

Bastrop, TX City Council Meeting Agenda
Bastrop City Hall City Council Chambers
1311 Chestnut Street
Bastrop, TX 78602
(512) 332-8800



May 14, 2019 at 4:30 P.M.

City of Bastrop City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at (512) 332-8800 or write 1311 Chestnut Street, 78602, or by calling through a T.D.D. (Telecommunication Device for the Deaf) to Relay Texas at 1-800-735-2989 at least 48 hours in advance of the meeting.

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purposes of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

The City of Bastrop reserves the right to reconvene, recess, or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

PLEASE NOTE: ANYONE WISHING TO ADDRESS THE COUNCIL MUST COMPLETE A CITIZEN COMMENT FORM AND GIVE THE COMPLETED FORM TO THE CITY SECRETARY PRIOR TO THE START OF REGULAR SESSION PORTION OF THE CITY COUNCIL MEETING AT 6:30 P.M.

1. CALL TO ORDER – WORK SESSION – 4:30 P.M.

2. WORK SESSION

2A. Discussion on Bastrop Building Block Codes with Matt Lewis.

3. CALL TO ORDER – REGULAR SESSION – 6:30 P.M.

4. PLEDGE OF ALLEGIANCE – Cadet Commander Rena Richard; Cadet Lieutenant Alec Warby; and Cadet Senior Chief Petty Officer Dwayne Vassar, NJROTC

TEXAS PLEDGE OF ALLEGIANCE

Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

5. INVOCATION – Pastor Bernie Jackson

6. INDIVIDUAL CONSIDERATION – PART 1 OF 2 (ELECTION PROTOCOL)

6A. Consider action to approve Resolution No. R-2019-42 of the City Council of the City of Bastrop, Texas to canvass the May 4, 2019 Election for Place 1 and Place 5 of the Bastrop City Council; and establishing an effective date.

- 6B. Consider action to approve Resolution No. R-2019-43 of the City Council of the City of Bastrop, Texas, calling for a runoff Election for Place 5 of the Bastrop City Council for a term of three years, designating the date of said Election; designating polling places; designating early voting hours and places; directing posting and publication of notice for said election; and providing an effective date.
- 6C. Consider action to approve Resolution No. R-2019-48 of the City Council of the City of Bastrop, Texas, approving a contract for election services between the Elections Administrator of Bastrop County and the City of Bastrop for the June 8, 2019 Runoff Election for Bastrop, Texas, attached as Exhibit A; authorizing the City Manager to execute all necessary documents; and providing an effective date.

6D. Election of Mayor Pro Tem.

7. OATH OF OFFICE

- 7A. Incoming Associate Judge Caroline McClimon
- Swearing Oath of Office, The Honorable Chris Duggan, State District Judge, District 423
 - Signature of official documents, Ann Franklin, City Secretary
 - Welcome by Council
 - Comments by Judge Caroline McClimon
- 7B. Incoming Council Member Bill Peterson, Place 1
- Swearing Oath of Office, The Honorable Chris Duggan, State District Judge, District 423
 - Signature of official documents, Ann Franklin, City Secretary
 - Welcome by Council
 - Comments by Council Member Bill Peterson

RECEPTION FOR NEWLY ELECTED COUNCIL MEMBER BILL PETERSON – RECESS MEETING FOR 20 MINUTES

8. PRESENTATIONS

- 8A. Proclamation of the City Council of the City of Bastrop, Texas recognizing May as Motorcycle Safety and Awareness Month.
- 8B. Proclamation of the City Council of the City of Bastrop, Texas recognizing the week of May 19 – 25, 2019 as National Public Works Week.
- 8C. Proclamation of the City Council of the City of Bastrop, Texas recognizing May 13 - 19, 2019 as National Police Week for the City of Bastrop, Texas.
- 8D. Proclamation of the City Council of the City of Bastrop, Texas recognizing May 5 - 11, 2019 as the 50th Anniversary of Municipal Clerks Week for the City of Bastrop, Texas.
- 8E. Proclamation of the City Council of the City of Bastrop, Texas recognizing the Month of May as Building Safety Month.
- 8F. Mayor's Report

8G. Councilmembers' Report

8H. City Manager's Report

9. WORK SESSION/BRIEFINGS

9A. Update and discussion of current Legislative Session and its impact on local municipalities.

9B. Provide an update on the Chicken Relocation Project in Downtown Bastrop, Texas.

9C. Receive updated presentation and policy discussion regarding Nuisance Ordinances and proposed revisions of the Code of Ordinances.

9D. Continue discussion of Bastrop Building Block Codes with Matt Lewis.

10. STAFF AND BOARD REPORTS - NONE

11. CITIZEN COMMENTS

At this time, three (3) minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Council meeting. In accordance with the Texas Open Meetings Act, if a citizen discusses any item not on the agenda, City Council cannot discuss issues raised or make any decision at this time. Instead, City Council is limited to making a statement of specific factual information or a recitation of existing policy in response to the inquiry. Issues may be referred to City Staff for research and possible future action.

To address the Council concerning any item on the agenda, please submit a fully completed request card to the City Secretary prior to the start of the meeting.

It is not the intention of the City of Bastrop to provide a public forum for the embarrassment or demeaning of any individual or group. Neither is it the intention of the Council to allow a member of the public to slur the performance, honesty and/or integrity of the Council, as a body, or any member or members of the Council individually or collectively, or members of the City's staff. Accordingly, profane, insulting or threatening language directed toward the Council and/or any person in the Council's presence will not be tolerated.

12. CONSENT AGENDA

The following may be acted upon in one motion. A Councilmember or a citizen may request items be removed from the Consent Agenda for individual consideration.

12A. Consider action to approve City Council minutes from the April 23, 2019, regular meeting and April 24, 2019, Mid-Year Budget workshop meeting.

12B. Consider action to approve the second reading of Ordinance No. 2019-10 of the City Council of the City of Bastrop, Texas, enacting Chapter 1, Article 1.20, Sections 1.02.001 through 1.20.120 of the Bastrop Code of Ordinances; establishing construction and development standards and procedures for assertion, establishment, determination, and recognition of potential grandfathered development status or vested rights claims; and

providing for the following: findings of fact; enactment; repealer; severability; effective date; codification; proper notice & hearing; popular name; purpose; and scope.

- 12C. Consider action to approve the second reading of Ordinance No. 2019-14 of the City Council of the City of Bastrop, Texas, amending Chapter 11, Taxation, Section 11.04, "Hotel Occupancy Tax", attached as Exhibit A, in accordance with Chapter 351 of the Texas Tax Code; providing for findings of fact, enactment, repealer, severability, effective date, proper notice and meeting.
- 12D. Consider action to approve the second reading of Ordinance No. 2019-15 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 2 Titled "ANIMAL CONTROL," Article 2.01 Titled "GENERAL PROVISIONS," Sections 2.01.001 Titled "DEFINITIONS" amending the definitions of various terms; amending 2.01.004 Titled "RESTRICTIONS ON KEEPING LIVESTOCK AND FOWL" to extend application to fowl being maintained in violation of this section; Article 2.04 Titled "IMPOUNDMENT," DIVISION 2 Titled "LIVESTOCK" by requiring Animal Control to refer any impounded livestock to the County Sheriff and repealing specific procedures for impounding livestock; and amending Article 2.07 Titled "NUISANCES" Section 2.07.001 Titled "CREATING HEALTH HAZARD" to extend applicability to animals "maintained" in violation of this section and repealing all prior ordinances that are in conflict herewith; as attached in Exhibit A; and providing for findings of fact, enactment, effective date, repealer, severability, and proper notice and meeting.
- 12E. Consider action to approve the second reading of Ordinance No. 2019-16 of the City Council of the City of Bastrop, Texas, repealing Emergency Ordinance 2018-1 [*Temporary Moratorium*] and implementing enhanced permit review measures to continue a heightened level of evaluation for certain building, construction and development permits; and providing for legislative findings of fact, repealer, enactment, duration, extension, severability, enforcement, proper notice and meeting, effective date, applicability, alternate approvals, appeals, and definitions..

13. ITEMS FOR INDIVIDUAL CONSIDERATION – PART 2 OF 2

- 13A. Consider action and approve Resolution No. R-2019-44 of the City Council of the City of Bastrop, Texas, making determinations regarding certain project-specific Exceptions and/or Exemptions as provided by Emergency Ordinance 2018-1, Section 8 (Temporary Moratorium); and Emergency Ordinance 2018-2, Section 7 (Emergency Drainage Application Rules).
- 13B. Consider action to approve Resolution No. R-2019-45 of the City Council of the City of Bastrop, Texas confirming a Board and Commission appointment of the Mayor, as required in Section 3.08 of the City's Charter; and establishing an effective date.
- 13C. Conduct a public hearing and consider action to approve the first reading of Ordinance No. 2019-18 of the City Council of the City of Bastrop, Texas, granting a Conditional Use Permit to allow a brewery, distillery and winery use on 0.266 acres of Building Block 4, West of Water Street located at 919 Main Street, an area zoned Downtown Bastrop Form-Based Code - HMS, Historic Main Street within the city limits of Bastrop, Texas; as shown in Exhibits A; setting out conditions; including a severability clause; establishing an effective date, and move to include on the May 28, 2019 Consent Agenda for second reading.

- 13D. Consider action to approve the second reading of Ordinance No. 2019-17 of the City Council of the City of Bastrop, Texas, enacting a new Chapter 16, "Stormwater Drainage," of the Bastrop Code of Ordinances establishing stormwater drainage requirements in order to minimize flood risks, stabilize and decrease stream bank and channel erosion, and facilitate comprehensive watershed-based planning, and repealing Emergency Ordinance 2018-2, Amendment to Emergency Ordinance 2018-2-A, and Section 1.40, "Drainage Criteria and Design Standards," Article 5.30, "Alleys," Article 5.90, "Drainage and Storm Sewers," Section 6.80.3, "Roadside Drainage Ditches," Article 6.100 "Rural Subdivision Drainage Requirements," and Article 7.50, "Drainage" from Chapter 10, "Subdivisions" of the Bastrop Code of Ordinances; adopting a stormwater drainage design manual ("The City of Bastrop Stormwater Drainage Design Manual"); and establishing an effective date.
- 13E. Consider action to approve the first reading of Ordinance Number 2019-19 of the City Council of the City of Bastrop, Texas Hands Free Devices An Ordinance of the City of Bastrop Amending Chapter 12, "Traffic and Vehicles," of the City of Bastrop City Code of Ordinances to add Article 12.13, "Use of Portable Electronic Devices While Operating a Motor Vehicle in the City of Bastrop; providing for: findings of fact, enactment, repealer, severability, criminal fines not to exceed \$300 per offense, effective date, codification, and proper notice and meeting, and place on the May 28, 2019 Consent Agenda for a second reading.
- 13F. Consider action to approve Resolution No. R-2019-46 of the City Council of the City of Bastrop, Texas awarding a contract to relocate a sewer line near the SH71 Feeder Road Expansion to Herschap Backhoe & Ditching in the amount of One Hundred Thirty-Six Thousand One Hundred Ninety-Five Dollars and zero cents (\$136,195.00) attached as Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.
- 13G. Consider action to approve Resolution R-2019-49 of the City Council of the City of Bastrop, Texas authorizing the City to resolve an enforcement action from the Texas Commission on Environmental Quality (TCEQ) at a cost of Sixty-Six Thousand Four Hundred Twenty Dollars and 00 Cents (\$66,420.00); as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.
- 13H. Consider action to approve Resolution R-2019-50 of the City Council of the City of Bastrop, Texas supporting the co-application by the City of Bastrop and Bastrop County of an ED-900P – Proposal for Economic Development Administration (EDA) Assistance Grant requesting funding to build Bastrop Community Center and Shelter Facility at Mayfest Park; ratifying the signature of the City Manager on the co-application and authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

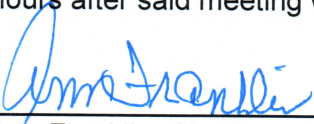
14. EXECUTIVE SESSION

- 14A. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss and deliberate litigation matters with the City Attorney regarding possible litigation regarding Davenport/Dayton drainage.
- 14B. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss and deliberate litigation matters with the City Attorney regarding Bastrop Estates, LLC v. City of Bastrop, Texas and Lynda Humble.

15. TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION

16. ADJOURNMENT

I, the undersigned authority, do hereby certify that this Notice of Meeting as posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Bastrop City Hall, a place of convenient and readily accessible to the general public, as well as to the City's website, www.cityofbastrop.org and said Notice was posted on the following date and time: Friday, May10, 2019 at 12:00 p.m. and remained posted for at least two hours after said meeting was convened.



Ann Franklin, City Secretary





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 2A

TITLE:

Discussion of Bastrop Building Block Codes with Matt Lewis.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 6A

TITLE:

Consider action to approve Resolution No. R-2019-42 of the City Council of the City of Bastrop, Texas to canvass the May 4, 2019 Election for Place 1 and Place 5 of the Bastrop City Council; and establishing an effective date.

STAFF REPRESENTATIVE:

Ann Franklin, City Secretary

BACKGROUND/HISTORY:

Sec. 67.002. CANVASS OF PRECINCT RETURNS.:

(a) Except as otherwise provided by law, the precinct election returns for each election shall be canvassed by the following authority:

- (1) for an election ordered by the governor or by a county authority, the commissioners court of each county in which the election is held; and
- (2) for an election ordered by an authority of a political subdivision other than a county, the political subdivision's governing body.

(b) The canvass of precinct returns shall be conducted in accordance with this chapter except as otherwise provided by this code.

POLICY EXPLANATION:

N/A

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider action to approve Resolution No. R-2019-42 of the City Council of the City of Bastrop, Texas to canvass the May 4, 2019 Election for Place 1 and Place 5 of the Bastrop City Council; and establishing an effective date

ATTACHMENTS:

- ENGLISH - Resolution No. 2019-42
- SPANISH - Resolution No. 2019-42

RESOLUTION NO. R-2019-42

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BASTROP, TEXAS TO CANVASS THE MAY 4, 2019
ELECTION FOR PLACE 1 AND PLACE 5 OF THE
BASTROP CITY COUNCIL; AND ESTABLISHING AN
EFFECTIVE DATE.**

WHEREAS, on May 4, 2019, a general election was held for the purpose of electing City Council Members for Place 1 and Place 5; and

WHEREAS, the returns of the general election have been made to the Council and show that the votes for City Council Members were cast as follows:

CITY COUNCIL MEMBER PLACE 1

Ishmael Harris 257 votes

W.L. Bill Peterson 347 votes

CITY COUNCIL MEMBER Place 5

Dock Jackson 298 votes

Herb Goldsmith 116 votes

Deborah C. Jones 204 votes

WHEREAS, Bill Peterson received a majority of all votes cast for the office of City Council Member Place 1; and

WHEREAS, of the two candidates who received the highest number of votes cast for the office of City Council Member Place 5, those being Dock Jackson and Deborah Jones, neither candidate received a majority of all votes cast for City Council Member Place 5;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

SECTION 1. The Council finds that all of the recitals contained in this resolution are true and adopts them as findings of fact by this governing body; and

SECTION 2. The Council finds that the results of the general election as tabulated and canvassed reflect the votes cast at the election; and

SECTION 3. The Council accepts and approves the returns for the general election, as tabulated and received and canvassed, and declares that the following person is declared elected and may qualify for the office indicated for terms that begin May 14, 2019:

City Council Member Place 1 Bill Peterson.

SECTION 4. With this canvass, Council is making official the precinct returns received from Bastrop County.

SECTION 5. That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of May, 2019.

CITY OF BASTROP, TEXAS

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

RESOLUCIÓN NO. R-2019-42

UNA RESOLUCIÓN DEL CONSEJO DE LA CIUDAD DE BASTROP, TEXAS TOCANTE EL REPASO DE RESULTADOS DE LA ELECCIÓN DEL 4 DE MAYO, 2019 PARA EL PUESTO 1 Y EL PUESTO 5 DEL CONSEJO DE LA CIUDAD DE BASTROP; Y PARA DETERMINAR LA FECHA DE VIGOR.

POR CUANTO, el 4 de mayo, 2019 se llevó a cabo una elección general con el propósito de elegir a miembros del Consejo de la Ciudad para el Puesto 1 y el Puesto 5; y

POR CUANTO, los resultados de la elección general se han presentado al Consejo e indican que los votos emitidos a favor de los miembros del Consejo de la Ciudad fueron los siguientes:

CONCEJAL PARA EL CONSEJO DE LA CIUDAD EN EL PUESTO 1

Ishmael Harris 257 votos

W.L. Bill Petersen 347 votos

CONCEJAL PARA EL CONSEJO DE LA CIUDAD EN EL PUESTO 5

Dock Jackson 298 votos

Herb Goldsmith 116 votos

Deborah C. Jones 204 votos

POR CUANTO, Bill Peterson recibió la mayoría de todos los votos emitidos para el Puesto 1 de concejal del Consejo de la Ciudad; y

POR CUANTO, de los dos candidatos que recibieron el número más elevado de votos para el Puesto 5 de Miembro del Concejo de la Ciudad, quienes fueron Dock Jackson y Deborah Jones, ninguno de dichos candidatos recibió la mayoría de todos los votos emitidos para el Puesto 5 de Miembro del Concejo de la Ciudad;

AHORA, POR LO TANTO, RESUÉLVASE POR EL CONSEJO DE LA CIUDAD DE BASTROP, TEXAS QUE:

SECCIÓN 1. El Consejo determina que todas las declaraciones contenidas en esta resolución son verdaderas y que se aprueban por ser determinaciones de hecho por este cuerpo gubernamental; y

SECCIÓN 2. El Consejo determina que los resultados de la elección general de acuerdo con su tabulación y su repaso representan los votos emitidos en la elección; y

SECCIÓN 3. El Consejo acepta y aprueba los resultados de la elección general, tal como se han tabulado, recibido y repasado y declara que la siguiente persona ha sido electa y que puede calificar para el puesto indicado para los plazos que se inician el 14 de mayo, 2019;

Concejal del Consejo de la Ciudad Puesto 1 Bill Peterson.

