetings shall be held in conformance with the Texas Open Meetings Act.
- (3) A quorum for voting shall consist of ____ HPB members. A positive vote of a majority of the quorum shall be required to take any official action. In instances of inaction by the HPB, the written minutes of HPB meetings shall constitute a "report" for purposes of this Chapter.

3. HISTORIC DESIGNATIONS

A. General

The HPB may recommend that the Planning and Zoning Board and the Village Commission designate certain buildings, archeological sites, landscapes, and areas within the Village as Local Historic Landmarks and Local Historic Districts and define, amend, and delineate the boundaries thereof. Such a designation shall be in addition to any other zoning district designation established by the Village Commission. All zoning district maps shall show the designation of Local Historic Landmarks and Local Historic Districts by the letter 'H' as a suffix.

B. Criteria for the Designation

- (1) A historic structure or historic area may be designated as a Local Historic Landmark or Local Historic District if it meets one or more of the following criteria:
 - (a) Possesses significance in the Village's history, architecture, archeology, and culture.
 - (b) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.

- (c) Is associated with the lives of persons significant in the Village's past.
 - (d) Embodies the distinctive characteristics of a type, period, or method of construction.
 - (e) Represents the work of a master designer, builder, or craftsman.
 - (f) Represents an established and familiar visual feature of the Village.
 - (g) Has archeological value in that it has produced or can be expected to produce data affecting interpretations of historic or prehistoric interest.
- (2) These provisions pertaining to the designation of Local Historic Landmarks and Local Historic Districts are to be considered in conjunction with all comprehensive land use and development plans of the Village.

C. Procedures for Local Historic Landmarks

- (1) Nomination Applications
 - (a) In order to be considered administratively complete, and thus ripe for consideration, the application for a proposed nomination must include such relevant documentation as history of the structure, its design, and construction; current and historic photographs; property owner's name and address; and a legal description of the property.
 - (b) Any archeological sites that are nominated for Historical Landmark designation must have the potential for yielding new information about the past. A nomination must include such relevant documentation as a description of the site including its condition; photographs of the site and any artifacts known to have come from it; the property owner's name and address; and a legal description of the property.

- (c) The designation process provided for by this Chapter, can be initiated by property owners, the occupant of the site, the HPB, or the Village Commission. Applications must be filed with the Village Secretary.

(2) HPB Action

- (a) Within ten (10) days from the date of the submittal of the application, the Historic Preservation Officer shall determine whether applications are administratively complete and provide notice to the applicant. If an application is not administratively complete, the designation process terminates. Within ten (10) days of the determination that the application is complete, the Historic Preservation Officer shall notify the owner(s) of the subject property that the application has been received and of the date for a public hearing before the HPB.
- (b) A public hearing must be held by the HPB on submitted nominations within forty (40) days of the determination that the application is administratively complete. The agenda for the hearing must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. At the HPB's public hearing, applicants, owners, interested parties, and technical experts may present testimony or documentary evidence, which will then become part of a record regarding the historic, architectural, archeological, or cultural importance of the proposed landmark.
- (c) The HPB's report regarding the proposed Local Historic Landmark shall be submitted in writing along with a written recommendation and findings of fact based on the criteria established by this Chapter to the Planning and Zoning Board within forty-five (45) days of the determination that the application is administratively complete.

(3) Planning and Zoning Action

The Planning and Zoning Board shall give notice and conduct its hearing on the proposed designation within forty (40) days of receipt of the report

from the HPB. Notice of the hearing must be published in the official newspaper of the Village not less than fifteen (15) days prior to the date of the public hearing. Written notice must be sent not less than ten (10) days prior to the date of the public hearing to all owners of property, as indicated by the most recently approved Village tax roll, located within the area of application and within two hundred feet (200') of the subject property. The agenda for the hearing must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. The Planning and Zoning Board shall make a written report and recommendation to the Village Commission within forty-five (45) days of receipt of the report from the HPB on the proposed designation.

