

**VILLAGE OF WEBBERVILLE, TEXAS**

**ORDINANCE No. 2009-01**

**AN ORDINANCE OF THE VILLAGE OF WEBBERVILLE, TEXAS, AMENDING ORDINANCE NO. 2005-10, AMENDING VOLUME 2, ARTICLE 15, CHAPTER 24, THAT BEING THE ZONING ORDINANCE FOR THE VILLAGE OF WEBBERVILLE; CREATING AND ENUMERATING RULES FOR A SAND AND GRAVEL DISTRICT; PROVIDING FOR ZONING CHANGE APPLICATION FEES; PROVIDING CERTAIN LAND USE RULES; PROVIDING FOR A CUMULATIVE CLAUSE, A REPEALER, SEVERABILITY, SAVINGS, DECLARING AN EFFECTIVE DATE, AND PROPER NOTICE OF MEETING.**

**WHEREAS,** the Village of Webberville is a historic, quaint, agricultural community nestled along the Lower Colorado River; and

**WHEREAS,** the Village boasts a majority population comprised of ethnic and racial minorities, primarily African-Americans and Hispanic-Americans; and

**WHEREAS,** the Village Commission of the Village of Webberville ("Village Commission") seeks to protect the health, safety, and welfare of those working, living in, and visiting the Village; and

**WHEREAS,** the Village Commission seeks to perpetuate, preserve, and protect the rural and agricultural character of the community historically known as Webberville and/or Webber's Prairie; and

**WHEREAS,** the Village Commission recognizes that the scenic beauty, country charm, and environmental assets are central to why the area was originally settled and has remained a viable and attractive place to live and work; and

**WHEREAS,** the Village Commission finds that the public will be well-served by the enactment, and amendment, of rules and regulations that govern the areas in which sand and gravel extraction operations may occur, including provisions for setbacks, berming, vehicular traffic, and more; and

**WHEREAS,** pursuant to Chapter 211 of the Local Government Code the Village has the authority to regulate: (1) the height, number of stories, and size of buildings and other structures; (2) the percentage of a lot that may be occupied; (3) the size of yards, courts, and other open spaces; (4) population density; (5) the location and use of buildings, other structures, and land for business, industrial, residential, sand and gravel extraction, or other uses; (6) the pumping, extraction, and use of

groundwater by persons other than retail public utilities for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health; (7) construction, reconstruction, alteration, or razing of buildings and other structures in the case of designated places and areas of historical, cultural and architectural significance; and (8) the bulk of buildings; and

**WHEREAS,** the Village Commission finds the overwhelming majority of occupied structures within the Village are currently served by private water wells and on-site sewage facilities, and there are no reasonable prospects for centralized public water or wastewater facilities in the near future; and

**WHEREAS,** the Village Commission finds that large lots are necessary and appropriate in light of the community's historically rural and agricultural character; and

**WHEREAS,** the Village Commission has spent the nearly five years since municipal incorporation assessing the community's assets, evaluating the needs of its citizenry, forecasting future growth trends, and gathering public input through workshops, hearings, and public meetings; and

**WHEREAS,** the Village Commission finds that it is necessary and proper for the good government, peace or order of the Village of Webberville to adopt an ordinance regulating land use and development; and

**WHEREAS,** a public hearing was duly held at the time and place as provided for in the notice of such public hearing and all interested persons were given an opportunity to be heard on said proposed amendments to the Village's Zoning Ordinance; and

**WHEREAS,** the Village Commission finds that the following rules and regulations are reasonable and fair, wholly lacking any discriminatory intent or effect, and are unlikely to increase the cost of housing in the community or displace current residents;

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

## **1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

## **2. ENACTMENT**

The Zoning Chapter of the Village of Webberville Code of Ordinances is hereby amended to include the new provisions set forth in accordance with *Attachment A*, which is attached hereto and incorporated as if fully set forth herein for all intents and purposes.