SECCIÓN 4. Con este repaso, el Consejo declara que son oficiales los resultados de los precintos recibidos del Condado de Bastrop.

SECCIÓN 5: Que esta Resolución será efectiva inmediatamente cuando sea aprobada, y así se resuelve.

DEBIDAMENTE RESUELTO Y ADOPTADO por el Consejo de la Ciudad de Bastrop este día 14 de mayo, 2019.

CIUDAD DE BASTROP, TEXAS

APROBADO:

Connie B. Schroeder, Alcalde

CERTIFICO:

Ann Franklin, Secretaria de la Ciudad

APROBADA SU REDACCIÓN:

Alan Bojorquez, Fiscal de la Ciudad



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 6B

TITLE:

Consider action to approve Resolution No. R-2019-43 of the City Council of the City of Bastrop, Texas, calling for a runoff Election for Place 5 of the Bastrop City Council for a term of three years, designating the date of said Election; designating polling places; designating early voting hours and places; and directing posting and publication of notice for said election.

STAFF REPRESENTATIVE:

Ann Franklin, City Secretary

POLICY EXPLANATION:

Texas Election Code

Chapter 3. Ordering Election

Sec. 2.021. Runoff Election Required.

If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required.

Sec. 2.024. Ordering Runoff.

Not later than the fifth day after the date the final canvass of the main election is completed, the authority responsible for ordering the main election shall order the runoff election.

CITY CHARTER

Article IX

Section 9.07 - Election by Majority.

At any election for the Council, including the Mayor, the candidate for each place or position who shall receive the majority of votes cast shall be declared elected.

Where in an election for any office no candidate receives a majority of all the votes cast for such office at such election, the Council shall, immediately upon declaring the official results of the election, issue a call for a runoff election for every office to which no one was elected by a majority vote. Such runoff election shall be held on a date set by the Council not earlier than the twentieth day or later than the thirtieth day after the date the final canvass of the main election is completed, or in accordance with State law. In such runoff election, the two (2) candidates who received, in the preceding main election, the highest number of votes for each office to which no one was elected shall be voted on

again, and the candidate who receives the majority of the votes cast for each such office in the runoff election shall be elected to such office.

FUNDING SOURCE:

Estimated Amount:

- \$ 19,607.78*

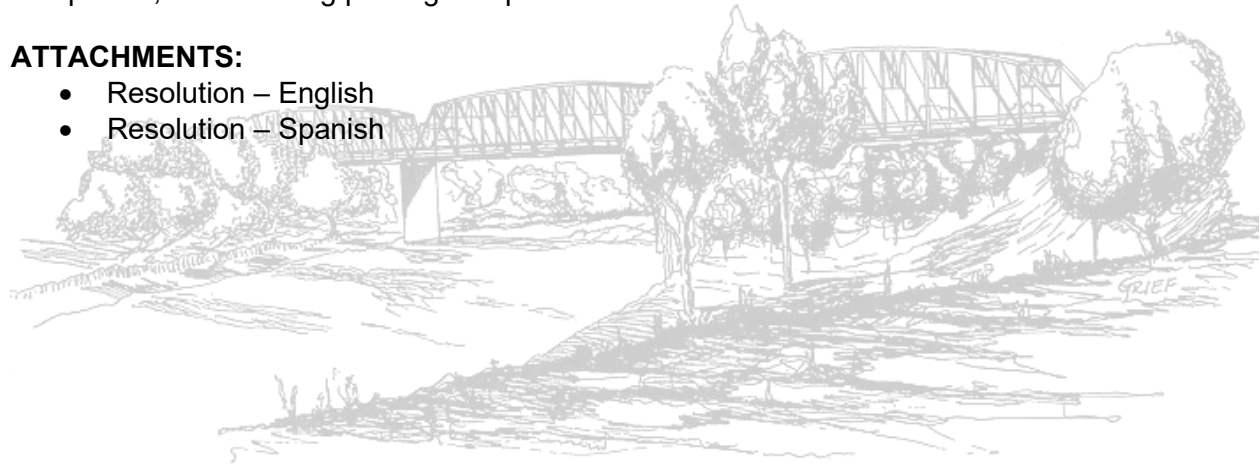
*This figure represents the maximum costs for the run-off election. Bastrop County Elections will strive to reduce costs, where appropriate. There was \$8,500 budgeted in the 2018-2019 FY budget in account 101 04-00-5681 for election services. The May 4th election was projected to cost \$6,579.55 according to the Election Contract approved on January 22, 2019. The remaining amount will require a budget amendment.

RECOMMENDATION:

Consider action to approve Resolution No. R-2019-43 of the City Council of the City of Bastrop, Texas, calling for a runoff Election for Place 5 of the Bastrop City Council for a term of three years, designating the date of said Election; designating polling places; designating early voting hours and places; and directing posting and publication of notice for said election.

ATTACHMENTS:

- Resolution – English
- Resolution – Spanish



RESOLUTION NO. R-2019-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, CALLING A RUNOFF ELECTION FOR PLACE 5 OF THE BASTROP CITY COUNCIL FOR A TERM OF THREE YEARS, DESIGNATING THE DATE OF SAID ELECTION; DESIGNATING POLLING PLACES; DESIGNATING EARLY VOTING HOURS AND PLACES; DIRECTING POSTING AND PUBLICATION OF NOTICE FOR SAID ELECTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Sec. 2.021 of the Election Code of the State of Texas, and Article IX, Section 9.07 of the Bastrop City Charter, it is provided that if no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required; and

WHEREAS, a canvassing of the returns and declaring the results of a regular City Municipal Election held on May 4, 2019, was approved by the City Council on May 14, 2019; and

WHEREAS, the canvass determined that, in the race for Council Member, Place 5 no candidate received a majority of the votes cast; and

WHEREAS, the two candidates receiving the highest number of votes for the office of Council Member, Place 5 were Dock Jackson and Deborah Jones.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

SECTION 1. There is hereby ordered a runoff election to be held in the City of Bastrop, Texas, on the 8th day of June 2019, for the purpose of electing a Council Member to Place 5 for a term of three years or until their successor has been duly qualified. The candidate receiving a majority of the votes cast for City Council Member, Place 5 shall be declared elected to such office.

SECTION 2. Ballot applications and ballots voted by mail should be addressed to the Early Voting Clerk, Bridgette Escobedo, Bastrop County Elections Administrator, 804 Pecan Street, Bastrop, Texas 78602. Applications for ballots by mail must be received no later than the close of business on May 28, 2019, the 11th day before Election Day. The early voting clerk may receive applications for ballot by mail at elections@co.bastrop.tx.us.

SECTION 3. Bridgette Escobedo is hereby appointed Clerk for Early Voting. Early voting by personal appearance shall be conducted at, Bastrop County Courthouse Annex, 804 Pecan Street, Bastrop, TX 78602

Early voting by personal appearance will begin on Tuesday, May 28, 2019, and will end on Tuesday, June 4, 2019, and the hours designated for early voting by personal appearance shall be as set forth below:

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
27 HOLIDAY – NO VOTING	28 8:00 am – 5:00 pm	29 8:00 am – 5:00 pm	30 8:00 am – 5:00 pm	31 8:00 am – 5:00 pm	
3 7:00 am – 7:00 pm	4 7:00 am – 7:00 pm	5	6	7	8 ELECTION DAY

For Elections Precincts 1001, 1002, 1003, 2009 and 2011, Staci Calvert is hereby appointed as Presiding Judge of the Early Voting Ballot Board. In accordance with Section 87.0021 et seq. of the Texas Election Code the presiding judge shall appoint at least two (2) other members to the Early Voting Ballot Board and shall process early voting results in accordance with the Texas Election Code.

The Presiding and Alternate Presiding Judges will receive compensation at the rate of \$12.00 per hour. The Clerks will receive compensation at the rate of \$10.00 per hour. The Presiding Judge will receive an additional \$25.00 for picking up the election supplies prior to Election Day and for returning the supplies after the polls close.

SECTION 4. All resident, qualified voters, determined by the laws of the State of Texas, the charter and ordinances of the City of Bastrop shall be qualified to vote at such election. For the purpose of said election, the entire city is hereby constituted into five voting precincts. Voting on Election Day, June 8, 2019, shall be conducted at, Bastrop County Courthouse Annex, 804 Pecan Street, Bastrop, TX 78602, and said election shall be held between the hours of 7:00 a.m. and 7:00 p.m. on the aforementioned date.

SECTION 5. The runoff election shall be held in accordance with the Election Code of this State and only resident qualified voters of the City shall be eligible to vote at the election.

The Mayor shall give notice of this election in accordance with the terms and provisions of Sections 4.004, 83.010, 85.004, and 85.007 of the Election Code, and all necessary orders and writs for the elections shall be issued by the proper authority. Returns of the elections shall be made to the City Council immediately after the closing of the polls.

It is further found and determined that in accordance with the order of this governing body, the City Secretary will post notice of the date to hold the drawing for a place on the ballot on the bulletin board located in the City Hall, a place convenient and readily accessible to the general

public, and the notice will be posted and remain posted continuously for at least twenty-four (24) hours preceding the scheduled time of the meeting.

SECTION 6. The results of the elections shall be certified, canvassed, and returned in the form and manner prescribed by the laws of the State of Texas and the Charter and Ordinances of the City of Bastrop.

SECTION 7. The notice of the election hereby ordered and called shall be promulgated, published, and posted in keeping with the laws of the State of Texas, and the Charter and Ordinances of the City of Bastrop.

SECTION 8. That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of May, 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

RESOLUCIÓN NO. R-2019-43

RESOLUCIÓN PARA CONVOCAR ELECCIÓN SECUNDARIA PARA EL PUESTO 5 DEL CONSEJO DE LA CIUDAD DE BASTROP POR UN PLAZO DE TRES AÑOS, DESIGNAR LA FECHA DE DICHA ELECCIÓN, DESIGNAR SITIOS DE VOTACIÓN; DESIGNAR HORAS Y SITIOS DE LA VOTACIÓN ADELANTADA; E INDICAR QUE SE FIJE Y QUE SE PUBLIQUE EL AVISO DE DICHA ELECCIÓN.

POR CUANTO, de acuerdo con la sección 2.021 del Código Electoral de Texas y con el Artículo IX, Sección 9.07 de la Carat de la Ciudad de Bastrop, se dispone que, si ningún candidato para algún puesto en particular recibe los votos necesarios para ser electo en una elección que requiere la mayoría de votos, entonces se requiere que se lleve a cabo una elección secundaria para dicho puesto; y

POR CUANTO, el repaso de los resultados y la declaración de los resultados de la Elección Regular Municipal de la Ciudad que se efectuó el 4 de mayo, 2019 fueron aprobados por el Consejo de la Ciudad el 14 de mayo, 2019; y

POR CUANTO, el repaso de los resultados determinó que en la elección para el Miembro del Consejo en el Puesto 5, ningún candidato recibió la mayoría de los votos emitidos; y

POR CUANTO, los dos candidatos que recibieron el número más elevado de votos para el Puesto 5 de Miembro del Consejo, fueron Dock Jackson y Deborah Jones.

AHORA, RESUÉLVASE POR EL CONSEJO DE LA CIUDAD DE BASTROP, TEXAS:

SECCIÓN 1. Por lo presente se ordena una elección secundaria en la Ciudad de Bastrop, Texas, el 8 de junio, 2019, con el propósito de elegir a un Miembro del Consejo en el Puesto 5 por un plazo de tres años o hasta que su sucesor haya sido debidamente calificado. El candidato que reciba la mayoría de los votos emitidos para Miembro del Consejo, en el Puesto 5 será declarado electo a dicho puesto.

SECCIÓN 2. Solicitudes para boletas y las boletas votadas por correo deberán ser dirigida a la Secretaria de la Votación Adelantada, Brigitte Escobedo, Administradora de Elecciones del Condado de Bastrop, 804 Pecan Street, Bastrop, Texas 78602. Solicitudes para boletas por correo deberán ser recibidas a no más tardar que a finales de horas hábiles el 28 de mayo, 2019, el onceavo (11vo) día antes del día de Elecciones. La secretaria de la Votación Adelantada está dispuesta a recibir solicitudes por correo electrónico en elections@co.bastrop.tx.us.

SECCIÓN 3. Brigitte Escobedo por lo presente es nombrada secretaria de la Votación Adelantada. La Votación Adelantada en persona será llevada a cabo en el Edificio de la Corte, Bastrop County Courthouse Annex, 804 Pecan Street, Bastrop, TX 78602

La Votación Adelantada en persona principiará el martes, 28 de mayo, 2019 y se cierra el martes, 4 de junio, 2019, y las horas designadas para la votación adelantada en persona serán lo siguiente:

LUNES	MARTES	MIÉRCOLES	JUEVES	VIERNES	SÁBADO
27 DÍA FESTIVO NO HAY VOTACIÓN	28 8:00 am – 5:00 pm	29 8:00 am – 5:00 pm	30 8:00 am – 5:00 pm	31 8:00 am – 5:00 pm	
3 7:00 am – 7:00 pm	4 7:00 am – 7:00 pm	5	6	7	8 DÍA de ELECCIONES

Para los Precintos Electorales 1001, 1002, 1003, 2009 Y 2011, Staci Calvert por lo presente es nombrada Juez Presidente de la Junta de Boletas de la Votación Adelantada. De acuerdo con la Sección 87.0021 et seq. del Código Electoral de Texas el juez presidente nombrará al menos dos (2) otros miembros a la Junta de Boletas de la Votación Adelantada y procesará los resultados de la votación adelantada de acuerdo con dicho Código Electoral de Texas.

El Juez Presidente y el Juez Presidente Alterno recibirán compensación de \$12.00 por hora. Los secretarios recibirán compensación de \$10.00 por hora. El Juez Presidente recibirá \$25.00 adicionales por recoger los suministros de la elección antes del Día de Elecciones y por devolver los suministros después de cerrarse los sitios de votación.

SECCIÓN 4. Todos los residentes que sean votantes calificados de acuerdo con las determinaciones de las leyes del Estado de Texas, de la carta y de ordenanzas de la Ciudad de Bastrop serán calificados para votar en dicha elección. Para los propósitos de dicha elección la ciudad entera es por lo presente instituida en cinco precintos de votación. La votación el día de las elecciones, el 8 de junio, 2019, será en el Edificio de la Corte, Bastrop County Courthouse Annex, 804 Pecan Street, Bastrop, TX 78602, y dicha elección será efectuada entre las horas de 7:00 a.m. y 7:00 p.m. en la fecha ya mencionada.

SECCIÓN 5. La elección secundaria será llevada a cabo de acuerdo con el Código Electoral del Estado y solo residentes calificados para votar en la Ciudad serán elegibles para votar en la elección.

El Alcalde dará aviso de esta elección de acuerdo con los términos y provisiones de la sección 4.004, 83.010, 85.004, y 85.007 del Código Electoral, y todas las órdenes y decretos pertinentes a dicha elección serán emitidos por la autoridad apropiada. Los resultados de dicha elección se reportarán al Consejo Municipal inmediatamente después de cerrarse los sitios de votación.

Además, se determina que, de acuerdo con la orden de este cuerpo gubernamental, la Secretaria de la Ciudad fijará el aviso de la fecha en cual se llevará a cabo el sorteo para inscribir los

nombres de candidatos en la boleta, en el tablón de avisos ubicado en el Edificio Municipal (City Hall), lugar conveniente y muy accesible al público en general, y que dicho aviso se fijará y permanecerá fijado continuamente al menos por veinticuatro (24) horas antes de la hora indicada de la reunión.

SECCIÓN 6. Los resultados de la elección serán certificados, repasados, y entregados en la forma y manera indicada por las leyes del Estado de Texas y de la Carta y Ordenanzas de la Ciudad de Bastrop.

SECCIÓN 7. El aviso de la elección que se ordena por lo presente y que se convoca será anunciado, publicado, y fijado de acuerdo con las leyes del Estado de Texas, y de la Carta y Ordenanzas de la Ciudad de Bastrop.

DEBIDAMENTE RESUELTO Y ADOPTADO por el Consejo de la Ciudad de Bastrop este día 14 de mayo, 2019.

APROBADO:

Connie B. Schroeder, Alcalde

CERTIFICADO:

Ann Franklin, Secretaria de la Ciudad

APROBADO EN SU FORMULARIO:

Alan Bojorquez, Fiscal de la Ciudad



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 6C

TITLE:

Consider action to approve Resolution No. R-2019-48 of the City Council of the City of Bastrop, Texas, approving a contract for election services between the Elections Administrator of Bastrop County and the City of Bastrop for the June 8, 2019 Runoff Election for Bastrop, Texas, attached as Exhibit A; authorizing the City Manager to execute all necessary documents; and providing an effective date.

STAFF REPRESENTATIVE:

Ann Franklin, City Secretary

POLICY EXPLANATION:

Texas Election Code

Chapter 31. Officers to Administer Elections

Sec. 31.092. Contract for Election Services Authorized.

- (a) The county election officer may contract with the governing body of a political subdivision situated wholly or partly in the county served by the officer to perform election services, as provided by this subchapter, in any one or more elections ordered by an authority of the political subdivision.

FUNDING SOURCE:

Estimated Amount:

- \$ 19,607.78*

*This figure represents the maximum costs for the run-off election. Bastrop County Elections will strive to reduce costs, where appropriate. There was \$8,500 budgeted in the 2018-2019 FY budget in account 101 04-00-5681 for election services. The May 4th election was projected to cost \$6,579.55 according to the Election Contract approved on January 22, 2019. The remaining amount will require a budget amendment.

RECOMMENDATION:

Consider action to approve Resolution No. R-2019-48 of the City Council of the City of Bastrop, Texas, approving a contract for election services between the Elections Administrator of Bastrop County and the City of Bastrop for the June 8, 2019 Runoff Election for Bastrop, Texas, attached as Exhibit A; authorizing the City Manager to execute all necessary documents; and providing an effective date.