(4) Village Commission Action

- (a) The Village Commission shall conduct a hearing on the HPB's report within forty (40) days of receipt of the report of the Planning and Zoning Board. The agenda for the hearing must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. The Village Commission shall make its determination within forty-five (45) days of receipt of the report of the Planning & Zoning Board.
- (b) If the proposed change is protested in accordance with this subsection, the proposed designation must receive, in order to take effect, the affirmative vote of at least three-fourths (3/4) of all members of the Village Commission. The protest must be written and must be signed by the owners of at least twenty-percent (20%) of either:
 - (i) the area of the lots or land covered by the proposed change; or
 - (ii) the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200') from that area.

In computing the percentage of land under this subsection, the area of streets and alleys shall be included.

- (c) Upon designation of a property as a historic landmark, the Village Commission shall cause the designation to be recorded in the Official Public Records of Real Property of Travis County and the Travis County Appraisal District as well as the official zoning maps of the Village. All zoning maps should indicate the designated landmarks with an appropriate symbol.
- (d) At the Village Commission's discretion, the Village Commission may reconsider its decision at a Commission meeting conducted within fifty-five (55) days of receipt of the report of the Planning & Zoning Board.

(5) Voluntary Postponement

Any phase of this process may be postponed for a period of forty-five (45) days upon the request of the property owner(s) or the occupant(s) of the site, provided that such delay will not pose an imminent harm to the proposed landmark.

D. Procedures for Local Historic Districts

- (1) The HPB may on its own initiative recommend to the Planning and Zoning Board and the Village Commission the designation of a Local Historic District if the historic area:
 - (a) Contains properties and an environmental setting that meets one or more of the criteria for designation of a Local Historic Landmark; and,
 - (b) Constitutes a distinct section of the Village.
- (2) Nomination Applications
 - (a) To be considered administratively complete, the application for the proposed nomination must include such relevant documentation as history of the historic area, its design, and construction; current and historic photographs; property owner's name and address; a legal

description of the property; and proposed guidelines for regulating construction activities within the district.

(b) Any archeological sites that are nominated for Local Historic District designation must have the potential for yielding new information about the past. A nomination must include such relevant documentation as a description of the site, its condition; photographs of the site and any artifacts known to have come from it; the property owner's name and address; and a legal description of the property.

(c) The designation process provided for by this Chapter can only be initiated by the HPB. However, property owners, the occupant of the site, or the Village Commission may request in writing that the HPB consider nominating a particular area for Local Historic District status. The HPB has full discretion over its consideration of such requests. All applications and requests must be filed with the Village Secretary.

(3) HPB Action

(a) Within ten (10) days from the date of the submittal of the application, the Historic Preservation Officer shall notify the owner(s) of the subject property that the application has been filed and of the date for a public hearing before the HPB.

(b) A public hearing must be held by the HPB on submitted nominations within forty (40) days of the date upon which the application was submitted. The agenda for the hearing must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. At the HPB's public hearing applicants, owners, interested parties, and technical experts may present testimony or documentary evidence, which will then become part of a record regarding the historic, architectural, archeological, or cultural importance of the proposed Local Historic District.

(c) The HPB's report regarding the proposed Local Historic District shall be submitted in writing, along with a written recommendation

and findings of fact based on the criteria established by this Chapter to the Planning and Zoning Board within forty-five (45) days of the date upon which the application was submitted.

(4) Planning and Zoning Action

The Planning and Zoning Commission shall give notice and conduct its hearing on the proposed designation within forty (40) days of receipt of the report from the HPB. Notice of the hearing must be published in the official newspaper of the Village not less than fifteen (15) days prior to the date of the public hearing. Written notice must also be sent not less than ten (10) days prior to the date of the public hearing to all owners of property, as indicated by the most recently approved Village tax roll, located within the area of application and within two hundred feet (200') of the subject property. The agenda for the hearing must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. The Planning and Zoning Board shall make its written report to the Village Commission within forty-five (45) days of receipt of the report from the HPB on the proposed designation.

