

Ordinance No. 2001.01
Village of Salado
County of Bell
January 8, 2001
State of Texas

**AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, ESTABLISHING
A TEMPORARY MORATORIUM ON COMMERCIAL CONSTRUCTION,
DEVELOPMENT OR EXPANSION OF BUILDINGS; PROVIDING
FOR FINDINGS OF FACT; PROVIDING FOR A PURPOSE; PROVIDING FOR
DEFINITIONS; PROVIDING FOR BUILDING AND
CONSTRUCTION PERMITS;
PROVIDING FOR TEMPORARY SUSPENSION OF PERMITS; PROVIDING
FOR
CHANGE OF USE PERMITS; PROVIDING FOR APPLICABILITY;
PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A LIMITED
DURATION; PROVIDING AN ENFORCEMENT CLAUSE INCLUDING
INJUNCTIVE RELIEF, A CIVIL PENALTY NOT TO EXCEED \$1000 AND A
CRIMINAL FINE NOT TO EXCEED \$2000; PROVIDING FOR A RELATION
TO OTHER ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE
AND PROVIDING FOR PROPER NOTICE AND MEETING.**

Whereas, the Village of Salado is a newly created governmental entity that was incorporated pursuant to the laws of the State of Texas as a Type B General-Law Municipality following an election held on August 12, 2000; and

Whereas, pursuant to the laws of the State of Texas the Board of Aldermen of the Village of Salado was duly elected and commissioned following an election held on November 7, 2000; and

Whereas, the Board of Aldermen of the Village of Salado seeks to provide for orderly and safe development of land and use of property within its corporate limits; and

Whereas, the Board of Aldermen finds that the improper construction, development, or expansion of commercial properties can be detrimental to the cultural and aesthetic character of the Village, impose an unreasonable burden on public infrastructure, and threaten the public health, safety and welfare; and

Whereas, the Board of Aldermen seeks to promote a positive Village image reflecting order, harmony, and pride, thereby strengthening the economic stability of the Village's commercial, cultural, historical, residential and scenic areas; and

Whereas, the Board of Aldermen seeks to preserve the health, safety and general welfare of the community by enacting comprehensive regulations that provide for orderly growth; and

Whereas, the Board of Aldermen 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 71st Legislature of the State of Texas acknowledged the need to safeguard the special historical qualities of the Village of Salado by the creation of a Historic District; and

Whereas, the Board of Aldermen is in the process of diligently researching and preparing to adopt comprehensive zoning ordinances and building codes; and

Whereas, for the foregoing purposes the Mayor of the Village of Salado has appointed an Interim Building Guidelines Committee and Salado Planning Committee (the "Planning Committee") ; and

Whereas, the Board of Aldermen and Mayor finds that a temporary moratorium is necessary to protect the status quo so that the Board of Aldermen may adopt the appropriate administrative and regulatory rules and procedures.

NOW THEREFORE, be it ordained by the Board of Aldermen of the Village of Salado, County of Bell, State of Texas:

I
FINDINGS OF FACT

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

II.
PURPOSE

This ordinance is adopted so that the Village Board of Aldermen may promote the public health, safety, morals and general welfare within the Village through the regulation of commercial construction and development. The purpose of this ordinance is to preserve the status quo in order to allow the Village Board of Aldermen to conduct research, receive public input, establish reasonable policies, and prepare comprehensive zoning ordinances and building regulations. This ordinance provides temporary regulations while the Village Board of Aldermen enacts the appropriate administrative and regulatory rules and regulations.

III DEFINITIONS

Words and phrases used in this ordinance shall have the meanings set forth in this section. Words and phrases which are not defined in this ordinance but are defined in other ordinances of the Village of Salado 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 only, and shall not be used in the interpretation of this ordinance.

- (1) "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.
- (2) "Commercial Use" means the sale, rental, servicing and distribution of goods and the provision of services. This term does not include single family residential uses.
- (3) "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.
- (4) "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.
- (5) "Expand" means to add any square footage of impervious cover on the property, regardless of whether such addition will be covered or uncovered.