ATTACHMENTS:

- Resolution – English
- Resolution – Spanish
- Exhibit A



RESOLUTION NO. R-2019-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING A CONTRACT FOR ELECTION SERVICES BETWEEN THE ELECTIONS ADMINISTRATOR OF BASTROP COUNTY AND THE CITY OF BASTROP FOR THE JUNE 8, 2019, RUNOFF ELECTION FOR, BASTROP TEXAS, ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop ("the City") has called a runoff election for Saturday, June 8, 2019; and

WHEREAS, the County of Bastrop Election Officer is authorized by state law to contract with the City of Bastrop.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1. The City Council of the City of Bastrop hereby authorizes that the City of Bastrop enter into a contract with the Elections Administrator of Bastrop County for the June 8, 2019, Runoff Election.

Section 2. The City Manager, is hereby authorized to execute a contract with the Elections Administrator of Bastrop County for the June 8, 2019, Runoff Election. The contract is attached hereto as Exhibit A.

Section 3: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of May, 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

RESOLUCIÓN NO. R-2019-48

RESOLUCIÓN DEL CONSEJO DE LA CIUDAD DE BASTROP, TEXAS, PARA APROBAR UN CONTRATO DE SERVICIOS ELECTORALES ENTRE EL/LA ADMINISTRADOR/A de ELECCIONES DEL CONDADO BASTROP Y LA CIUDAD DE BASTROP PARA LLEVAR ACABO LA ELECCIÓN SECUNDARIA EL 8 DE JUNIO, 2019 DE LA CIUDAD DE BASTROP, TEXAS, ADJUNTADA EN EL ADJUNTO A; AUTORIZANDO QUE EL/LA GERENTE DE LA CIUDAD EJECUTE TODO DOCUMENTO NECESARIO; Y PROPORCIONANDO LA FECHA DE VIGOR.

POR CUANTO, la Ciudad de Bastrop ("la Ciudad") ha convocado una elección secundaria que se lleve a cabo el sábado, 8 de junio, 2019; y

POR CUANTO, el/la Administrador/a de Elecciones del Condado Bastrop tiene autoridad otorgada por las leyes estatales para tramitar contratos con la Ciudad de Bastrop.

AHORA, POR LO TANTO, EL CONSEJO MUNICIPAL DE LA CIUDAD DE BASTROP TEXAS, RESUELVE:

Sección 1. El Consejo de la Ciudad de Bastrop por lo presente autoriza que la Ciudad de Bastrop tramite un contrato con el/la Administrador/a de Elecciones del Condado Bastrop para llevar a cabo la Elección Secundaria el 8 de junio, 2019.

Sección 2. El/la Gerente de la Ciudad, por lo presente es autorizado/a para que tramite un convenio con el/la Administrador/a de Elecciones del Condado Bastrop para que lleve a cabo la Elección Secundaria del 8 de junio, 2019. El contrato es adjuntado a lo presente con el título de Adjunto A.

Sección 3: Que esta Resolución sea efectiva inmediatamente cuando sea aprobada, y así se resuelve.

DEBIDAMENTE RESUELTA Y ADOPTADA por el Consejo de la Ciudad de Bastrop este día 14 de mayo, 2019.

APROBADO:

Connie B. Schroeder, alcalde

CERTIFICO:

Ann Franklin, Secretaria de la Ciudad

APROBADA SU REDACCIÓN:

Alan Bojorquez, Fiscal de la Ciudad

CONTRACT FOR ELECTION SERVICES
BETWEEN
THE ELECTIONS ADMINISTRATOR OF BASTROP COUNTY
AND
THE CITY OF BASTROP
FOR THE JUNE 8, 2019 RUNOFF ELECTION

THIS CONTRACT is made and entered into by and between Bridgette Escobedo, the Elections Administrator of Bastrop County, Texas, hereinafter referred to as “Contracting Officer,” and the City of Bastrop, hereinafter referred to as the “CITY,” pursuant to the authority under Section 31.092(a) of the Texas Election Code and Chapter 791 of the Texas Government Code. In consideration of the mutual covenants and promises hereinafter set forth, the parties agree to this interlocal agreement with regard to the coordination, supervision, and running of the CITY’s June 8, 2019 Election, hereinafter referred to as “the election”. The purpose of this agreement is to maintain consistency and accessibility in voting practices, polling places and election procedures to assist the voters of the CITY.

I. RESPONSIBILITIES OF CONTRACTING OFFICER. The Contracting Officer shall be responsible for performing the following services and furnishing the following materials and equipment in connection with the election:

A. *Notification to Presiding and Alternate Judges; Appointment of Clerks.*

1. The Contracting Officer shall notify each presiding judge and alternate judge of his or her appointment. The notification will also include the assigned polling location, the date of the election school(s), the eligibility requirements that pertain to them and to the selection of election day clerks, the date and time of the election, the rate of compensation, the number of election clerks the presiding judge may appoint, and the name of the presiding or alternate judge, as appropriate.

2. The Contracting Officer shall ensure that the presiding judges make the appropriate election clerk appointments and notify the clerks of their appointments. The recommendations of the CITY will be the accepted guidelines for the number of clerks secured to work in each polling place. The presiding election judge of each polling place, however, will use his/her discretion to determine when additional manpower is needed during peak voting hours. Election judges shall be secured by the Contracting Officer with the approval of the CITY.

3. The Contracting Officer shall notify the CITY of the list of election judges and alternate judges for Election Day, so that the CITY may approve by written order.

4. Notification to the election judges and alternates shall be made no later than May 24, 2019.

B. *Contracting with Third Parties.* In accordance with Section 31.098 of the Texas Election Code, the Contracting Officer is authorized to contract with third persons for election services and supplies. The cost of such third-person services and supplies will be paid by the Contracting Officer and reimbursed by the CITY as agreed upon on Exhibit “C”.

C. *Election School(s).* The Contracting Officer shall be responsible for conducting one or more, at her discretion, election schools to train the presiding judges, alternate judges, election clerks, and early voting clerks, and Early Voting Ballot Board members in the conduct of elections, including qualifying voters, provisional voting, and the counting of ballots. The Contracting Officer shall determine the date, time, and place for such school(s) and notify the presiding judges, alternate judges, and election clerks of such. The Contracting Officer may hold the election school(s) on a Saturday in order to increase its availability to election workers who are employed during the regular work week. If at all possible, such election schools shall be conducted within the CITY territory.

D. *Election Supplies.* The Contracting Officer shall procure, prepare, and distribute to the presiding judges for use at the polling locations on Election Day and the Early Voting Ballot Board (and to the Deputy Early Voting Clerks during Early Voting) the following election supplies: election kits from third-party vendors (including the appropriate envelopes, sample ballots, lists, forms, name tags, posters, and signage described in Chapters 51, 61, and 62, and Subchapter B of Chapter 66 of the Texas Election Code); pens; pencils; tape; markers; paper clips; ballot box seals; sample ballots; tacks, and all consumable-type office supplies necessary to hold an election.

E. *Registered Voter List.* The Contracting Officer shall provide all lists of registered voters required for use on Election Day and for the early voting period required by law. The Election Day list of registered voters shall be arranged in alphabetical order by each precinct.

F. *Ballots.* The Contracting Officer shall be responsible for the programming of the direct recording electronic voting devices (referred to as DRE’s) and the printing of ballots requested by mail or used for early voting or Election Day. The Contracting Officer shall be responsible for distributing the DRE’s along with the election supplies.

G. *Early Voting.* In accordance with Section 31.094, of the Texas Election Code, the Contracting Officer will serve as Early Voting Clerk for the election, subject to Sections 31.096 and 31.097(b).

1. As Early Voting Clerk, the Contracting Officer shall receive applications for early voting ballots to be voted by mail in accordance with Chapters 31 and 86 of the Texas Election Code. The Contracting Officer shall work with the CITY in securing personnel to serve as Early Voting Deputies.

The Contracting Officer shall, upon request, provide the CITY a copy of the early voting report on a daily basis and a cumulative final early voting report following the election.

2. Early Voting by personal appearance for the election shall be conducted during the hours and time period and at the locations listed in Exhibit "A," attached hereto and made a part of this contract.

3. The Contracting Officer shall receive mail ballot applications on behalf of the CITY. All applications for mail ballots shall be processed in accordance with Title 7 of the Texas Election Code by the Contracting Officer or her deputies at 804 Pecan Street, Bastrop, Texas 78602. Any requests for early voting ballots to be voted by mail received by the CITY shall be forwarded immediately to the Contracting Officer for processing.

4. All early voting ballots (those cast by mail and those cast by personal appearance) shall be secured and maintained by the Contracting Officer and delivered by her or her deputy for counting in accordance with Chapter 87 of the Texas Election Code to the Early Voting Ballot Board at the Bastrop County Courthouse on Election Day, June 8, 2019.

H. *Election Day Polling Locations.* The Election Day polling locations are those listed in Exhibit "B," attached hereto and made a part of this contract. The Contracting Officer shall arrange for the use of all Election Day polling places and shall arrange for the setting up of all polling locations for Election Day, including ensuring that each polling location has the necessary tables, chairs, and voting booths.

I. *Central Counting Station.* The Contracting Officer shall be responsible for establishing and operating the Central Counting Station to receive and tally the voted ballots in accordance with Section 127.001 of the Election Code and of this agreement. Counting Station Manager and Central Count Judge shall be Bridgette Escobedo. The Tabulation Supervisor shall be Kristin Miles. The tabulation supervisor shall handle ballot tabulation in accordance with statutory requirements and county policies, under the auspices of the Contracting Officer.

Election night reports will be available to the CITY at the Central Counting Station on election night and will provide individual polling location totals.

J. *Manual Counting.* The Contracting Officer shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code and submit a written report to the CITY in a timely manner. The Secretary of State may waive this requirement. If applicable, a written report shall be submitted to the Secretary of State as required by Section 127.201(E) of the aforementioned code.

K. *Election Reports.* The Contracting Officer shall prepare the unofficial tabulation of precinct results under Section 66.056(a) of the Texas Election Code and shall provide a copy of the tabulation to the CITY as soon as possible after the Contracting Officer has received the precinct returns on Election Day night. Provisional ballots will be tabulated after election night in accordance with state laws.

L. *Custodian of Voted Ballots.* The Contracting Officer is hereby appointed the custodian of voted ballots and shall preserve them in accordance with Chapter 66 of the Texas Election Code and other applicable law.

II. RESPONSIBILITIES OF THE CITY. The CITY shall assume the following responsibilities:

A. *Election School(s).* At the request of the Contracting Officer, and at no cost to the Contracting Officer, the CITY will make available space in a CITY building to hold the election school(s), if applicable.

B. *Polling Locations.* The CITY shall pay the respective cost of all employee services required to provide access, security, or custodial services for the polling locations.

C. *Applications for Mail Ballots.* The CITY shall date stamp and then immediately hand deliver to the Contracting Officer all original mail ballot applications for mail ballots that it receives.

D. *Election Orders, Election Notices, Canvass.* The CITY shall prepare the election order, resolutions, notices, official canvass, and other pertinent documents for adoption by the CITY's governing body. The CITY shall be responsible for having the required election notice under Section 4.003(a) (1) of the Texas Election Code published in the newspaper as required by State law. The CITY shall also be responsible for posting the notice required under Section 4.003(b) of the Texas Election Code as required by law. Promptly after approval of election order, resolutions, notices, official canvass, and other pertinent documents by the CITY's governing body and within such time so as not to impede the orderly conduct of the election, the CITY shall return said documents

to the Contracting Officer for proper recordkeeping. The CITY assumes the responsibility of promoting the schedules for Early Voting and Election Day.

The CITY will provide for the appointment of the Contracting Officer as the early voting clerk for the election in the orders calling the election. The orders will also include approval of Election Day polling places; times, dates and places for early voting; and appointment of precinct judges.

E. *Paper Ballots.* The Contracting Officer shall arrange with a third party to prepare the necessary optical paper ballots for the election. The ballots shall be in English with the Spanish translation included.

The CITY shall furnish the Contracting Officer a list of candidates and/or propositions showing the order and the exact manner in which their names or proposition(s) are to appear on the official ballot (including bilingual titles and text). This list shall be delivered to the Contracting Officer as soon as possible after ballot positions have been determined. The CITY shall perform the duties required for drawing for place on the ballot by candidates. The CITY shall be responsible for proofreading and approving the ballot insofar as it pertains to the authority's candidates and/or propositions.

III. SPECIAL PROVISIONS RELATING TO ELECTION WORKERS

A. *Compensation.* The parties agree that presiding judges and alternate judges will be compensated at a rate of \$12.00/hr., and election clerks will be compensated at a rate of \$10.00/hr. They will be compensated for all hours actually worked, including the time to set up the polling location and the time to complete the counting and to wrap up the paper work, but not to exceed one hour before and two hours after the polling location is open for voting. The presiding judge, or the election worker at the polling location that he or she designates, who picks up the election supplies on June 8, 2019 from the Contracting Officer and who returns the remaining supplies, ballot boxes, and all other election records from the polling location to the Contracting Officer will be compensated with a delivery fee of \$25 at the same time that payment is made for the hours worked. The Contracting Officer will pay the election workers directly and be reimbursed for such by the CITY.

B. *Number of Election Workers.* The parties agree that at all polling locations there will be a minimum of three election workers, consisting of the presiding judge, alternate judge, and one clerk.

IV. JOINT EXPENSES AND PAYMENT

A. *Expenses Incurred and Billing.* The participating authorities agree to share actual costs incurred to the extent that the costs and expenses are incurred in connection with a polling location used by more than one local political subdivision, such as (without limitation) the cost of renting polling locations and voting equipment, programming the voting equipment, supplies needed for the polling place, wages and salaries of election workers. Election expenses shall be pro-rated equally among the participants.

The parties agree, for those polling locations used solely by the CITY and not shared by any other participating authority, that the CITY will pay the wages, salaries, and other applicable election costs and expenses directly related to such polling location.

It is understood that to the extent space is available, other districts and political subdivisions may wish to participate in the use of Bastrop County's election equipment and voting places, and it is agreed that the Elections Administrator may contract with such other districts or political subdivisions for such purposes and that in such event there may be an adjustment of the pro-rata share to be paid to Bastrop County by the participating authorities.

B. *Billing.* As soon as reasonably possible after Election Day, the Contracting Officer will submit an itemized invoice to the CITY for (1) actual expenses directly attributable to the coordination, supervision, and running of the election and incurred on behalf of the CITY by the Contracting Officer, including expenses for supplies in connection with the election school(s), publication and printing of election notices, election supplies, wages paid to the Contracting Officer's employees for services under this contract performed outside of normal business hours, election workers, and any other expenses reasonably and directly related to the election, including, without limitation, rental and programming of DREs and audio ballots, and (2) the Contracting Officer's fee under Section 31.100(d) of the Texas Election Code and as provided in Section IV.E below. Expenses related to wages shall be supported by compensation sheets. Other expenses shall be supported by invoices or receipts, except that the price of items coming out of the Contracting Officer's stock of election supplies shall be supported by the Contracting Officer's certificate about the number of items used and the unit cost therefore according to the vendor's standard price list.

C. *Payment.* The CITY shall pay the Contracting Officer's invoice within 30 days from the date of receipt to: **Bastrop County, Attn: Bridgette Escobedo, Elections Administrator, 804 Pecan Street, Bastrop, TX 78602.** If the CITY disputes any portion of the invoice, the CITY shall pay the undisputed portion of the invoice, and the parties will discuss in good faith a resolution of the disputed portion. All payments shall be made from current revenues available to the CITY.

D. *Expense Item Larger than \$500.* If a single election expense exceeds \$500, the Contracting Officer reserves the right to invoice the CITY for such expense at the time it is incurred, supported by an invoice or receipt, rather than waiting until after Election Day. The CITY shall pay such invoice within 30 days from the date of receipt.

E. *Estimated Cost of Services.* A cost estimate for election expenses is attached hereto and made a part of this contract as Exhibit "C". The parties agree that these are an estimate only and that the CITY is obligated to pay their respective portion of the actual expenses of the election as set forth herein. The Contracting Officer agrees to advise the CITY if it appears that the actual expenses incurred by the Contracting Officer will exceed by 20% or more the estimated expenses to be paid initially by the Contracting Officer and reimbursed jointly by the CITY.

F. *Administrative Fee.* The CITY shall pay the Contracting Officer a 10 % administrative fee, pursuant to the Texas Election Code, Section 31.100.

V. GENERAL PROVISIONS

A. *Nontransferable Functions.* In accordance with Section 31.096 of the Texas Election Code, nothing in this contract shall be construed as changing

1. the authority with whom applications of candidates for a place on the ballot are filed;
2. the authority with whom documents relating to political funds and campaigns under Title 15 of the Texas Election Code are filed; or

B. *Joint Election.* The parties acknowledge that the Contracting Officer may contract with other entities holding elections at the same time as the CITY on June 8, 2019. If another election occurs in territory of the CITY, Bastrop County will notify the CITY of the existence of the situation and provide a joint election agreement.

C. *Cancellation of Election.* If the CITY cancels its election pursuant to Section 2.053 of the Texas Election Code, the Contracting Officer shall only be entitled to receive the actual expenses incurred before the date of cancellation in connection with the election and an administrative fee of \$75. The Contracting Officer shall submit an invoice for such expenses (properly supported as described in **IV. PAYMENT** above) as soon as reasonably possible after the cancellation and the CITY shall make payment therefore in a manner similar to that set forth in **IV. PAYMENT** above. The Contracting Officer agrees to use reasonable diligence not to incur major costs in connection with election preparations until it is known that the election will be held, unless the CITY

authorizes such major costs in writing. An entity canceling an election will not be liable for any further costs incurred by the Contracting Officer in conducting the June 8, 2019 Joint Election.

D. *Contract Copies to Treasurer and Auditor.* In accordance with Section 31.099 of the Texas Election Code, the Contracting Officer agrees to file copies of this contract with the County Treasurer of Bastrop County, Texas and the County Auditor of Bastrop County, Texas.