(5) Village Commission Action

- (a) The Village Commission shall conduct a hearing on the HPB's report within forty (40) days of receipt of the report of the Planning and Zoning Board. The agenda for the hearing must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. The Village Commission shall make its determination within forty-five (45) days of receipt of the report of the Planning & Zoning Board.
- (b) If the proposed change is protested in accordance with this subsection, the proposed designation must receive, in order to take effect, the affirmative vote of at least three-fourths (3/4) of all members of the Village Commission. The protest must be written and must be signed by the owners of at least twenty-percent (20%) of either:
- i the area of the lots or land covered by the proposed change; or

ii the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200') from that area.

In computing the percentage of land under this subsection, the area of streets and alleys shall be included.

- (c) At the Village Commission's discretion, the Village Commission may reconsider its decision at a Commission meeting conducted within fifty-five (55) days of receipt of the report of the Planning & Zoning Board.
- (d) Upon designation of a property as a Local Historic District, the Village Commission shall cause the designation to be recorded in the Official Public Records of Real Property of Travis County and the Travis County Appraisal District as well as the official zoning maps of the Village. All zoning maps should indicate the designated districts with an appropriate symbol.

(6) Voluntary Postponement

Any phase of this process may be postponed for a period of forty-five (45) days upon the request of the property owner(s) or the occupant(s) of the site provided that such delay will not pose an imminent harm to the proposed district.

E. Issuance of Building Permits Suspended

All building permits shall be temporarily withheld upon the filing of an application nominating the subject property for designation as either a Local Historic Landmark or Local Historic District in accordance with this Chapter. Applications for Building Permits shall not be issued for properties undergoing the historic designation process until the completion of the designation process or upon the expiration of the timelines provided herein. Exceptions to this provision may be authorized by the Village Commission if the Commission determines that the proposed construction will not materially interfere with or impact the historically significant attributes of the subject building or structure.

4. STATE AND FEDERAL HISTORIC DESIGNATIONS

The designations provided for in this Chapter are independent of any federal or state historic designations, namely, the National Register of Historic Places, Recorded Texas Historic Landmarks, State Archeological Landmarks, and Official Texas Historical Subject Markers. Nonetheless, because the criteria and standards for these designations have much in common, the recognition of Local Historic Landmarks and Local Historic Districts can facilitate Federal and State designations, and vice versa.

5. CERTIFICATE OF APPROPRIATENESS

A. Prohibitions

- (1) It shall be unlawful for any person to make any external alterations, additions, restoration, or rehabilitation to a Local Historic Landmark or any building within the confines of the locally designated Local Historic District without first obtaining a Certificate of Appropriateness. This includes any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way that affect the appearance and cohesiveness of any Local Historic Landmark or any property within a Local Historic District.
- (2) It shall be unlawful to demolish, destroy or relocate a building or any external part of a Local Historic Landmark or a building within a Local Historic District without first obtaining a Certificate of Appropriateness.
- (3) It shall be unlawful to construct or relocate a new building or build or relocate any structure within a Local Historic District without first obtaining a Certificate of Appropriateness.
- (4) Nothing in this Chapter prevents any ordinary maintenance that does not constitute a change in design, material, color of masonry, or outward appearance. In-kind replacement is included in the definition of "ordinary maintenance."
- (5) Modifications to the interior are not covered by this Chapter, but may be regulated by other Village ordinances, as applicable.

B. Criteria for Approval

In considering an application for a Certificate of Appropriateness, the HPB shall be guided by the following criteria, any design guidelines adopted by the Village Commission, and where applicable, *the Secretary of Interior's Standards for Rehabilitation of Historic Buildings*, as may be amended. Any adopted design guidelines and *Secretary of Interior's Standards* shall be made available to the owners of Local Historic Landmarks and owners of property located within Local Historic Districts.