## **3. REPEALER**

All Ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

## **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

## **5. PRESERVATION OF RIGHTS**

By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless such use specifically falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time the existing Zoning Ordinance was amended by this Ordinance, shall be affected or discharged by such amendment; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been amended.

## **6. CODIFICATION**

The Village Clerk is hereby directed to record and publish the attached rules, regulations, and policies in the Village's Code of Ordinances as authorized by section 52.001 of the Texas Local Government Code.

## **7. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

**8. PROPER NOTICE & MEETING**

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

PASSED & APPROVED this, the 11<sup>th</sup> day of March, 2009, by a vote of 2 (ayes) to 0 (nays) with 0 (abstentions) of the Village Commission of the Village of Webberville.

**VILLAGE OF WEBBERVILLE:**

By: [Signature]  
Mayor Hector Gonzales

**ATTEST:**

By: [Signature] (Commissioner 2)  
Carolyn Choate, Village Clerk

**APPROVED AS TO FORM:**

Alan J. Bojorquez, Village Attorney

*ATTACHMENT A*

**VOLUME 2**

**ARTICLE 15: DEVELOPMENT  
CHAPTER 24: ZONING**

*(Section 2 is hereby amended to read as follow)*

2.29.1. Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing on an application form available at the Village in the office of the Village Clerk, filed with the Village, and shall be accompanied by payment of a seven-hundred fifty dollar (\$750.00) fee. The application shall also be accompanied by additional information materials, such as plans, maps, exhibits, legal description of property, architectural elevations, information about proposed uses, as deemed necessary by the Village Administrator or Village Administrator's designee, in order to ensure that the written request is understood. A concept plan shall be submitted as prescribed in Section 3 of this Ordinance, along with the zoning request involving the formation of a Planned Development District. A zoning change request is not considered administratively complete until such time as all the requirements of this section have been met.

*(Section 3 is hereby amended to include the following)*

3.1: Zoning Districts Established

3.1.1. The Village of Webberville, Texas, is hereby divided into the following zoning districts. The use, height, area regulations, and other standards, as set out herein, apply to each district. The districts established herein shall be known as follows:

<b>Abbreviated Designation</b>	<b>Zoning District Name</b>
AG	Agriculture (Min. 40 acres)
SF-1	Single-Family Residential (Min. 2 acres)
O	Office
LR	Local Retail
MU	Mixed Use
I	Industrial
SGD	Sand & Gravel
H	Historic
PD	Planned Development
CUP	Conditional Use Permit

### 3.9: Sand and Gravel District (SGD)

- 3.9.1. General Purpose and Description: The SGD, Sand and Gravel District, is intended primarily to permit the operation of a sand or gravel extraction operation where soil, sand, gravel and clay may be removed for commercial use on or off the property and those additional uses specifically noted in the Mining, Extraction, and Quarrying Ordinance. "SGD" is a zoning classification that is intended to create a controlled environment for materials extraction related directly to sand or gravel pits. It is the intent of these regulations to allow the existence of sand, soil, clay, and/or gravel extraction in a manner which is sensitive to surrounding land uses and cognizant of the concerns of neighborhood and environmental interests with respect to protecting water quality, quality of life, and ensuring protection of the environment. As such, the following operating standards are established to allow sand or gravel pit operations located within an "SGD" district to be carried out in a manner that is compatible with surrounding land uses and the Village's comprehensive plan.
- 3.9.2. Permitted Uses: Those uses listed for the SGD, Sand and Gravel District in Appendix D. (Use charts) as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectfully. Conditional uses must be approved utilizing procedures set forth in Section 3.8
- 3.9.3. Frontage Requirements: All property within an SGD shall have a minimum of sixty (60) feet of frontage on at least one (1) adjacent public right-of-way or recorded easement at least sixty (60) feet in width, which provides ingress or egress to public roads. Regardless of the frontage provided onto public roads an SGD shall comply with the provision of subsection 3.9.9, clear vision and queuing, below.
- 3.9.4. Natural Buffer: A natural area shall be maintained around the perimeter of the property within the district and no grading, removal, or disturbance of native plant material shall be allowed within fifty (50) feet of any perimeter property line of the property within the district or public right-of-way except as required for establishing fencing and berming as provided for herein and for permitting an eighteen-foot-wide access road for the purpose of establishing and maintaining fencing, landscaping, access and/or security patrol.
- 3.9.5. Screening Requirements: Notwithstanding section 3.9.4 above, greater visual screening shall be required at any point where the extraction is located within one-hundred (100) feet of a public right-of-way carrying pedestrian or vehicular traffic. In such areas, the visual screen, shall not be less than eight (8) feet in height at or near the property line and shall be made up of any combination of the following materials: existing native plant materials, supplementary plant materials, existing grading, berming, and/or fencing.