E. *Representatives.* For purposes of implementing this contract and coordinating activities hereunder, the CITY and the Contracting Officer designate the following individuals, and whenever the contract requires submission of information or documents or notice to the CITY or the Contracting Officer, respectively, submission or notice shall be to these individuals:

For the CITY:

Ann Franklin
City Secretary
City of Bastrop
1311 Chestnut Street/PO Box 427
Bastrop, TX 78602
Tel: (512) 332-8800
Fax: (512) 332-8819
Email: afranklin@cityofbastrop.org

For the Contracting Officer:

Bridgette Escobedo
Elections Administrator
Bastrop County
804 Pecan Street
Bastrop, TX 78602
Tel: (512) 581-7160
Fax: (512) 581-4260
Email: elections@co.bastrop.tx.us

F. *Amendment/Modification.* Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent, or employee of Bastrop County has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the Commissioners Court of Bastrop County, Texas. No official, representative, agent, or employee of the CITY has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the CITY. Both the Contracting Officer and the CITY may propose necessary amendments or modifications to this Agreement in writing in order to conduct the Election smoothly and efficiently.

G. *Entire Agreement.* This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and supersedes all prior agreements, including prior election services contracts and prior agreements to conduct joint elections. Any prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force and effect. Any oral representations or modifications concerning this

Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

H. *Severability.* If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement; and, parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.

I. *Third Party Beneficiaries.* Except as otherwise provided herein, nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights or remedies under or by reason of this Agreement.

J. *Mediation.* Any controversy, claim or dispute arising out of or relating to this contract, shall be settled through mediation by the parties. The parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code unless both parties agree, in writing, to waive the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term “confidential” as used in this Agreement has the same meaning as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 2019.

Lynda Humble
City Manager
City of Bastrop
Bastrop, Texas

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 2019.

Paul Pape
County Judge
Bastrop County, Texas

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 2019.

Bridgette Escobedo
Elections Administrator
Bastrop County, Texas

EXHIBIT “A”

EARLY VOTING DATES, TIMES, AND LOCATIONS

Time Period:

Tuesday, May 28, 2019 through Friday, May 31, 2019 and Monday, June 3, 2019 and Tuesday, June 4, 2019.

Main Location:

Bastrop County Courthouse Annex, 804 Pecan St., Bastrop, TX 78602

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
27 HOLIDAY- NO VOTING	28 8:00 am – 5:00 pm	29 8:00 am – 5:00 pm	30 8:00 am – 5:00 pm	31 8:00 am – 5:00 pm
3 7:00 am – 7:00 pm	4 7:00 am – 7:00 pm	5	6	7

Voting by Mail:

Bridgette Escobedo, Bastrop County Elections Administrator, 804 Pecan Street, Bastrop, TX 78602

EXHIBIT “B”

CITY OF BASTROP ELECTION DAY POLLING LOCATION

Bastrop - Precincts 1001, 1002, 1003, 2009, 2011

Bastrop County Courthouse Annex, 804 Pecan St., Bastrop, TX 78602

EXHIBIT “C”
ESTIMATED COST OF JUNE 8, 2019 RUNOFF ELECTION

CITY OF BASTROP

Optical Ballots and Programming Expenses	\$ 2,254.47
Rental Fee for ExpressVote and Vote Tabulator (voting equipment)	\$ 10,433.00
Staff Time and Mileage, Early Voting Clerks, Election Judges, Ballot Board	\$ 3,360.34
Postcards with Voting Schedule	\$ 1,577.44
Election Kits & other precinct supplies	\$ 200.00
SUBTOTAL	\$ 17,825.25
10% ADMINISTRATIVE FEE	<u>\$ 1,782.53</u>
TOTAL	<u>\$ 19,607.78</u>



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 6D

TITLE:

Election of Mayor Pro Tem.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

BACKGROUND/HISTORY:

CODE OF ORDINANCES CITY OF BASTROP TEXAS, Chapter 1. GENERAL PROVISIONS, Article 1.03 MAYOR AND CITY COUNCIL, Sec. 1.03.034 - MAYOR PRO TEM:

- (a) At the first meeting of the Council after the regular annual election, or as soon thereafter as practicable, one of the Councilmembers shall be elected Mayor Pro Tem.
- (b) The Mayor Pro Tem shall hold office for one year.
- (c) The Mayor Pro Tem shall preside over all meetings of the Council during the absence of the Mayor, and when both the Mayor and Mayor Pro Tem are absent, the members present (if a quorum) may call another member to preside.

POLICY EXPLANATION:

N/A

FUNDING SOURCE:

N/A

RECOMMENDATION:

Election of Mayor Pro Tem.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 7A

TITLE:

Incoming Associate Judge Caroline McClimon

- Swearing Oath of Office, The Honorable Chris Duggan, State District Judge, District 423
- Signature of Official Documents
- Welcome by Council
- Comments by Municipal Judge Blas Coy

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

ATTACHMENTS:

- Oath of Office



City of Bastrop

OATH OF OFFICE

I, **Judge Caroline McClimon**, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of **Associate Judge**, of the City of Bastrop, Texas, and will to the best of my ability preserve, protect, and defend the Constitution, laws and ordinances of the United States, of this State, and of this City, so help me God.

SWORN TO and Subscribed before me by on this 14th day of May, 2019.

(Seal)

Signature of Person Administering Oath

Printed Name

Notary Public, State of Texas



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 7B

TITLE:

Incoming Council Member Bill Peterson, Place 1

- Swearing Oath of Office, The Honorable Chris Duggan, State District Judge, District 423
- Signature of official documents, Ann Franklin, City Secretary
- Welcome by Council
- Comments by Council Member Bill Peterson

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

ATTACHMENTS:

- Oath of Office



OATH OF OFFICE

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,
I, **Bill Peterson**, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of
City Council – Place 1 of the City of Bastrop, of the State of Texas, and will to the best of my ability
preserve, protect, and defend the Constitution and laws of the United States and of this State, so help
me God.

Affiant

SWORN TO and subscribed before me by affiant on this 14th day of May 2019.

State of Texas

County of Bastrop

Sworn to and subscribed before me this 14th day of May 2019.

(seal)

Signature of Judge Chris Duggan, State District Judge, District 423

Printed or Typed Name



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8A

TITLE:

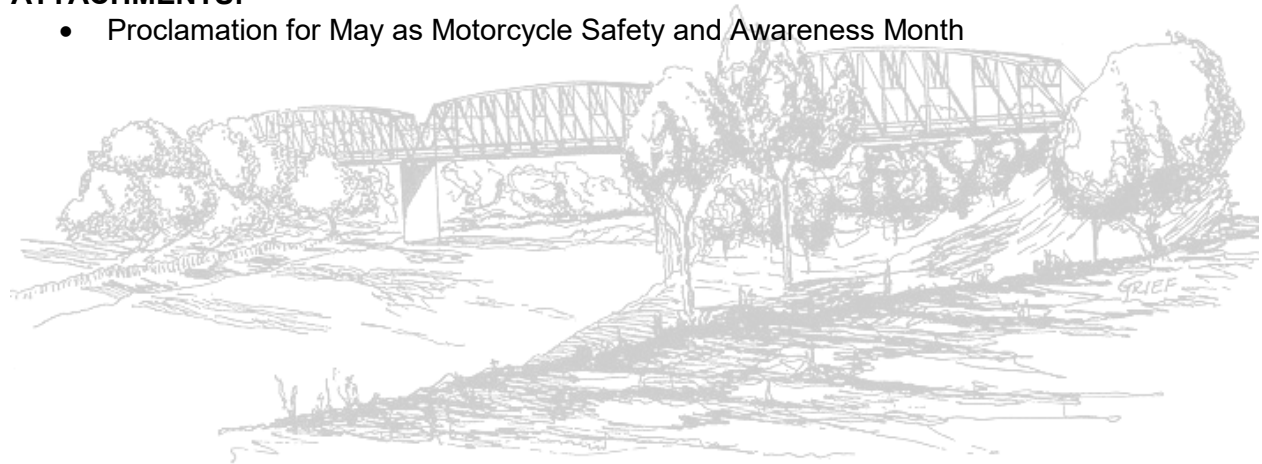
Proclamation of the City Council of the City of Bastrop, Texas recognizing May as Motorcycle Safety and Awareness Month.

STAFF REPRESENTATIVE:

Lynda Humble

ATTACHMENTS:

- Proclamation for May as Motorcycle Safety and Awareness Month





PROCLAMATION



BASTROPTX
Heart of the Lost Pines / Est. 1832

WHEREAS, today's society is finding more citizens involved in motorcycling; and

WHEREAS, motorcycles are a common and economical means of transportation that reduces fuel consumption and road wear, and contributes in a significant way to the relief of traffic and parking congestion; and

WHEREAS, campaigns have helped inform riders and motorists alike to motorcycle safety issues to reduce motorcycle related risks, injuries, and most of all fatalities, through a comprehensive approach to motorcycle safety; and

WHEREAS, it is the responsibility of all who put themselves behind the wheel to become aware of motorcyclists, and to obey all traffic laws; and

WHEREAS, motorists are encouraged to become aware of the inherent danger involved in operating a motorcycle, and for riders and motorists alike to give each other the mutual respect they deserve.

NOW, THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby recognize the month of May as:

MOTORCYCLE SAFETY AND AWARENESS MONTH

in the City of Bastrop and urge all residents to do their part to increase motorcycle safety and awareness in our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 14th day of May 2019.

Connie B. Schroeder, Mayor



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8B

TITLE:

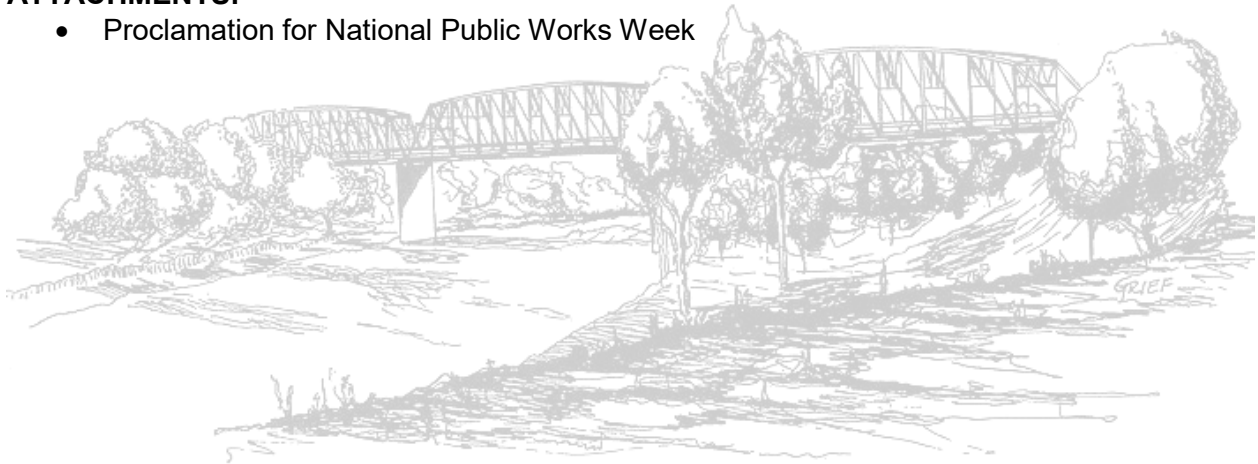
Proclamation of the City Council of the City of Bastrop, Texas recognizing the week of May 19 – 25, 2019 as National Public Works Week.

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services

ATTACHMENTS:

- Proclamation for National Public Works Week





PROCLAMATION



BASTROPTX
Heart of the Lost Pines / Est. 1832

WHEREAS, Public Works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life, and well-being of the people of Bastrop, Texas; and



WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of Public Works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children in Bastrop, Texas to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and

WHEREAS, the year 2019 marks the 59th annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association; and

NOW, THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby recognize the week of May 19 – 25, 2019 as:

National Public Works Week

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 14th day of May, 2019.

Connie B. Schroeder, Mayor



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8C

TITLE:

Proclamation of the City Council of the City of Bastrop, Texas, recognizing May 13-19, 2019 as National Police Week for the City of Bastrop, TX.

STAFF REPRESENTATIVE:

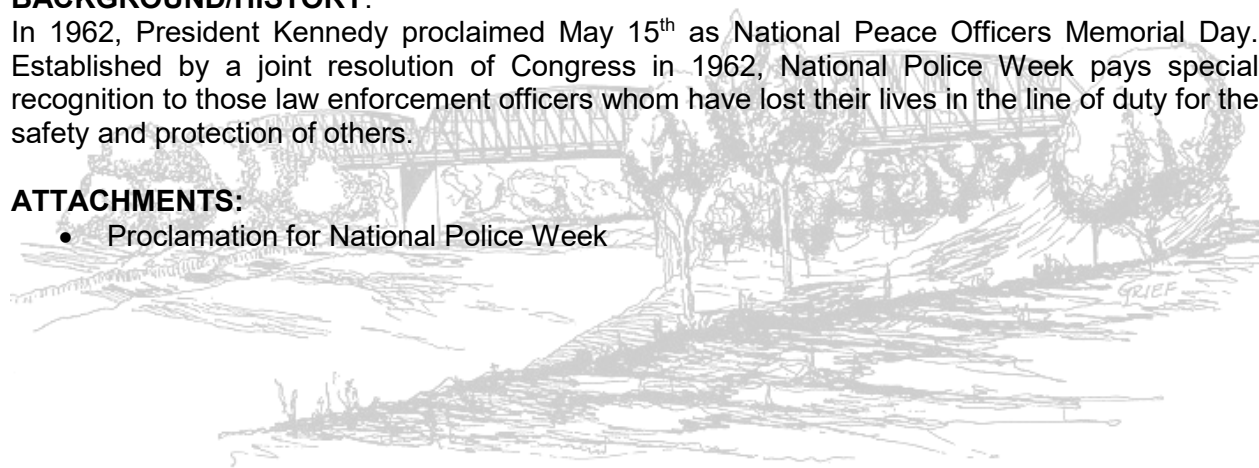
James Altgelt, Public Safety Director/Chief of Police

BACKGROUND/HISTORY:

In 1962, President Kennedy proclaimed May 15th as National Peace Officers Memorial Day. Established by a joint resolution of Congress in 1962, National Police Week pays special recognition to those law enforcement officers whom have lost their lives in the line of duty for the safety and protection of others.

ATTACHMENTS:

- Proclamation for National Police Week



P

ROCLAMATION



WHEREAS, citizens of Bastrop gather to recognize and honor our law enforcement officers for their faithful service and sacrifice while protecting our community and safeguarding our democracy; and

WHEREAS, there are more than 900,000 sworn law enforcement officers serving in communities across the United States, including the dedicated members of the Bastrop Police Department; and

WHEREAS, nearly 60,000 assaults against law enforcement officers are reported each year, resulting in over 16,000 injuries; and

WHEREAS, since the first recorded death in 1791, more than 20,000 law enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty, including one member of the Bastrop Police Department; and

WHEREAS, in 2018, 163 fallen heroes throughout the Nation have been killed in the line of duty including 11 from the State of Texas; and

WHEREAS, in 2019, 37 fallen heroes throughout the Nation have been killed in the lines of duty including 3 from the State of Texas; and

WHEREAS, the names of these dedicated public servants are engraved on the walls of the National Law Enforcement Memorial in Washington, D.C., and the names of the heroic Texas Peace Officers are engraved on the Texas Peace Officer Memorial in Austin, Texas; and

WHEREAS, May 15th is designated as Peace Officer's Memorial Day, in honor of all fallen officers and their families and U.S. Flags should be flown at half-staff; and

WHEREAS, Congress has designated the calendar week that May 15th falls be known as National Police Week.

NOW, THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby proclaim May 13, 2019 through May 19, 2019 as:

POLICE OFFICER WEEK IN BASTROP, TEXAS

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 14th day of May 2019.

Connie B. Schroeder, Mayor





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8D

TITLE:

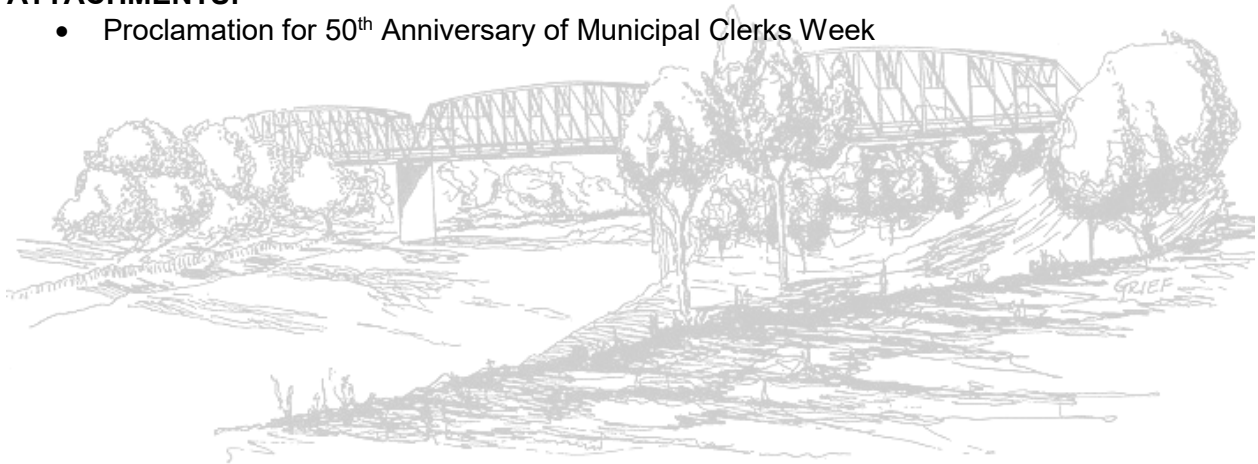
Proclamation of the City Council of the City of Bastrop, Texas recognizing May 5 - 11, 2019 as the 50th Anniversary of Municipal Clerks Week for the City of Bastrop, Texas.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

ATTACHMENTS:

- Proclamation for 50th Anniversary of Municipal Clerks Week





PROCLAMATION



BASTROP TX
Heart of the Lost Pines / Est. 1832

WHEREAS, the Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

WHEREAS, the Office of the Municipal Clerk is the oldest among public servants, and

WHEREAS, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, the Municipal Clerk serves as the information center on functions of local government and community; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations; and

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

NOW, THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby recognize the week of May 5 through May 11, 2019 as

The 50th Anniversary of Municipal Clerks Week

and further extend appreciation to our Municipal Clerk, Ann Franklin, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 14th day of May, 2019.