- (1) Every reasonable effort shall be made to adapt the property in a manner requiring minimal alteration of the building, structure, object, or site and its environment.
- (2) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided to the extent possible.
- (3) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance inconsistent with the historical context shall be discouraged.
- (4) Modifications or natural changes that may have occurred to a structure, building or place over the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, object, or site shall be maintained.
- (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be used.
- (8) Every reasonable effort shall be made to protect and preserve resources affected by, and adjacent to, any project. This includes undertaking a surface survey prior to any activity that might possibly disturb any archeological resources.
- (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, material, and character of the property, neighborhood, or environment.
- (10) Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

C. Procedure for Application

- (1) Prior to the commencement of any work requiring a Certificate of Appropriateness, the owner or owner's duly authorized representative or agent shall file an application for such a certificate with the HPB. An application shall be deemed to have been received on the day it is administratively complete and submitted to the Village Secretary. In order to be considered administratively complete, and thus ripe for consideration, the application must contain:
 - (a) Name, address, telephone number of applicant, and detailed description of proposed work.
 - (b) Location and photograph of the property and adjacent properties. Historic photographs may be requested in some cases.
 - (c) Elevation drawings of the proposed changes, if available.

- (d) Samples of materials to be used.
 - (e) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of material to be used, method of illumination (if any), and a plan showing the proposed location of the sign or lettering on the property. (see also the Webberville Sign Ordinance, as may be amended.)
 - (f) Any other information which the HPB may deem reasonable and necessary.
-
- (2) No building permit shall be issued for such proposed work until a Certificate of Appropriateness has first been issued by the HPB. The Certificate of Appropriateness required by this Chapter shall be in addition to, and not in lieu of, any necessary building permits to be issued by the Village, and any other applicable Village regulations.
 - (3) Within ten (10) days from the date of the submittal of the application, the Historic Preservation Officer shall determine whether the application is administratively complete and provide notice to the applicant. If an application is not administratively complete, the process terminates. Within ten (10) days of the determination that the application is complete, the Historic Preservation Officer shall notify the applicant that the application has been received and of the date the application will be reviewed at a meeting of the HPB.
 - (4) The HPB shall review the application at a meeting within forty (40) days from the date the application is determined to be complete, at which time an opportunity will be provided for the applicant to be heard. The agenda for the meeting must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the meeting. The Commission shall approve, deny, or approve with modifications the application for a Certificate within forty-five (45) days from the date the application is determined to be complete.
 - (5) In the event the HPB does not act within forty-five (45) days of the date the application is determined to be administratively complete, a Certificate

of Appropriateness shall be deemed to have been granted by operation of law.

- (6) All decisions of the HPB shall be in writing. The HPB's decision shall state its findings based on criteria established by this Chapter pertaining to the approval, denial, or modification of the application. A copy of the HPB's decision shall be sent to the applicant by registered mail. A second copy shall be filed with the Village Secretary's office for public inspection and maintained as part of the public record.
- (7) Any person dissatisfied with the action of the HPB regarding the approval, denial, or modification of an application for a Certificate of Appropriateness shall have the right to appeal to the Village Commission within thirty (30) days of such action. The Village Commission shall give notice, hold a hearing, within forty (40) days of receipt of the notice of appeal. The agenda for the hearing must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. The Village Commission shall make its decision within forty-five (45) days after receipt of the notice of the appeal, pursuant to applicable Village policies and procedures. In the event that the Village Commission does not act within forty-five (45) days after receipt of the notice of appeal, such inaction shall be deemed a denial of said appeal.

D. Economic Hardship Application Procedure

- (1) After receiving written notification from the Village Commission of the denial of a Certificate of Appropriateness, an applicant may commence the hardship process provided for in this section. After the denial of a Certificate of Appropriateness, no building permit or demolition permit shall be issued unless the Village Commission makes a finding that an economic hardship exists. Applications for Economic Hardship must be submitted to the Village Secretary within thirty (30) days of receipt of notification that the Village Commission denied the application for a Certificate of Appropriateness.
- (2) When a claim of economic hardship is made due to the effect of this Chapter, the applicant must prove the following:

