

**Ordinance No. 2008.24
Village of Salado
County of Bell
State of Texas
October 16, 2008**

**TEMPORARY MORATORIUM ON IMPROVEMENTS & CONSTRUCTION
TO SALADO SIRENA POND AND SURROUNDING AREA**

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, ESTABLISHING A TEMPORARY MORATORIUM ON ANY CONSTRUCTION, MODIFICATION, RENOVATION, DREDGING, FILLING, EXCAVATING, GRADING, MINING, EXTRACTION OR OTHER IMPROVEMENT ON THE SALADO SIRENA POND, AND SURROUNDING AREA; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A PURPOSE; COMPLIANCE REQUIRED; SCOPE OF JURISDICTION; APPLICABILITY; EFFECTIVE DATE; DURATION; INCLUDING CRIMINAL FINES NOT TO EXCEED \$500.00 AND CIVIL PENALTIES NOT TO EXCEED \$1,000.00 PER VIOLATION; A REPEALER; SEVERABILITY; AND PROPER NOTICE AND MEETING.

WHEREAS, the Board of Alderman of the Village of Salado seeks to maintain the historical value, significance and importance of the Village of Salado Creek, Sirena Pond (the "Pond") including the Boiling Springs (the "Springs") and surrounding areas; and

WHEREAS, the Board of Alderman seeks to maintain the value of Village of Salado's scenic beauty, and environmental and rural charm, which are the keystones of tourism and the Village's quality of life, through a comprehensive regulatory program that includes subdivision control, preservation of the environment and compliance with mandatory government regulation; and

WHEREAS, recent events and actions have threatened the quality and natural state of the Village Pond and Springs containing the historical Village statute "Sirena of Salado"; and

WHEREAS, the Board of Alderman finds that preservation of the Pond, and Springs, must be established and enforced to prevent complete deterioration and possible extinction of the natural state of the pond and other such natural life found within the pond; and

WHEREAS, the Board of Alderman finds it to be in the best interest of the public safety, health and general welfare to regulate the construction, modification,

renovation, dredging, filling, excavation, grading, mining, extraction or other such alteration to the natural state of the Pond, the Springs, and surrounding area so to preserve the quality of life for Village residents, visitors and property owners; and

WHEREAS, the Board of Alderman finds it to be in the best interest of the public to regulate actions relating to the Pond, Springs and surrounding areas so as to promote the historical significance of the area, maintain the appearance of the Village, and uphold the community's small town character while preserving the authentic cultural heritage of the area; and

WHEREAS, the Board of Alderman is authorized to regulate property and water sources in its corporate limits by virtue of the Texas Constitution, the Village's police power and by the Texas Local Government Code, Chapters 211, 214, 217, Texas Water Code Section 26.177; and;

WHEREAS, the Board of Alderman finds that a temporary moratorium is necessary and prudent in order to protect the *status quo* so that the Board of Alderman may adopt the appropriate administrative and regulatory amendments, rules and procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE VILLAGE OF SALADO, TEXAS:

1. ENACTMENT CLAUSES

A. Popular Name

This Ordinance may commonly be referred to as the "Temporary Moratorium on Construction & Improvement to Salado Sirena Pond and Surrounding Area."

B. 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 Board of Alderman, and are hereby approved and incorporated into the body of this Ordinance as if copied herein in their entirety.

C. Purpose

This Ordinance is adopted so that the Board of Alderman may review research, evaluate, and get feedback on the necessary changes or additions to the ordinance(s) regulating the creeks, pond, springs and drainage areas. The rapid growth in the Village of Salado area necessitates the refinement and improvement of the Village's Ordinances. Special challenges are posed by recent questions and issues surrounding the regulations and control over the Salado Sirena Pond and surrounding areas.

Accordingly, the purpose of this Ordinance is to preserve the *status quo* in order to allow the

Board of Alderman to conduct research, receive public input, establish reasonable policies, and prepare the necessary ordinance amendments or prepare a new ordinance. This Ordinance enacts a temporary moratorium to enable the Board of Alderman to adopt the appropriate administrative and regulatory rules and procedures. During the brief duration of this moratorium the Board of Alderman will determine the appropriate regulations and control over the designated areas. The Board of Alderman reserves the option to obtain input and information from a citizen advisory board.

D. Scope of Jurisdiction

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

E. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication.

F. Duration

The temporary moratorium established by this Ordinance is enacted for a limited duration and shall be in effect for an initial term of ninety (90) days from the effective date, or until expressly repealed by the Board of Alderman. The Board of Alderman may extend the duration of the temporary moratorium established by this Ordinance by majority vote if the Board finds such extension reasonable and necessary.

2. TEMPORARY SUSPENSION

A. Definitions

Boiling Springs: The various small streams of water rising out from the earth and ground and located in and around the pond area.

Construction: The act or art of building, erecting, devising or forming a structure or matter on a particular piece of property.

Dredging: The act of unearthing matter, soil, rocks, or deepening, widening a crevice with any various machines equipped with scooping, scraping, or suctioning.

Excavating: The act of making hollow or thin by removing material, substance, soil or earth through scraping, scooping and other such removal methods.

Extraction: The act of removal or drawing out material from a source.

Filling: The act of adding material, substance, mixtures.

Historic Landmark: As designated by the Village Board of Alderman, is a structure, building, object or site that has outstanding historical, cultural, architectural,

archaeological significance in the state, nation, region or community. The designation, “historic landmark”, recognizes that the accessory building(s), fences, or other appurtenances to the site are equally and vitally important to the preservation of the property.

Modification: The act or art of altering, adjusting, or making something different than its natural state or the current state.

Renovation: The act of improving by renewing or restoring from the natural state or current condition.

Village of Salado Creek (the Creek): The body of water running through the corporate limits of the Village and extending for miles through the extra-territorial jurisdictional limits (ETJ) of the Village and Bell County.

Village of Salado Sirena Pond (the Pond): The small pool of water stemming from the Village of Salado Creek and located in the corporate limits of the Village and containing the historic statue of Sirena of Salado.

B. Moratorium

Prohibited Actions: the following actions are prohibited at the site location of the Pond, Springs and within a fifty foot (50) radius surrounding the Sirena of Salado statue:

- (1) Any construction;
- (2) Any excavation;
- (3) Any extraction of soil, earth, rocks, minerals, etc;
- (4) Any filling of soil, earth, rocks, mixtures, etc;
- (5) Any dredging of the designated area;
- (6) Any modification to the designated area;
- (7) Any renovation to the designated area;
- (8) Any other improvements to the designated area that may alter, damage, or hinder the natural state and condition of the designated area.

3. ENFORCEMENT

A. Civil & 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) any such other available relief.

4. 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 and for the duration of the applicability of this Ordinance.

5. SEVERABILITY

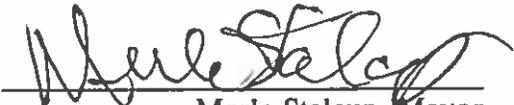
It is hereby declared to be the intention of the Board of Alderman that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree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

6. PROPER NOTICE & MEETING

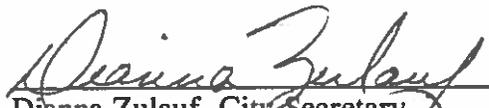
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was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

PASSED & APPROVED this the 16 day of October, 2008, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the Board of Alderman of the Village of Salado, Texas.

VILLAGE OF SALADO, TEXAS


Merle Stalcup, Mayor

ATTEST:


Dianna Zulauf, City Secretary

APPROVED AS TO FORM:

Alan J. Bojorquez, Attorney at Law