Connie B. Schroeder, Mayor



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8E

TITLE:

Proclamation of the City Council of the City of Bastrop, Texas recognizing the Month of May as Building Safety Month.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

ATTACHMENTS:

- Proclamation





WHEREAS, whether due to harsh weather conditions or merely age and everyday use, our homes and workplaces undergo significant wear and tear; and

WHEREAS, when implemented consistently and efficiently, strong building codes can save lives and protect property; and

WHEREAS, codes used by professional builders and inspectors address not only structural soundness, but also electricity, plumbing, accessibility, fire safety and energy efficiency; and

WHEREAS, sensible codes, well-trained professionals and an efficient enforcement system are essential to creating and maintaining safe environments for individuals, families and businesses; and

WHEREAS, the International Code Council and various professional associations in Texas are part of a diverse partnership involved in design, construction, sales, inspections and more; and

WHEREAS, the City of Bastrop will be updating our International Codes this year as a part of the Building Bastrop initiative; and

WHEREAS, each year, the month of May is dedicated to raising awareness about the need for resilient structures for Bastrop citizens to live, work and play in; and

WHEREAS, at this time, all Bastrop citizens are encouraged to learn more about the importance of building codes and high safety standards in minimizing risks wherever possible and creating a safe environment in our homes and our community.

NOW, THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby recognize the month of May as:

Building Safety Month

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 14th day of May, 2019.

Connie B. Schroeder, Mayor



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8F

TITLE:

Mayor's Report

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

ATTACHMENTS:

- Power Point Presentation

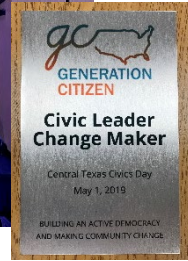
Mayor's Report
May 14, 2019



Latest Activities

April 12 – May 1

Events in 2019: 114



Generation Citizen - CRCA



Dr. Martinez & Dr. Moore
Hogg Foundation Seminar



Library
Volunteer
Appreciation



Table
On
Main



FCI – Community Luncheon



BEST Breakfast



BEDC's Youth Career Day



Early
Voting

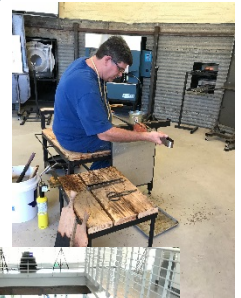


Thank you COP's



KVUE

BAIPP
2D Art Call



13th Annual Spring Gala
Lost Pines Art Guild



Planned Events

May 2 – May 14

- May 2
 - Emile Elementary (Rescheduled due to weather)
 - National Day of Prayer (Bastrop County Courthouse Gazebo)
- May 4 – Election Day
- May 6 to 10 – Teacher Appreciation Sponsor for Gateway School (Thanks Ruth!)
- May 6 – Library Board
- May 9 – Design Code “Come and Go” Rodeo
- May 14 - City Council Meeting



Upcoming Events & City Meetings

- May 15 –
 - Peace Officers Memorial Service (Fairview Cemetery)
 - Mike Fisher Building Dedication
- May 16/17 – TML Small Town Conference
- May 20 – BEDC Board Meeting
- May 27 – Memorial Day (City Offices Closed)
- May 28 - City Council Meeting





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8G

TITLE:

Councilmembers' Report

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 8H

TITLE:

City Manager's Report

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 9A

TITLE:

Update and discussion of current Legislative Session and its impact on local municipalities.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 9B

TITLE:

Provide an update on the Chicken Relocation Project in Downtown Bastrop, Texas.

STAFF REPRESENTATIVE:

James K. Altgelt, Director of Public Safety/Chief of Police



Chicken Relocation Project Update



Progress / Changes Since April 23, 2019

Chicken Warrant Round-Up

Specific Information to be provided



Progress / Changes Since April 23, 2019

Administrative Warrants



Progress to Date

From March 2018 through today at noon,
XXX chickens
have been captured, transported, and
relocated.

- XX hens
- XX chicks
- XX roosters



Monthly Breakdown

Month	Hens	Chicks	Roosters	Monthly Total	Grand Total
March – December 2018	46	26	27	99	99
January 2019	0	0	0	0	99
February 2019	3	0	0	3	102
March 2019	13	6	14	33	135
April 2019	19	32	26	77	212
May 2019	XX	XX	XX	XX	XXX



QUESTIONS ?





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 9C

TITLE:

Receive updated presentation and policy discussion regarding Nuisance Ordinances and proposed revisions of the Code of Ordinances.

STAFF REPRESENTATIVE:

James K. Altgelt, Director of Public Safety/Chief of Police

BACKGROUND/HISTORY:

With the launching of Building Bastrop in August 2018, the City has been evaluating its Code of Ordinances and how they interact with each other. The area of nuisances has been identified for review.

A simple word search in our current ordinances revealed the word “nuisance” is contained in 55 different ordinances throughout the entire Code. On Wednesday, May 1st, Staff conducted a day long review of the Code and came to the following conclusions:

- Texas State Law, such as the Texas Penal Code, the Texas Transportation Code, and the Texas Health and Safety Code and other independent sets of codes, such as the International Building Code (IBC) Family are repeated throughout the Code of Ordinances. It is redundant to repeat these laws that are already codified in different publications and it gives the community the impression that the City of Bastrop is enacting all of these laws. Keeping our Code of Ordinances current becomes problematic because of the frequency that the legislature makes changes to the laws or when there are revisions to the IBC Family.
- All definitions used throughout the ordinances should be located in one location making it user friendly and manageable.
- Procedures for due process, abatement, and civil remedies should all be located in the same section of the Code.
- Every enforcement action required to enforce the Code of Ordinances should be located in the same section of the Code.
- **Nuisances should be categorized in the following categories:**
 - **Public Safety**
Items included in this section would include high weeds and grass; junked vehicles; swimming pools; animals; peddlers and vendors; litter; hazardous materials; taxi cabs; film making; discharge of firearms; sexually oriented businesses; animal carcass removal; phosphorous control; special events; vehicle towing; drilling and mining; panhandling; and public urination and defecation.

- **Community Values**
Items included in this section would include animals; kennels; the sale of animals; monopoly of trash removal; loitering; camping in public; and curfews.
- **Light**
- **Sound**
Items included in this section would be animals; construction hours; motor vehicle speakers; motor vehicle exhaust systems; and the noon siren.
- **Odor**
Items included in this section would include animals; litter; animal carcasses; and the odor from processing and manufacturing.
- **Vibrations**
Items included in this section would include mechanical equipment; construction equipment; and drilling equipment.
- **Particulates**
Items included in this section would include smoke; dust; and litter.

On Thursday, May 2nd, Staff met with the City Attorney, who opined that referring to State law and the IBC Family as a reference rather than re-citing the law is appropriate as long as the City does not wish to impose more stringent regulations or rules. If more stringent regulations or rules are adopted, then only the portion of the law changed under the “home-rule” authority granted to City Council will be spelled out and the remaining portion of the law will be cited by reference. By making these changes, the Code of Ordinances should be significantly reduced in size and include only the regulations that are “authentically Bastrop” making it much easier to review and keep up to date.

Over the next several months, Staff will be bringing various nuisance related policy discussions before Council for input. The goal is to have up to date nuisance ordinances adopted prior to the anticipated adoption of Bastrop Building Block Codes in October. In addition, there will be several sections of the Code of Ordinances that will be repealed and replaced by reference as a part of the B³ adoption process to achieve a more up-to-date Code of Ordinances.

ATTACHMENT:

- PowerPoint Presentation

Nuisances & The City of Bastrop Code of Ordinances



Nuisances and the City of Bastrop Code of Ordinances

55 Locations Throughout the Code of Ordinances

10 Different Chapters

24 Articles

43 Sections

Code of Ordinances – The Journey Begins

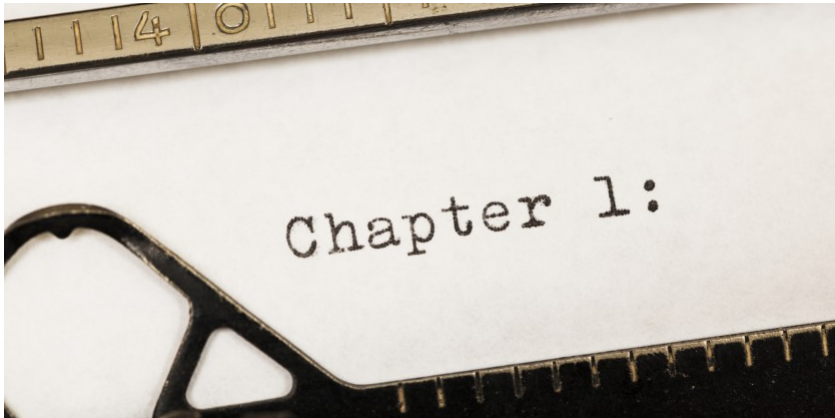
Redundancy

- *Texas Penal Code*
- *Texas Transportation Code*
- *Texas Health and Safety Code*
- *International Building Code (IBC) Family*



Code of Ordinances – The Journey Begins

ONE PLACE PLEASE



Definitions

Due Process

Abatement

Civil Remedies

Enforcement Actions



Categorizing Nuisances

Public Safety

High weeds and grass; junked vehicles; swimming pools; animals; peddlers and vendors; litter; hazardous materials; taxi cabs; film making; discharge of firearms; sexually oriented businesses; animal carcass removal; phosphorous control; special events; vehicle towing; drilling and mining; panhandling; and public urination and defecation.



Categorizing Nuisances



Community Values

Animals; kennels; the sale of animals; monopoly of trash removal; loitering; camping in public; and curfews.



Categorizing Nuisances

Light



Sound

Animals; construction hours; motor vehicle speakers; motor vehicle exhaust systems; and the noon siren.



Categorizing Nuisances

Odor

Animals; litter; animal carcasses; and the odor from processing and manufacturing.



Vibrations

Mechanical equipment; construction equipment; and drilling equipment.

Code of Ordinances – Much Work to Be Done

The goal is to have the Nuisance Ordinances adopted prior to the anticipated adoption of the Bastrop Building Block Codes in October!



Questions ?



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 9D

TITLE:

Continue discussion of Bastrop Building Block Codes with Matt Lewis.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 11

TITLE:

CITIZEN COMMENTS

At this time, three (3) minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Citizens' Comment portion of the Council meeting. In accordance with the Texas Open Meetings Act, if a citizen discusses any item not on the agenda, City Council cannot discuss issues raised or make any decision at this time. Instead, City Council is limited to making a statement of specific factual information or a recitation of existing policy in response to the inquiry. Issues may be referred to City Staff for research and possible future action.

To address the Council concerning any item on the agenda, please submit a fully completed request card to the City Secretary prior to the start of the meeting.

It is not the intention of the City of Bastrop to provide a public forum for the embarrassment or demeaning of any individual or group. Neither is it the intention of the Council to allow a member of the public to slur the performance, honesty and/or integrity of the Council, as a body, or any member or members of the Council individually or collectively, or members of the City's staff. Accordingly, profane, insulting or threatening language directed toward the Council and/or any person in the Council's presence will not be tolerated.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 12A

TITLE:

Consider action to approve City Council minutes from the April 23, 2019, regular meeting and April 24, 2019, Mid-Year Budget workshop meeting.

STAFF REPRESENTATIVE:

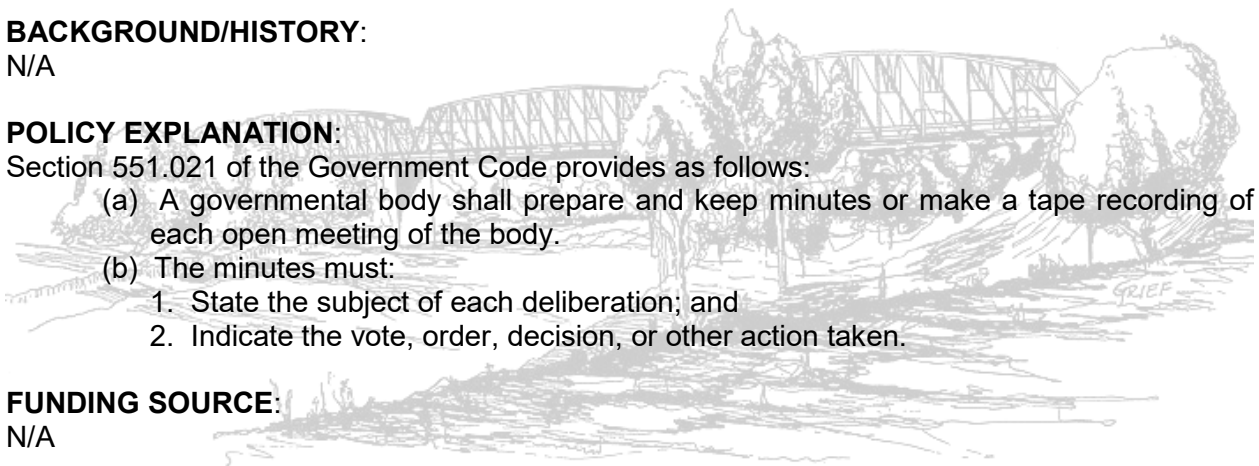
Lynda Humble, City Manager
Ann Franklin, City Secretary

BACKGROUND/HISTORY:

N/A

POLICY EXPLANATION:

Section 551.021 of the Government Code provides as follows:

- 
- (a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.
 - (b) The minutes must:
 - 1. State the subject of each deliberation; and
 - 2. Indicate the vote, order, decision, or other action taken.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider action to approve City Council minutes from the April 23, 2019, regular meeting and April 24, 2019, Mid-Year Budget workshop meeting.

ATTACHMENTS:

- April 23, 2019, DRAFT Regular Meeting Minutes.
- April 24, 2019, DRAFT Mid-Year Budget Workshop Meeting Minutes.

BASTROP CITY COUNCIL
April 23, 2019

The Bastrop City Council met in a Regular Meeting on Tuesday, April 23, 2019, at 5:00 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were Mayor Schroeder, Mayor Pro Tem Nelson and Council Members Jones, Ennis, Rogers and Peterson. Officers present were City Manager Lynda Humble, City Secretary Ann Franklin and City Attorney Alan Bojorquez.

EXECUTIVE SESSION - CALL TO ORDER

At 5:00 p.m. Mayor Schroeder called the meeting to order with a quorum being present.

The City Council met at 5:01 p.m. in closed/executive session pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

- 2A. City Council shall convene into closed executive session pursuant to Section 551.074 of the Texas Government Code to discuss the appointment of an Associate Judge.
- 2B. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to confer with City Attorney regarding status of Building Bastrop Codes.

The City Council came out of closed/executive session at 6:20 p.m.

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION

- 2A. City Council shall convene into closed executive session pursuant to Section 551.074 of the Texas Government Code to discuss the appointment of an Associate Judge.
A motion was made by Council Member Rogers to appoint Carolyn McClimon as Associate Judge, seconded by Council Member Peterson, motion was approved on a 4-0 vote. Council Member Jones recused herself.

REGULAR SESSION - CALL TO ORDER

At 6:30 p.m. Mayor Schroeder called the meeting to order with a quorum being present.

PLEDGE OF ALLEGIANCE

Dylan Redmon, Cedar Creek Intermediate School led the pledges.

INVOCATION

Bob Long, Police Chaplain gave the invocation.

PRESENTATIONS

- 7A. Mayor's Report
- 7B. Councilmembers' Report
- 7C. City Manager's Report

- 7D. Proclamation of the City Council of the City of Bastrop, Texas recognizing May 8, 2019 as School Nurse Day.
The proclamation was read into record by Mayor Schroeder and received by Bastrop Independent School District Nurses.
- 7E. Proclamation of the City Council of the City of Bastrop, Texas recognizing April 29, 2019 – May 3, 2019 as Air Quality Awareness Week.
The proclamation was read into record by Mayor Schroeder and received by Mayor Pro Tem Nelson.
- 7F. Proclamation of the City Council of the City of Bastrop, Texas, recognizing April 26, 2019, as National Arbor Day.
The proclamation was read into record by Mayor Schroeder and received by Managing Director of Public Works & Leisure Services, Trey Job.
- 7G. Proclamation of the City Council of the City of Bastrop, Texas recognizing May 4, 2019 as Firefighter Appreciation Day in City of Bastrop, Texas.
The proclamation was read into record by Mayor Schroeder and received by Fire Chief, Andres Rosales.
- 7H. Presentation of The Great Places in Texas designation by the Texas Chapter of the American Planning Association.
Presentation was made by Director of Planning, Matt Jones and Chance Sparks, AICP, CNU-A, Urban Planning & Design Group Freese and Nichols, Inc.

INDIVIDUAL CONSIDERATION

- 12F. Consider action to approve Resolution R-2019-38 of the City Council of the City of Bastrop, Texas, recognizing May 11, 2019, as World Migratory Bird Day and authorizing the Bird City Coalition and appropriate City staff to continue pursuit of certification in the Texas "Bird City" program; providing for a repealing clause; and establishing an effective date.
Presentation was made by Managing Director of Public Works & Leisure Services, Trey Job.
- A motion was made by Council Member Rogers to approve Resolution No. R-2019-38, seconded by Mayor Pro Tem Nelson, motion was approved on a 5-0 vote.**
- 12J. Consider action to approve Resolution No. R-2019-40 of the City Council of the City of Bastrop, Texas supporting The Daughters of the Republic of Texas to pursue funding for the Stephen F. Austin and The Baron de Bastrop sculptures to be created by Clint Howard, owner of Deep in the Heart Art Foundry with no matching funds from the City of Bastrop; providing for a severability and repealing clause; and establishing an effective date.
Presentation was made by Vicky Rose, Daughters of Republic of Texas and Clint Howard, Deep In The Heart Art Foundry.
- A motion was made by Council Member Ennis to approve Resolution No. R-2019-40, seconded by Council Member Jones, motion was approved on a 5-0 vote.**

WORK SESSION/BRIEFINGS

- 8E. Update on Chicken/Rooster Relocation.
Update was provided by Safety Director/Chief of Police and Interim Director of Downtown and Hospitality, James Altgelt.