- (a) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
 - (b) the property cannot be adapted whether by the current owner or by a purchaser, for any other use that would result in a reasonable return.
- (3) The applicant shall consult in good faith with the Historic Preservation Officer, local preservation groups, and other interested parties in a diligent effort to seek an alternative that would result in preservation of the property. Such efforts must be demonstrated to the Village Commission.
- (4) The Village Commission shall hold a public hearing on the application with forty (40) days from the date the application is received. Following the hearing, the Village Commission has forty-five (45) days from the date the application is received in which to prepare a written response to the applicant. The agenda for the meeting must be posted on the bulletin board used for posting notice of meetings of the Village Commission at least seventy-two (72) hours prior to the hearing. In the event that the Village Commission does not act within forty-five (45) days from the date the application is received, a finding of economic hardship shall be deemed to have been denied by operation of law.
- (5) All decisions of the Village Commission shall be in writing. Written minutes of the Village Commission meeting at which the determination was made may satisfy this requirement. A copy of a decision shall be sent to the applicant by registered mail and a second copy shall be filed with the Village Secretary's office for public inspection and maintained as part of the public record. The Village Commission's decision shall state the reasons for granting or denying the hardship application.

E. Expiration

Certificates of Appropriateness shall expire within twelve (12) months of issuance unless the applicant has applied for and received a building permit and work has commenced in conformance with Village Building Code requirements.

6. PROHIBITION AGAINST NEGLECT

- A. No owner or other person with an ownership or possessory interest in real property designated as a Local Historic Landmark or included within a Local Historic District shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the HPB, have a detrimental effect upon the character of the district as a whole or the life and character of the property itself.
- B. Examples of deterioration include, but are not limited to:
- (1) Deterioration of exterior walls or other vertical supports;
 - (2) Deterioration of roof or other horizontal members;
 - (3) Deterioration of exterior chimneys;
 - (4) Deterioration or crumbling of exterior stucco or mortar, or other exterior covering;
 - (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors; or
 - (6) Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for public safety.

7. RELATION TO OTHER ORDINANCES

This Chapter shall not be construed to require or allow any act that is prohibited by any other Village ordinance. This Chapter is specifically subordinate to any ordinance or regulations of the Village pertaining to building and construction safety or to pedestrian and traffic safety. When possible, this Chapter is to be interpreted in a manner that gives full force and effect to other applicable Village regulations.

8. NO VESTED INTEREST

No person shall acquire any vested interest in this Ordinance or any specific regulations contained herein. This Ordinance and any regulation enacted hereby may be amended or repealed by the Village Commission in the manner provided by law.

9. ENFORCEMENT

A. Civil and Criminal Penalties

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

B. Criminal Prosecution

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this Chapter is violated shall constitute a separate offense. An offense under this Chapter is a misdemeanor.

C. Civil Remedies

Nothing in this Chapter shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Chapter 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 Chapter or to require specific conduct that is necessary for compliance with the Chapter; 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

Chapter and after receiving notice committed acts in violation of the Chapter or failed to take action necessary for compliance; and

- (3) other available remedies, including injunctive relief.

10. REPEALER

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

11. SEVERABILITY

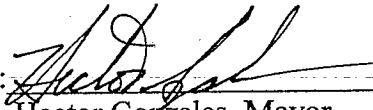
It is hereby declared to be the intention of the Village Commission that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree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

12. 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 Texas Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapters 52 and 211 of the Texas Local Government Code.

PASSED AND APPROVED this the ___ day of February, 2004, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the Village Commission of the Village of Webberville, Texas.

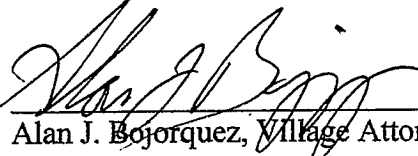
VILLAGE OF WEBBERVILLE

by: 
Hector Gonzales, Mayor

ATTEST:



Carol Goodrich, Village Clerk

APPROVED AS TO FORM:

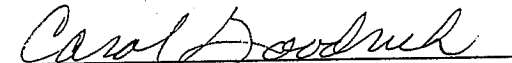

Alan J. Bojorquez, Village Attorney

PASSED AND APPROVED this the ___ day of February, 2004, by a vote of ___ (ayes) to ___ (nays) to ___ (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