- 3.9.6. Height Requirements: Building structures, material piles, and equipment used in mining operations shall not exceed a height of thirty (30) feet. The height shall be measured from the base of the buildings, structures or equipment to the natural grade of the land before any excavation of the land is made.
- 3.9.7. Setback Requirements: Notwithstanding section 3.9.3 above, no excavation or extraction of material (other than that which is required for the installation and maintenance of fences, landscape screens, access points, crossings, or clear vision zones at entry points) shall be permitted within the following:
- (a) 250 feet from any residential lot line;
  - (b) 300 feet from any school, church, medical facility, or historic landmark;
  - (c) 100 feet from any commercial or retail lot line;
  - (d) 50 feet from any agricultural lot line; or
  - (e) 50 feet from any public street, alley, highway, or right-of-way.
- 3.9.8. Fencing Requirements: A fence shall be required around the perimeter of the property of not less than twelve (12) feet from the perimeter property line. The fence shall be a maximum height of eight (8) feet and height shall be measured from the finished grade of the nearest adjacent public roadway or street.
- 3.9.9. Clear Vision and Queuing Requirements: For individual or grouped "SGD" districts greater than ten (10) acres in size, a triangular clear vision zone shall be provided on the subject property at the intersection of all access points with public roads to provide an area of clear vision of vehicles. The zone shall be defined by a triangle consisting of three hundred (300) feet parallel with the public road and fifty (50) feet along the access road or drive measured from the intersection point of the two (2) rights-of-way. A queuing area accommodating four (4) trucks of no less than two thousand four hundred (2,400) square feet shall be provided between the edge of the public right-of-way and the access point or gate station, whichever is nearest the public right-of-way.
- 3.9.10. Pit Walls and Slopes: All walls of the pit or excavated areas shall be maintained in compliance with applicable state and federal safety requirements.
- 3.9.11. Floodplain Protection: All NPDES and TCEQ requirements must be met any time the sand or gravel pit operations come within one hundred fifty (150) feet of a 100-year floodplain to prohibit silt or sediment from entering the Colorado River, or it's contributing creeks or streams.
- 3.9.12. Industrial Waste Monitoring: Upon request of the Village Commission, any person operating an activity within an "SGD" shall provide, to the Commission's satisfaction, documentation evidencing the characterization, handling, and disposal of any industrial waste generated within the "SGD." Documentation

which will satisfy the characterization inquiry includes process knowledge literature and/or waste analysis records.

3.9.13. Material Safety Data: Upon request of the Village Commission, and independent of the Federal Emergency Planning and Community Right to Know Act (EPCRA), any person operating an activity within an “SGD” shall provide copies of material safety data sheets (MSDS) for material maintained, stored, or used within the “SGD”. The materials, subject of this section, are those materials whose properties for volatility, flammability, explosive potential, corrosiveness, radioactivity, or other toxic or hazardous property allow them to be listed in the North American Emergency Response Guide, current edition and as amended.

3.9.14. Special Requirements:

- (a) **MEQ Ordinance**: All uses in the SGD district are subject to the permitting requirements of the Village of Webberville Mining, Extraction, and Quarrying Ordinance.
- (b) **Temporary Facilities**: There shall be no permanent use of temporary facilities or buildings.
- (c) **Other Regulations**: Refer to Section 4, *Supplemental Regulations*.