INDIVIDUAL CONSIDERATION – CONTINUED

- 12K. Consider action to approve the first reading of Ordinance No. 2019-15 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 2 Titled “ANIMAL CONTROL,” Article 2.01 Titled “GENERAL PROVISIONS,” Sections 2.01.001 Titled “DEFINITIONS” amending the definitions of various terms; amending 2.01.004 Titled ‘RESTRICTIONS ON KEEPING LIVESTOCK AND FOWL’ to extend application to fowl being maintained in violation of this section; Article 2.04 Titled “IMPOUNDMENT,” DIVISION 2 Titled “LIVESTOCK” by requiring Animal Control to refer any impounded livestock to the County Sheriff and repealing specific procedures for impounding livestock; and amending Article 2.07 Titled “NUISANCES” Section 2.07.001 Titled “CREATING HEALTH HAZARD” to extend applicability to animals “maintained” in violation of this section and repealing all prior ordinances that are in conflict herewith; as attached in Exhibit A; and providing for findings of fact, enactment, effective date, repealer, severability, and proper notice and meeting, and move to include on the May 14, 2019 agenda for a second reading.
Presentation was made by Safety Director/Chief of Police and Interim Director of Downtown and Hospitality, James Altgelt.

A motion was made by Council Member Ennis to approve the first reading of Ordinance No. 2019-15 and place on May 14, 2019 consent agenda for a second reading, seconded by Mayor Pro Tem Nelson, motion was approved on a 5-0 vote.

STAFF AND BOARD REPORTS

- 9D. Receive Monthly Report from Visit Bastrop.
Presentation was made by President and CEO, Susan Smith and Director of Sales, Ashton LaFuentes of Visit Bastrop.

CITIZEN COMMENTS – NONE

Mayor Schroeder recessed the Council Meeting at 7:35 p.m.

Mayor Schroeder called the Council Meeting back to order at 7:45 p.m.

CONSENT AGENDA

A motion was made by Council Member Peterson to approve Items 11A, 11B, 11C and 11D listed on the Consent Agenda after being read into the record by City Secretary, Ann Franklin. Seconded by Mayor Pro Tem Nelson, motion was approved on a 5-0 vote.

- 11A. Consider action to approve City Council minutes from the April 9, 2019, regular meeting and April 10, 2019 and April 17, 2019, special called meetings.
- 11B. Consider action to approve the second reading of Ordinance No. 2019-06 of the City Council of the City of Bastrop, Texas, granting a Conditional Use Permit to allow a 400 square foot accessory structure on Tahitian Village, Unit 1, Block 19, Lot 598, 599, and 600, located at 149 Mahalo Court, an area zoned SF-9, Single Family 9, within the city limits of Bastrop, Texas; as shown in Exhibits A and B; setting out conditions; including a severability clause; and establishing an effective date.
- 11C. Consider action to approve the second reading of Ordinance No. 2019-07 of the City of Bastrop, Texas ("City") implementing a Pilot Program to authorize the sale of food from Mobile Food Vendors within the city limits and to establish a Mobile Food Vendor Permit process for the Pilot Program; providing for findings of fact, purpose, expiration date; enactment, variance, repealer, severability, effective date, and proper notice and meeting.
- 11D. Consider Action to approve the second reading of Ordinance Number 2019-11 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 2 Titled "ANIMAL CONTROL," Article 2.01 Titled "GENERAL PROVISIONS," Sections 2.01.001 Titled "DEFINITIONS"; amending the definitions of "Feral," "Livestock," "Poultry /Fowl," and Wild Birds," and 2.01.007 Titled "Injury or destruction of wild birds;" amending the provision amending the provision for the exclusion of certain birds from this section by adding chickens and repealing all prior ordinances that are in conflict herewith; as attached in Exhibit A; and providing for findings of fact, enactment, effective date, repealer, severability, and proper notice and meeting.

STAFF AND BOARD REPORTS - CONTINUED

- 9A. Receive Monthly Development Update.
Update was provided by Director of Planning, Matt Jones.

INDIVIDUAL CONSIDERATION - CONTINUED

- 12E. Consider action to approve Resolution R-2019-39 of the City Council of the City of Bastrop, Texas ("City") responding to the application of CenterPoint Energy Resources Corp., South Texas Division, to increase rates under the gas reliability infrastructure program; suspending the effective date of this rate application for forty-five days; authorizing the city to continue to participate in a coalition of cities known as the "Alliance of CenterPoint Municipalities;" determining that the meeting at which the resolution was adopted complied with the Texas Open Meetings Act; making such other findings and provisions related to the subject; and declaring an effective date.
Presentation was made by City Secretary, Ann Franklin.

A motion was made by Mayor Pro Tem Nelson to approve Resolution No. R-2019-39, seconded by Council Member Rogers, motion was approved on a 5-0 vote.
- 12A. Consider action and approve Resolution No. R-2019-37 of the City Council of the City of Bastrop, Texas, making determinations regarding certain project-specific

Exceptions and/or Exemptions as provided by Emergency Ordinance 2018-1, Section 8 (Temporary Moratorium); and Emergency Ordinance 2018-2, Section 7 (Emergency Drainage Application Rules).

Presentation was made by Assistant Director of Planning and Zoning, Jennifer Bills.

A motion was made by Council Member Jones to approve Resolution No. R-2019-37 for 1700 Main Street, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

A motion was made by Council Member Jones to approve Resolution No. R-2019-37 for 120 Akala Lane, seconded by Mayor Pro Tem Nelson, motion was approved on a 5-0 vote.

- 12D. Consider action to approve the first reading of Ordinance No. 2019-10 of the City Council of the City of Bastrop, Texas, enacting Chapter 1, Article 1.20, Sections 1.02.001 through 1.20.120 of the Bastrop Code of Ordinances; establishing construction and development standards and procedures for assertion, establishment, determination, and recognition of potential grandfathered development status or vested rights claims; and providing for the following: findings of fact; enactment; repealer; severability; effective date; codification; proper notice & hearing; popular name; purpose; and scope; and move to include on the May 14, 2019 consent agenda for second reading.

Presentation was made by City Attorney, Alan Bojorquez.

A motion was made by Council Member Jones to approve the first reading of Ordinance No. 2019-10 and place on the May 14, 2019 consent agenda for second reading, seconded by Mayor Pro Tem Nelson, motion was approved on a 5-0 vote.

- 12H. Consider action to approve on first reading Ordinance No. 2019-17 of the City Council of the City of Bastrop, Texas, enacting a new Chapter 16, "Stormwater Drainage," of the Bastrop Code of Ordinances establishing stormwater drainage requirements in order to minimize flood risks, stabilize and decrease stream bank and channel erosion, and facilitate comprehensive watershed-based planning, and repealing Emergency Ordinance 2018-2, Amendment to Emergency Ordinance 2018-2-A, and Article 5.30, "Alleys," Article 5.90, "Drainage and Storm Sewers," Section 6.80.3, "Roadside Drainage Ditches," Article 6.100 "Rural Subdivision Drainage Requirements," and Article 7.50, "Drainage" from Chapter 10, "Subdivisions" of the Bastrop Code of Ordinances; and establishing an effective date.

Presentation was made by Managing Director of Public Works & Leisure Services, Trey Job.

A motion was made by Mayor Pro Tem Nelson to approve the first reading of Ordinance No. 2019-17 and to include the repealing of Section 1.40 with the following directions, seconded by Council Member Jones, motion was approved on a 5-0 vote.

The direction to staff was to have cleanup issues completed prior to the second reading, identify changes made to ordinance and place on the May 14, 2019 individual consideration agenda for second reading.

- 12L. Consider action to approve the first reading of Ordinance No. 2019-16 of the City Council of the City of Bastrop, Texas, repealing Emergency Ordinance 2018-1 (*Temporary Moratorium*, as extended), and enacting procedural rules and criteria for Enhanced Permit Review consistent with Building Bastrop policy directives, including heightened evaluation of certain permit applications for building, construction and development projects, and move to include on the May 14, 2019 consent agenda for a second reading.

Presentation was made by City Attorney, Alan Bojorquez.

A motion was made by Mayor Pro Tem Nelson to approve the first reading of Ordinance No. 2019-16 with the following friendly amendment and place on the May 14, 2019 consent agenda for second reading, seconded by Council Member Jones, motion was approved on a 5-0 vote.

A friendly amendment was made to have Section 3 of the ordinance read, "Section 3. Duration: The duration of the Enhanced Permit Review measures implemented by this Ordinance shall be through December 10, 2019, unless repealed earlier because of the adoption of Building Bastrop Code".

- 12I. Consider action to approving resolution No. 2019-41 of the City Council of the City of Bastrop, Texas, awarding a contract in the amount of one hundred eighteen thousand two hundred eight dollars and zero cents (\$118,208.00) to Jimmy Evans company for the relocation of a ten-inch wastewater line within the TxDOT right of way as shown; attached in exhibit (A) authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

This item was withdrawn from the agenda.

Items 12B and 12C were taken together.

- 12B. Consider action to approve Resolution No. R-2019-33 of the City Council of the City of Bastrop, Texas, adopting a standardized wholesale water agreement; attached in Exhibit A; providing for a repealing clause; and establishing an effective date.

Presentation was made by City Manager, Lynda Humble.

A motion was made by Council Member Jones to approve Resolution No. R-2019-33, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

- 12C. Consider action to approve Resolution No. R-2019-32 of the City Council of the City of Bastrop, Texas, adopting a standardized wholesale wastewater agreement; attached in Exhibit A; providing for a repealing clause; and establishing an effective date.

Presentation was made by City Manager, Lynda Humble.

A motion was made by Council Member Jones to approve Resolution No. R-2019-32, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

- 12G. Consider action to approve the first reading of Ordinance No. 2019-14 of the City Council of the City of Bastrop, Texas amending Chapter 11, Taxation, Section 11.04, "Hotel Occupancy Tax," attached as Exhibit A, in accordance with Chapter 351 of the

Texas Tax Code; providing for findings of fact, enactment, repealer, severability; effective date, proper notice and meeting and move to include on the May 14, 2019 consent agenda for a second reading.

Presentation was made by Chief Financial Officer, Tracy Waldron.

A motion was made by Mayor Pro Tem Nelson to approve the first reading of Ordinance No. 2019-14 and place on the May 14, 2019 consent agenda for second reading, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

Mayor Schroeder recessed the Council Meeting at 8:59 p.m.

Mayor Schroeder called the Council Meeting back to order at 9:04 p.m.

WORK SESSION/BRIEFINGS - CONTINUED

- 8C. Discuss Building Bastrop Codes with Matt Lewis.
Presentation was made by Matt Lewis and Milosav Cekic, simpledesign and discussion was held.
- 8A. Update and discussion of current Legislative Session and its impact on local municipalities.
Update was provided by Update was provided by Mayor Schroeder. and discussion was held.
- 8B. Presentation and Discussion regarding Public Realm/Open Spaces vs. Parkland Dedication
Presentation was made by Managing Director of Public Works & Leisure Services, Trey Job and discussion was held.
- 8D. Presentation and policy discussion regarding nuisance ordinances and how they relate to public education and enforcement.
Presentation was made by Safety Director/Chief of Police and Interim Director of Downtown and Hospitality, James Altgelt and discussion was held.

STAFF AND BOARD REPORTS - CONTINUED

- 9B. Receive presentation on the Quarterly Investment Report for the period ending March 31, 2019.
Presentation was made by Chief Financial Officer, Tracy Waldron.
- 9C. Receive presentation on the unaudited Monthly Financial Report for the period ending March 31, 2019.
Presentation was made by Chief Financial Officer, Tracy Waldron.

ADJOURNMENT

Adjourned at 11:11 p.m. without objection.

APPROVED:

ATTEST:

Mayor Connie B. Schroeder

City Secretary Ann Franklin

The Minutes were approved on May 14, 2019, by Council Member _____'s motion, Council Member _____'s second. The motion was approved on a ____ vote.

DRAFT

**MINUTES OF SPECIAL BASTROP CITY COUNCIL WORKSHOP
APRIL 24, 2019**

The Bastrop City Council met on Wednesday, April 24, 2019, at 6:30 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were: Mayor Schroeder, Mayor Pro Tem Nelson, and Council Members Jones, Ennis, Rogers and Peterson. Officers present were: City Manager Lynda Humble and City Secretary Ann Franklin.

CALL TO ORDER

Mayor Schroeder called the meeting to order with a quorum being present at 6:30 p.m.

WORK SESSION

- 2A. Discuss Fire Department Budgetary Needs for FY 2020.
Presentation was made by Fire Chief, Andres Rosales.

Mayor Schroeder recessed the Council Meeting at 7:56 p.m.

Mayor Schroeder called the Council Meeting back to order at 8:03 p.m.

- 2B. Discuss Fire Equipment Needs for FY 2020.
Presentation was made by Fire Chief, Andres Rosales.
- 2C. Discuss Vehicle Replacement Fund and Vehicle Replacements for FY 2020.
Presentation was made by Chief Financial Officer, Tracy Waldron.
- 2D. Discuss Police Vehicle Replacements for FY 2020.
Presentation was made by Assistant Chief, Clint Nagy.
- 2E. Discuss Need for Fire Inspection/Plans Reviewer Position and Associated Fees in FY 2020.
Presentation was made by Safety Director/Chief of Police and Interim Director of Downtown and Hospitality, James Altgelt.

ADJOURNMENT

Mayor Schroeder adjourned the Bastrop City Council meeting at 9:50 p.m. without objection.

APPROVED:

Mayor Connie B. Schroeder

ATTEST:

City Secretary Ann Franklin

The Minutes were approved on April 23, 2019, by Council Member _____'s motion, Council Member _____'s second. The motion was approved on a ____ vote.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 12B

TITLE:

Consider action to approve the second reading of Ordinance No. 2019-10 of the City Council of the City of Bastrop, Texas, enacting Chapter 1, Article 1.20, Sections 1.02.001 through 1.20.120 of the Bastrop Code of Ordinances; establishing construction and development standards and procedures for assertion, establishment, determination, and recognition of potential grandfathered development status or vested rights claims; and providing for the following: findings of fact; enactment; repealer; severability; effective date; codification; proper notice & hearing; popular name; purpose; and scope.

STAFF REPRESENTATIVE:

Alan Bojorquez, City Attorney

BACKGROUND/ HISTORY:

Generally, the right to develop property is subject to intervening regulations or regulatory changes. The Texas Legislature altered this general rule through the adoption of Chapter 245 of Texas Local Government Code, which requires that each permit in a series of permits required for a development project be subject only to the regulations in effect at the time of the application for the project's first permit, and not any intervening regulations.

The question of whether a project should receive "grandfathered status" under Chapter 245 of the Texas Local Government Code—that is, whether a project should be exempt from current regulations—is not a straightforward one. It requires information about and research on the project itself and the regulations the developer seeks to be exempt from. The city does not currently have written processes or standards in place to make these determinations. Without written processes or standards, staff must make these determinations on a case-by-case basis.

POLICY EXPLANATION:

The City Council seeks to promote orderly, safe, and reasonable development of land within its city limits and extraterritorial jurisdiction ("ETJ"). This ordinance provides a process and criteria for the City of Bastrop to determine if a project falls within the protection of Chapter 245 of the Texas Local Government Code; that is, to determine if a project should be exempt from current regulations. This ordinance, which incorporates case law on Chapter 245, creates a procedure and standards for complying with state law while protecting the public safety and welfare of the citizens of Bastrop.

Enactment of this ordinance is discretionary. State law does not require that such an ordinance be approved. However, over the last 20 years it has become increasingly common for dynamic municipalities to enact these types of ordinances.

Staff anticipates that the regulatory changes currently being contemplated by the city council (as part of the *Building Bastrop* endeavor and ongoing efforts to address drainage and stormwater

concerns) will increase the instances of property owners asserting rights under Chapter 245 and seeking grandfathered status.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider action to approve the second reading of Ordinance No. 2019-10 of the City Council of the City of Bastrop, Texas, enacting Chapter 1, Article 1.20, Sections 1.02.001 through 1.20.120 of the Bastrop Code of Ordinances; establishing construction and development standards and procedures for assertion, establishment, determination, and recognition of potential grandfathered development status or vested rights claims; and providing for the following: findings of fact; enactment; repealer; severability; effective date; codification; proper notice & hearing; popular name; purpose; and scope.

ATTACHMENTS:

- Ordinance



ORDINANCE No. 2019-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, ENACTING CHAPTER 1, ARTICLE 1.20, SECTIONS 1.02.001 THROUGH 1.20.120 OF THE BASTROP CODE OF ORDINANCES; ESTABLISHING CONSTRUCTION AND DEVELOPMENT STANDARDS AND PROCEDURES FOR ASSERTION, ESTABLISHMENT, DETERMINATION, AND RECOGNITION OF POTENTIAL GRANDFATHERED DEVELOPMENT STATUS OR VESTED RIGHTS CLAIMS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; EFFECTIVE DATE; CODIFICATION; PROPER NOTICE & HEARING; POPULAR NAME; PURPOSE; AND SCOPE.