IV BUILDING AND CONSTRUCTION PERMITS

It shall be unlawful for any person, firm, or corporation to build, construct, develop, erect, expand or modify any building or facility used or intended for commercial use without first making application to the Village and securing building and construction permits issued by the Village.

V TEMPORARY SUSPENSION OF CONSTRUCTION AND BUILDING FOR COMMERCIAL USE

All building, construction, development, erection, expansion and modification of any building or facility used or intended for commercial use is hereby temporarily

suspended and prohibited, unless application is made therefore, and a permit secured in accordance with the following set forth procedure.

VI APPLICATION PROCEDURE AND PERMITS

A. PERMITS REQUIRED

It shall be unlawful for any person, firm, or corporation to build, construct, develop, erect, expand or modify any building or facility used or intended for commercial use, or to change the use, nature or business, or principal purpose of any commercial building, enterprise, or facility without first making application to the Village and securing a building, construction or change of use permit issued by the Village.

B. ISSUANCE PROCEDURE

All applications for building, construction, or change of use permits as described in Paragraph A. above shall be filed with the Village with sufficient plans and detail for the Village to determine if the proposed construction, building, development, or change of use complies with the Criteria for Review set forth below. All applications shall be submitted to the Planning Committee. Upon recommendation of the Planning Committee, applications shall be submitted to the Board of Aldermen for final consideration and approval. Should a party be dissatisfied with the decision of the Planning Committee, such party shall be entitled to appeal such decision to the Board of Aldermen. Such Notice of Appeal shall be filed with the Mayor within ten (10) days of a final decision of the Planning Committee and shall be presented to the Board of Aldermen at the next scheduled meeting of the Board of Aldermen. On appeal the decision of a majority of the Board of Aldermen shall be binding.

C. CRITERIA FOR REVIEW

The Planning Committee and Village Board of Aldermen may approve and issue a permit for building, construction, development, or change of use as provided for hereinabove if it finds that the proposed building, construction, development, or change of use:

1. will not constitute an endangerment to the health, safety, and welfare of the community;
2. will promote the general compatibility of land uses in the area immediately adjacent to the subject property;
3. does not constitute special treatment of the property with respect to other, similarly situated properties;

4. will not pose a threat to the security and tranquility of properties and property owners in proximity to the subject property;
5. will not increase levels of noise, traffic, parking demands or congestion in the immediate vicinity of the property; and
6. is reasonable to avoid imposing an unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship will not ordinarily satisfy this requirement.

VII APPLICABILITY

This ordinance shall not apply to properties upon which construction commenced prior to January 8, 2001.

VIII EFFECTIVE DATE

This ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

IX LIMITED DURATION

This ordinance is enacted for a limited duration and shall be in effect for a primary term of ninety (90) days from the effective date, or until expressly repealed by the Board of Aldermen of the Village of Salado. The Board of Aldermen may vote to extend the duration of this ordinance for an additional thirty (30) days.

X. ^{ninety (90)} ENFORCEMENT

A. Civil and Criminal Penalties

The Village of Salado 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 and civil fines. 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 \$2000. Each day that a provision of this ordinance is Violated shall constitute a separate offense. An offense under this ordinance is a Class 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 this ordinance and to seek remedies as allowed by law, including, but now 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 \$1000 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.

XI RELATION TO OTHER ORDINANCES

This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance. This ordinance is specifically subordinate to any ordinance or regulations of the Village pertaining to building and construction safety or to pedestrian and traffic safety.

XII SEVERABILITY

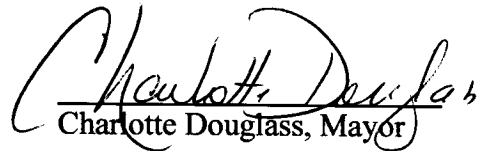
It is hereby declared to be the intention of the Village of Salado Board of Aldermen that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment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

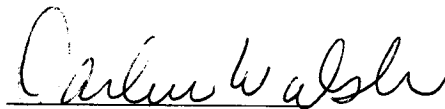
XIII
PROPER NOTICE AND OPEN MEETING

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 Meeting Act, Chapter 552 of the Texas Government Code.

VILLAGE OF SALADO


Charlotte Douglass, Mayor

Attest:


Secretary