WHEREAS, the City Council of the City of Bastrop ("City Council") seeks to promote orderly, safe and reasonable development of land within the City Limits and Extraterritorial Jurisdiction ("ETJ"); and

WHEREAS, the City Council supports the rights of private property owners and advocates clarity, predictability, and efficiency in the City's regulatory program; and

WHEREAS, generally, the right to develop property is subject to intervening regulations or regulatory changes; and

WHEREAS, the Texas Legislature altered this general rule, through adoption of Chapter 245, Texas Local Government Code ("LGC 245" or "Chapter 245"), by requiring that each permit in a series of permits required for a development project be subject only to the regulations in effect at the time of the application for the project's first permit, and not any intervening regulations; and

WHEREAS, the City Council strives to reduce instances of regulatory ambiguity, and to provide applicants with an increased level of certainty and predictability as to which rules will govern different phases of development projects; and

WHEREAS, with certain exceptions, the owners and developers of projects who have diligently pursued completion of the same should not be subjected to new regulations that substantively and substantially alter how the project can be built; and

WHEREAS, the City Council finds that dormant, outdated, and stagnant projects pose a substantial harm to comprehensive planning and responsible drainage management as well as to traffic safety and human health; and

WHEREAS, the City Council favors the development of construction projects in

accordance with current regulations that are based on modern standards and state-of-the-art technology; and

WHEREAS, the City Council seeks to apply up-to-date regulatory systems to projects to the extent reasonably possible and within the confines of the law; and

WHEREAS, the determination of whether a particular project has changed so as to lose the protections granted by LGC 245 is a question that must be resolved with the City, which is the regulatory agency and property owner for purposes of LGC 245; and

WHEREAS, through LGC 245, the Texas Legislature limited the scope of rules that may be made applicable to certain construction and development projects; and

WHEREAS, the City Council intends the provisions of this Ordinance to supplement and implement LGC 245 and provide guidelines for the application and interpretation of LGC 245; and

WHEREAS, pursuant to Texas Local Government Code Chapter 51, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and that is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapter 211, the City Council has the authority to establish procedures for enforcing its zoning regulations and boundaries; and

WHEREAS, pursuant to Texas Local Government Code Chapter 212, the City Council has the authority to establish rules governing plats and subdivisions of land; and

WHEREAS, pursuant to Texas Local Government Code Chapter 214, the City Council has the general authority to establish rules governing the construction of housing and other structures; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Bastrop, a home-rule municipality, to adopt an ordinance establishing a framework within which property owners and the City can determine what projects have obtained Grandfathered Development Status under certain regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT: The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. ENACTMENT: Chapter 1, Section 1.20 of the City of Bastrop Code of Ordinances is hereby established so to read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

SECTION 3. REPEALER: All ordinances, resolutions, 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.

SECTION 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.

SECTION 5. CODIFICATION: The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

SECTION 6. EFFECTIVE DATE: This Ordinance shall be effective immediately upon passage and publication as provided for by law.

SECTION 7. 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 provided as required by Chapter 52 of the Texas Local Government Code.

READ and APPROVED on *First Reading* on the 23rd day of April 2019.

READ and ADOPTED on *Second Reading* on the 14th day of May 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

City of Bastrop

CODE OF ORDINANCES

CHAPTER 1: GENERAL PROVISIONS

ARTICLE 1.20: UNIFORMITY OF REQUIREMENTS

ENACTMENT PROVISIONS

- 1.20.001 Popular Name:**
This section shall be commonly cited as the "Grandfathered Development Status Ordinance."
- 1.20.002 Introduction:**
Texas Local Government Code Chapter 245 ("LGC 245"), provides an opportunity for landowners or developers to lock-in certain government regulations that apply to a particular development by filing a specific permit application.
- 1.20.003 Purpose:**
This section provides standards and procedures for municipal determination of the alleged Grandfathered Development Status of development Projects. Specifically, this section is enacted to:
- a. provide increased certainty and predictability in the City's regulatory process; and
 - b. guarantee that all Grandfathered Development Status determinations are made by the City only after the City is in receipt of all information necessary to make such a determination; and
 - c. provide a method of administrative review of Grandfathered Development Status Project decisions in accordance with LGC 245 and other applicable vesting laws; and
 - d. ensure that the City recognizes, respects, and protects all Grandfathered Development Status Projects created by LGC 245.

1.20.004**Scope:**

- a. This section applies to the City Limits and the Extraterritorial Jurisdiction ("ETJ").
- b. This section shall only govern applications and permits covered by LGC 245.
- c. This section shall not apply to permits or regulations listed as exemptions in LGC 245.004, as may be amended.
- d. This section shall only govern situations involving a land use or development Project for which the owner or builder requests City approval(s), yet seeks to avoid the application of current municipal regulations by asserting Grandfathered Development Status, as provided by LGC 245.
- e. This section shall not create any property rights in any application, Project, property, or person. This section shall not enlarge or expand any property right granted by LGC 245.

1.20.005**Policy:**

There shall be a bias in the City of Bastrop against dormant or new land development Projects being constructed pursuant to outdated regulations previously repealed by the City Council. It is the preferred policy of the City of Bastrop that all land development Projects for which municipal permits and approvals are needed, be constructed in accordance with current municipal regulations. Limited exceptions to this general rule shall only be allowed when mandated by state law, as procedurally implemented through this section.

1.20.006**Presumption:**

It is the policy of the City of Bastrop that construction, development, and/or land use permit applications filed with the City are presumed to be governed by then-current regulations. Exceptions are to be recognized as required by state law in a manner provided herein.

1.20.007**Definitions General:**

Words and phrases used in this section shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the

present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

1.20.008 Definitions Specific:

Applicant: A person or entity who submits to the City an application for an approval required by the City. The term shall be restricted to include only the property owner(s), or a duly authorized agent of the property owner(s), as demonstrated in writing to the City.

Application for a Permit: The term as referenced in Texas Local Government Code Chapter 245, as may be amended. The term does not include an application to rezone property.

Board of Adjustment or Zoning Board of Adjustment ("ZBA"): The citizen board appointed by the city council pursuant to Exhibit A, Section 9, of Chapter 14 of the Bastrop Code of Ordinances, as provided by Texas Local Government Code Chapter 211.

City: The City of Bastrop, an incorporated municipality located in Bastrop County, Texas.

City Manager: The City's chief administrative officer, as appointed by the City Council. The term also includes the City Manager's designee.

City Engineer: The individual or entity employed by the City to render engineering services to the City.

City Limits: The incorporated municipal boundaries of the City of Bastrop.

Complete Application: An Application for a Permit that contains all necessary documents and any additional information necessary to comply with the City's Code of Ordinances, either at the time of submittal or within 45 days of the time of submittal.

Grandfathering Review Committee: A group consisting of the Director of Planning and Development, the City Engineer, and the Public Works Director.

Director of Planning and Development: The individual employed by the City Manager to administer land development ordinances and advise the City in relation to the administration, interpretation, and enforcement of the City's Development Code.

ETJ: The extraterritorial jurisdiction of the City of Bastrop.

Grandfathered Development Status: A recognition by the City of an applicant's ability to process a Permit application under pre-existing regulations in accordance with LGC 245.

LGC: The Texas Local Government Code.

LGC 245: Texas Local Government Code Chapter 245.

New Project: A land development endeavor over which the City's municipal regulatory jurisdiction exists that has not previously been formally considered or approved by the City, and for which one or more Permits are required to initiate, continue, or complete the endeavor.

Permit: The term as defined by Texas Local Government Code Chapter 245, as may be amended.

Project: The term as defined by Texas Local Government Code Chapter 245, as may be amended. The term refers to a specific property use and/or improvement undertaken on a particular tract of land as documented in a manner that provides the City with fair notice.

P&Z: The Planning and Zoning Commission of the City.

Public Works Director: The individual appointed by the City Manager to administer the installation and operation of city infrastructure.

1.20.009 Applicable Regulations:

- a. The City shall consider the approval, disapproval, or conditional approval of an application for a Permit covered by LGC 245 solely on the basis of any municipal regulations in effect at the time the Complete Application for the Permit is filed, with the exception of those exemptions listed in LGC 245, as may be amended, and in accordance with the procedures established by this Ordinance.
- b. The extent and scope of what constitutes a Project for purposes of this section and LGC 245 shall be determined by the City based upon the

information provided by the Applicant and those documents filed among the City's records.

- c. The City shall not bestow any form of Grandfathered Development Status on a hypothetical undertaking that is not expressly illustrated or demonstrated to the City at the time of submission of a Complete Application.
- d. Endeavors not submitted for consideration by the Applicant to the City when a prior Permit application for a Project was filed with the City shall be considered New Projects subject to the current regulations. The burden rests on the Applicant to establish that the Project for which approval is sought is the same Project to which Grandfathered Development Status allegedly attached.

1.20.010 Submission:

- a. An Applicant seeking Grandfathered Development Status with the City in accordance with LGC 245 shall submit to the Planning Department a letter explaining the factual and legal bases upon which the Applicant relies.
- b. The Planning Department shall prescribe a form application. Applications may be sought prior to or concurrent with the permitting process.
- c. Such written submission shall include the following:
 - 1. The name, mailing address, phone number, email address, and fax number of the Applicant;
 - 2. The name, mailing address, phone number, email address, and fax number of the property owner, if different than the Applicant;
 - 3. Identification of the property for which the Applicant claims Grandfathered Development Status, including a clear legal description of the exact boundaries of the property encompassed by the Project;
 - 4. Identification of the "Project," as that term is defined in LGC § 245.001(3), as may be amended;
 - 5. Narrative description of the development/construction Project or proposed land use for which a Permit is being sought;
 - 6. Layout of the site, including locations of buildings, streets, utilities, fences, drives, sidewalks, drainage facilities, and any other permanent or temporary structures which may be present at the time

of application;

7. Identification of the original application for the first Permit in the series of Permits required for the Project, as described in LGC § 245.001(1) and § 245.002(a) and (b), as may be amended;
 8. The date that the first Permit in the series of Permits required for the Project was filed with the City;
 9. A chronology of the history of the Project, with special emphasis on facts establishing that the Project was in progress on or commenced after September 1, 1997, as required by LGC § 245.003, as may be amended;
 10. Identification of each City regulation in effect at the time the original application for the Permit was filed that applies to the Project and that the Applicant contends:
 - A. is grandfathered; and
 - B. controls the approval, disapproval, or conditional approval of an application for a Permit, pursuant to LGC § 245.002(a) and (b), as may be amended;
 11. Identification of each current City regulation for which the applicant seeks an exemption due to the grandfathered development status provided the property owner by LGC 245 or other applicable vesting laws;
 12. Explanation of the applicability of any approval expirations and related requests for extension of approvals;
 13. Photographs, drawings, maps, and previous approvals that would assist the Grandfathering Review Committee in making its determination regarding the application;
 14. A certified land survey of topography showing existing drainage patterns and structures; and
 15. Any other information or supportive materials deemed necessary and requested in writing by the Director of Planning and Development.
- d. Notwithstanding the above, an Applicant may subsequently seek Grandfathered Development Status for other regulations once an initial determination has been made by the City.
 - e. If an Applicant contends that certain City regulations do not apply to the Project, the Applicant is expected to identify, with particularity, all

requirements that the Applicant contends do not apply to the current application. Global references to a particular ordinance, or set of criteria, may be deemed insufficient and the City may consider the request for Grandfathered Development Status determination to be incomplete and, hence, not subject to a staff determination at that time.

- f. The Applicant is responsible for demonstrating to the City that the Project for which approval is sought is the same Project for which Grandfathered Development Status attached, based on fair notice provided to the City.
- g. An application for recognition of Grandfathered Development Status shall not be considered to have been filed with the City, for purposes of this section or LGC 245, until such time as the application is administratively complete. In order to be administratively complete, the application must:
 - 1. contain all materials required by this section;
 - 2. be presented within the time specified by this section; and
 - 3. be accompanied by a check payable to the City for the full amount of the application review fee established by the City Council, as codified in the City's Fee Schedule.

1.20.011 Determination:

- a. The Director of Planning and Development shall promptly forward the Application for Grandfathered Development Status, along with any supporting information or documentation provided, to the Grandfathering Review Committee for review.
- b. Within fifteen (15) business days after a complete Application for Determination of Grandfathered Development Status has been filed, the Grandfathering Review Committee shall issue a written administrative determination approving the application, disapproving the application, or requesting additional information from the Applicant.
- c. If the application is approved, the determination shall identify the date that the application for the original Permit was filed, and, shall identify, with particularity, which claims for Grandfathered Development Status have been recognized and which claims have been rejected.
- d. Prior to rendering a determination, the City or the Applicant may request a pre-determination conference to discuss the Applicant's claim and to ensure that the nature of the claim is fully and completely understood prior to a determination being rendered. The Director of Planning and

Development and/or the Grandfathering Review Committee shall participate in the conference.

- e. If the Committee does not provide a written response to the Applicant within fifteen business (15) days after the application was filed, the application is automatically deemed to have been denied.
- f. The Director of Planning and Development may extend the time period established by this section upon receipt of a written request from the Applicant.
- g. If the Grandfathering Review Committee requests more information from the Applicant, the fifteen (15) day time period will be tolled until the Applicant provides the request information to the Committee.
- h. The Director of Planning and Development is signatory and spokesperson for the Grandfathering Review Committee, for purposes of this section.

1.20.012 Standards:

In determining whether a Project is grandfathered, the City shall consider the following:

- a. **Date of first application:** Which was the first Permit application, plan for development, or plat application that gave the City fair notice of the Project and of the nature of the Permit sought, and on what date was that document filed with the City?
- b. **Fair Notice:** What was the nature and extent of proposed development shown on the Permit application, plan for development, or plat application identified in (a)?
- c. **Consistency:** Is the current Project related to and consistent with the nature and extent of proposed development identified in (b)?
- d. **Subsequent development:** What is the nature and extent of any development of the property, including any permitting or construction activity, that occurred after the date identified in (a)?
- e. **Prior vested rights determinations:** Have there been any prior vested rights determinations made for development of the property, and what were those determinations?
- f. **Regulations:** What are the effective dates of each of the regulations that the Applicant contends do not apply?
- g. **Expiration of prior applications:** Have any prior approved applications for the property expired or been terminated in accordance with the law?

- h. **Exemptions:** How do the exemptions in LGC 245.004, as may be amended, apply?
- i. **Expiration of Project:** Has the Project expired in accordance with Section 1.20.019 of this ordinance or other applicable regulations?
- j. **City Code:** Do any other factors established by the City Code apply?
- k. **State Law:** Do any other factors established by LGC 245 or other state laws apply?

1.20.013 Reconsideration:

- a. If any person believes that the Grandfathering Review Committee's determination under this section is in error, the person shall have the right to request reconsideration. To be actionable, a request for reconsideration by the Grandfathering Review Committee must:
 - 1. be filed with the Director of Planning and Development in writing within fifteen (15) business days of the date of the Grandfathering Review Committee's previous determination or the date of automatic denial;
 - 2. state the reasons why the previous determination should be reversed or modified;
 - 3. present information that has not previously been presented for consideration by the Grandfathering Review Committee;
 - 4. provide an explanation of the legal and factual grounds of the request; and
 - 5. be accompanied by payment of the reconsideration fee established by the City Council, as codified in the City's Fee Schedule.
- b. The Grandfathering Review Committee shall, within fifteen (15) business days of receipt of a Request for Reconsideration that conforms to this section, issue an administrative determination or a statement declining reconsideration. If the Grandfathering Review Committee fails to issue a written determination or statement declining reconsideration within fifteen (15) business days after an application has been received at City Hall, the request for reconsideration is deemed to have automatically been declined.

- c. No person may appeal the Grandfathering Review Committee's determination under this section without first seeking reconsideration.

1.20.014 Appeal to City Manager:

The Grandfathering Review Committee's determination denying an application seeking recognition of Grandfathered Development Status shall automatically be submitted by the City to the City Manager for determination in writing within fifteen (15) business days of the date that the Grandfathering Review Committee declined to reconsider the application. If the City Manager fails to make a written determination within fifteen (15) business days after an appeal has been received, then the appeal is deemed to have automatically been denied.

1.02.015 Appeal to Board of Adjustment:

- a. If any person believes that the City Manager's determination under this section is in error, the person shall have the right to appeal such determination to the City's Zoning Board of Adjustment ("ZBA"). To be actionable, an appeal must be filed with the ZBA in writing within fifteen (15) business days of the date of the City Manager's determination or the date of the City Manager's automatic denial. The written request for an appeal must include:
 - 1. a statement that the appellant sought an appeal from the City Manager, and that the appeal:
 - A. was denied; or
 - B. yielded an erroneous determination regarding the Project's eligibility for Grandfathered Development Status.
 - 2. a statement of the reasons why the determination should be reversed or modified;
 - 3. an explanation of the legal and factual grounds of the appeal; and
 - 4. payment of the appeal fee established by the City Council, as codified in the City's Fee Schedule.
- b. The appellant may also request that the ZBA grant a variance from the regulations at issue under the same standards governing variances for other matters, as set forth in the city's code of ordinances, as amended.
- c. The ZBA shall convene a meeting and act upon an appeal within thirty (30) days of receipt of a written appeal that conforms to this section. If the ZBA fails to make a written determination within thirty (30) days after an appeal has been received, then the appeal is deemed to have automatically been denied.

- d. Notice and a public hearing shall be provided for as established in the code for zoning variance requests.

1.20.016 Extensions:

Any time period established under this section may be extended by the City Manager to a date certain, upon receipt of a written request from the Appellant.

1.20.017 Judicial Review:

Should the Appellant be dissatisfied with the actions of the ZBA, the Appellant may pursue all legal remedies to review the ZBA's decision as set forth in LGC Section 211.011.

1.20.018 Binding Nature:

- a. The City's determinations under this Article, if not timely appealed, shall be immediately filed in the City's files related to the Project and the determination shall be considered binding upon the City, the Appellant, and the property owner (if not the Appellant) for the duration of the Project.
- b. Notwithstanding the binding nature of a determination issued by the Grandfathering Review Committee or City Manager, and any ruling by the ZBA, the City and the property owner may, at any time, enter into a Development Agreement or negotiate the enactment of a Planned Development District that, to the extent authorized by law, modifies the determination and the applicable development regulations to be applied to the Project. The issue of which rules apply to a Permit application may be resolved by mutual agreement. The agreement may contain special terms and conditions, as deemed necessary to protect the public interest.
- c. The City's recognition of Grandfathered Development Status does not prevent the City from requiring the submission of updated engineering reports, site plans, or drainage plans, as may be applicable under current regulations.

1.20.019 Expirations:

- a. **Permits:** Permits issued by the City of Bastrop that are subject to LGC 245 but do not expressly contain an expiration date, shall expire by operation of law two (2) years after issuance. This subsection shall not apply to Permits pursuant to which progress has been made toward the completion of the Project, as determined by LGC 245.005(c), as may be amended.
- b. **Projects:** Projects subject to LGC 245 shall expire by operation of law

five (5) years after an application was filed for the first Permit necessary for the Project. This subsection shall not apply to Permits for which progress has been made toward the completion of the Project, as determined by LGC 245.005(c), as may be amended.

- c. **Incomplete Applications:** Applications shall expire by operation of law 45 days after the date the application is filed if the applicant fails to provide documents or other information necessary to comply with the Code of Ordinances, and if the City provided, not later than ten (10) business days after the date the application is filed, written notice to the applicant of its failure to provide such documents or information.

1.20.120 Transferability:

Grandfathered Development Status, as recognized by the City pursuant to this section, runs with the land. Thus, Grandfathered Development Status is transferable to subsequent owners and occupants.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 12C

TITLE:

Consider action to approve the second reading of Ordinance No. 2019-14 of the City Council of the City of Bastrop, Texas, amending Chapter 11, Taxation, Section 11.04, "Hotel Occupancy Tax", attached as Exhibit A, in accordance with Chapter 351 of the Texas Tax Code; providing for findings of fact, enactment, repealer, severability, effective date, proper notice and meeting.

STAFF REPRESENTATIVE:

Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

The City established through ordinance, a local Hotel Occupancy Tax of 7%, setting rules that include the collection, reporting and auditing of Hotel Occupancy Tax payers. This ordinance was last revised in 2009. Since that time, Chapter 351 of the Tax Code has gone through several updates. Some of the major changes to the Tax Code are the definition of a hotel, exceptions to collecting the tax, frequency of reporting and paying the tax, and laws regarding purchasing of a hotel. This revision of the City's ordinance will bring us in compliance with this chapter of the Tax Code.

The update of the ordinance is the first step in an overall Hotel Occupancy Tax review. City staff is looking for a firm to contract with for administrative, discovery and auditing services. The administrative services will allow the tax payers to report and pay online. The City will be better able to track occupancy tax information across fiscal years. The discovery service will start to identify "hotels", by definition, in our ETJ that are not in compliance with our ordinance. Lastly, the audit service will be a multi-year contract that will audit two (2) to three (3) hotels per year confirming that they understand the ordinance, applying the exceptions correctly, and paying the proper amount of tax.

The proposed time line is below:

- April – Legal review of selected vendor's contract, execution of contract
- April 23 – 1st reading of Hotel Occupancy Tax Ordinance
- May 14 – 2nd reading of Hotel Occupancy Tax Ordinance
- May/June – Set up of online administrative portal, letter to hotels informing them of Ordinance revision and new online reporting
- July 1 – Go live with online reporting
- August – Start audit and discovery services

City Council received a presentation from Justin Bragiel, Texas Hotel & Lodging Association, at the April 9, 2019 City Council Meeting outlining the proposed changes to the Hotel Occupancy Tax Ordinance.

Approved by City Council on first reading April 23, 2019.

POLICY EXPLANATION:

Chapter 351 of the Tax Code establishes the rules for imposing and collecting Hotel Occupancy Tax for Municipalities. The City's Hotel Occupancy Tax codes are in Article 11.04 of the City Code of Ordinance.

RECOMMENDATION:

Consider action to approve the second reading of Ordinance No. 2019-14 of the City Council of the City of Bastrop, Texas, amending Chapter 11, Taxation, Section 11.04, "Hotel Occupancy Tax", attached as Exhibit A, in accordance with Chapter 351 of the Texas Tax Code; providing for findings of fact, enactment, repealer, severability, effective date, proper notice and meeting.

ATTACHMENTS:

- Ordinance 2019-14



ORDINANCE NO. 2019-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING CHAPTER 11, TAXATION, SECTION 11.04, "HOTEL OCCUPANCY TAX," ATTACHED AS EXHIBIT A, IN ACCORDANCE WITH CHAPTER 351 OF THE TEXAS TAX CODE; PROVIDING FOR FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, EFFECTIVE DATE, PROPER NOTICE AND MEETING.

WHEREAS, Chapter 351 of the Texas Tax Code authorizes municipalities to impose and collect hotel occupancy taxes; and

WHEREAS, in 1995, the City of Bastrop established by ordinance a local hotel occupancy tax of 7%, establishing rules that include the collection, reporting, and auditing of the payment of such tax; and

WHEREAS, Chapter 351 of the Texas Tax Code has been amended several times since 1995; and

WHEREAS, this ordinance amends Chapter 11 of the Bastrop City Code to reflect the changes in Chapter 351 of the Texas Tax Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AS FOLLOWS:

Section 1: FINDINGS OF FACT: The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2: ENACTMENT: Chapter 11, Article 11.04, which is titled "Hotel Occupancy Tax," of the Code of Ordinances of the City of Bastrop is amended to read as described and attached hereto as Exhibit "A".

Section 3: REPEALER: In the case of any conflict between the other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

Section 4: SEVERABILITY: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

Section 5: EFFECTIVE DATE: This Ordinance shall be effective immediately upon passage and publication.

Section 6: 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, 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.

READ and ACKNOWLEDGED on First Reading on the 23rd day of April 2019.

READ and ADOPTED on the Second Reading on the 14th day of May 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

City of Bastrop
CODE OF ORDINANCES
CHAPTER 11: TAXATION
ARTICLE 11.04: HOTEL OCCUPANCY TAX

Sec. 11.04.001 - Definitions.

The following words, terms and phrases are defined as follows:

Consideration. The cost of the room in a hotel only if the room is ordinarily used for sleeping, and not including the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Hotel. ~~Any A building or buildings in which members of the public may for a consideration obtain sleeping accommodations for consideration.~~ The term includes a including hotels, motels, tourist homes, houses of courts [tourist courts], lodging houses, inns, rooming houses, or bed and breakfast, other buildings where rooms are furnished for a consideration. For purposes of the imposition of a hotel occupancy tax, the term includes a short-term rental. The term "hotel" does not include:

- (1) but not including a hospitals, sanitariums, or nursing homes;
- (2) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Texas Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or
- (3) an oilfield portable unit, as defined by Section 152.001 of the Texas Tax Code.

Occupancy. The use or possession, or the right to the use or possession, of any room or rooms in a hotel ~~if the room is one which is ordinarily used for sleeping and if the occupant is other than a permanent resident as hereinafter defined.~~

Occupant. Anyone who, for a consideration, uses, possesses, or has a right to use

or possess any room ~~or rooms~~ in a hotel under any lease, concession, permit, right of access, license, contract, or agreement, ~~other than a permanent resident as hereinafter defined.~~

Permanent resident. Any occupant who has or shall have the right to use or possess occupancy of any a room or rooms in a hotel for at least thirty (30) consecutive days, so long as there is no interruption of payment for the period during the calendar year or preceding year.

Person. ~~Any individual, company, group, organization, entity (including government entities), corporation or association owning, operating, managing or controlling any hotel, as the term hotel is defined by state and local law.~~

Quarterly period. The regular calendar quarters of the year, the first quarter being composed of the months of October, November and December; the second quarter being the months of January, February and March; the third quarter being the months of April, May and June; and the fourth quarter being the months of July, August and September.

Short-term rental. The rental of all or part of a residential property to a person who is not a permanent resident.

Tax collector. The Chief Financial Officer ~~director of finance~~ of the city.

Sec. 11.04.002 - Levied; amount; exemptions.

- (a) There is hereby levied a tax of 7% of the consideration price paid by the occupant of for a room in a hotel that ~~on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel,~~ costs \$2 or more each day, and is ordinarily used for sleeping. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to the cleaning and readying of the room for possession.
- (b) Exceptions are as follows:
 - (1) No tax shall be imposed upon a permanent resident.
 - (2) No tax shall be imposed upon a person or entity described by Section 351.006 of the Texas Tax Code ~~for federal or state employees traveling on official business.~~

- (3) A person or entity who is exempt from the tax under Section 351.005 of the Texas Tax Code shall apply for a refund of the tax as provided by that section ~~No tax shall be imposed for diplomatic personnel who present a tax exemption card issued by the United States Department of State.~~
- (4) ~~No tax shall be imposed for federal or state military personnel traveling on official military business. This exemption does not cover military staff on leave or between stations.~~

Sec. 11.04.003 - Collection.

Every person owning, operating, managing or controlling any hotel shall collect the tax levied by this article for the city, and shall report the tax and pay the tax ~~and deliver same to the tax collector, the director of finance for the city.~~

Sec. 11.04.004 – Monthly or quarterly ~~Quarterly~~ reports to tax collector.

- (a) On the twentieth (20th) last day of each ~~the month following each quarterly period,~~ every person required by this article ~~hereby~~ to collect the tax imposed ~~hereby~~ shall file a report with the tax collector of taxes ~~tax collector~~ showing: (1) the price paid for all room occupancies in the preceding month ~~quarter~~, (2) the amount of the tax collected on such occupancies, and (3) any other information the tax collector may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report. The report shall be in a form prescribed by the tax collector. Additionally, the person shall file a copy of the monthly ~~quarterly~~ report filed with the state hotel occupancy tax.
- (b) If a taxpayer owes less than \$500 for a calendar month or less than \$1,500 for a calendar quarter, the taxpayer qualifies as a quarterly filer. A quarterly filer shall file the report described in subsection (a) on the 20th day after the end of the quarterly period and pay the tax due at the time of filing such report.
- (c) The tax collector is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this article. The tax collector shall have the authority to request and receive within a reasonable time documentation for information contained in the report to the city by the hotel.

Sec. 11.04.005 - Rules and regulations of tax collector; access to books and records.

The tax collector shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby, and shall upon reasonable notice have access to books and records necessary to enable him/her to determine the correctness of any report filed as required by this article, and the amount of taxes due under the provisions of this article.

Sec. 11.04.006 - Penalties.

- (a) If any person shall fail to file a report as required herein or shall file a false report or shall fail to pay to the tax collector the tax as imposed herein when said report or payment is due, he shall forfeit 5% of the amount due as penalty, and after the first thirty (30) days he shall forfeit an additional 5% of such tax. However, such penalty shall never be less than \$10. Delinquent taxes shall draw interest at the rate of 10% per annum beginning sixty (60) days from the due date.
- (b) Any person violating any of the provisions of this article, including hotel operators who fail to collect the tax, fail to file a return, or file a false return, or who are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined as provided for in the general penalty provision found in section 1.01.009 of this code, and each twenty-four (24) hours of any such violation shall constitute a separate offense.

Sec. 11.04.007 - Additional remedies.

The city is hereby authorized to take the following actions against any person required to collect the tax imposed hereby and pay the collection over to the city and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

- (1) Bring suit against the hotel for noncompliance; and/or
- (2) Bring suit against the hotel seeking any other remedies provided under state law.

Sec. 11.04.008 - Additional authorization to bring suit for violations.

The City Attorney or as appropriate, an appointed Assistant City Attorney, is hereby authorized to bring suit against any person required to collect the tax imposed hereby and required to pay the collection over to the city and who has failed to file a

report, or filed a false report, or failed to pay the tax when due, at the direction of the city manager and concurrence of the Council, when necessary. Such suit may seek to collect such tax not paid or to enjoin such person from operating a hotel in the city until the tax is paid or the report is filed, or both, as applicable and as provided in the injunction.

Sec. 11.04.009 - Use of revenue.

- (a) ~~The revenue derived from any hotel occupancy tax imposed and levied by this article may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following (as mandated by state law, V.T.C.A. Tax Code, ch. 351):~~
 - (1) ~~The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities (as such is defined in V.T.C.A. Tax Code, § 351.001);~~
 - (2) ~~The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;~~
 - (3) ~~Advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;~~
 - (4) ~~The encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms; and~~
 - (5) ~~Historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:~~
 - (A) ~~Which are at or in the immediate vicinity of convention center facilities; or~~
 - (B) ~~Which are located elsewhere in the municipality or its vicinity that would be frequented by tourists, convention delegates, or~~

~~other visitors to the municipality.~~

- (b) Revenue derived from the hotel occupancy tax shall be expended only in a manner which directly enhances and promotes tourism and the convention and hotel industry ~~as hereinbefore delineated~~. Additionally, hotel tax revenue may only be expended for any of the applicable purposes enumerated in Chapter 351 of the Texas Tax Code. Use of hotel occupancy tax revenues shall be subject to the limitations stated in that state statute. Such revenue shall not be used for the general revenue purposes or general governmental operations of the municipality which are not directly related to promoting the hotel and convention industry or tourism in the municipality.
- (b) The City Council may establish a Tourism Advisory Committee (TAC) to advise and make recommendations to the City on how hotel occupancy tax revenues shall be expended.

Sec. 11.04.010 - Authority to contract for administration of funded programs.

- (a) The City Council may, by contract, delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax. The City Council shall approve in writing in advance the annual budget of the entity to which its delegates those functions, and shall require the entity to make periodic reports to the City Council at least annually listing the expenditures made by the entity of revenue from the tax provided by the municipality.
- (b) The entity must maintain the revenue provided by the municipality from the tax in a separate account established for that purpose and may not commingle that revenue with any other money or maintain it in any other account.
- (c) The municipality may not delegate to any person or entity the management or supervision of its convention and visitors programs and activities funded with revenue from the hotel occupancy tax other than by contract as provided herein.
- (d) The approval by the City Council of the annual budget of the entity to which these functions are delegated creates a fiduciary duty in the person or entity with respect to the revenue provided by the municipality to the person or entity under the contract.

- (e) A person or entity with whom the municipality contracts to conduct authorized activities shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the City Council or other person, shall make the records available for inspection and review.
- (f) Hotel occupancy tax revenue may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing of expenditures hereinbefore authorized. The portion of the total administrative costs for activities for which hotel occupancy tax revenue may be used may not exceed the administrative costs actually incurred in conducting the authorized activities.
- (g) Hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of the person's job in an efficient and professional manner.

Sec. 11.04.011 - Applicability in extraterritorial jurisdiction.

The provisions of this article shall apply equally to hotels within the corporate limits of the city and to hotels in the extraterritorial jurisdiction of the city pursuant to state law, V.T.C.A. Tax Code, § 351.0025.

Sec. 11.04.012 - Tax collection on purchase of a hotel.

- (a) If a person who is liable for the payment of a tax under this article is the owner of the hotel and sells that hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the tax due until the seller provides a receipt from the tax collector showing that the amount has been paid or a certificate stating that no tax is due.
- (b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.
- (c) The purchaser of a hotel may request that the City issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The City shall issue the certificate or statement not later than 60 days after receiving the request. If the City fails

to issue the certificate or statement within the period provided by Subsection (c) of this section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 12D

TITLE:

Consider action to approve the second reading of Ordinance No. 2019-15 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 2 Titled "ANIMAL CONTROL," Article 2.01 Titled "GENERAL PROVISIONS," Sections 2.01.001 Titled "DEFINITIONS" amending the definitions of various terms; amending 2.01.004 Titled "RESTRICTIONS ON KEEPING LIVESTOCK AND FOWL" to extend application to fowl being maintained in violation of this section; Article 2.04 Titled "IMPOUNDMENT," DIVISION 2 Titled "LIVESTOCK" by requiring Animal Control to refer any impounded livestock to the County Sheriff and repealing specific procedures for impounding livestock; and amending Article 2.07 Titled "NUISANCES" Section 2.07.001 Titled "CREATING HEALTH HAZARD" to extend applicability to animals "maintained" in violation of this section and repealing all prior ordinances that are in conflict herewith; as attached in Exhibit A; and providing for findings of fact, enactment, effective date, repealer, severability, and proper notice and meeting.

STAFF REPRESENTATIVE:

James K. Altgelt, Director of Public Safety/Chief of Police

BACKGROUND/HISTORY:

On February 22, 2005, the Bastrop City Council ("Council") amended Chapter 2 - "ANIMAL CONTROL," Article 2.01 - "GENERAL PROVISIONS," Section 2.01.007 "Injury or destruction of wild birds" of the City of Bastrop Code of Ordinances. This amendment declared the City of Bastrop as a bird sanctuary and that any person who willfully kill or injure any wild bird, remove the eggs or young from the nest of a wild bird shall be guilty of a class C misdemeanor. Pigeons, English sparrows, European starlings, grackles, ravens, red-winged blackbirds, blackbirds, cowbirds, feral rock doves, and crows were all excluded from being included in this ordinance.

In June 2009, the Council adopted Ordinance 2009-013 and created what became to be known as the "Chicken Sanctuary".

Over the passage of time, some of these chickens migrated from the Chicken Sanctuary to other parts of the City. These broods have become a nuisance to residential and business owners.

On November 29, 2017, a Public Hearing was conducted during the City Council Meeting to address the public's concerns pertaining to the chickens and what would be the appropriate action. At that time of this Public Hearing, any chicken that was at-large and outside the Chicken Sanctuary was deemed to be a nuisance and prohibited from being allowed to roam free.

On March 14, 2018, Dan Hepker, dba Texas Nuisance Wildlife Relocation, entered into a Professional Services Agreement for the humane capture, transportation, and relocation of the chickens from private property within the City.

On March 27, 2018, after receiving an update, Council unanimously opined that the removal of the Chicken Sanctuary would be in the City's best interest.

On May 22, 2018, Council passed an ordinance that dissolved the Chicken Sanctuary.

On March 26, 2019, Council received an update pertaining to the Chicken Relocation Project. A lengthy discussion took place regarding the humane and legal removal of the free-ranging/feral chickens located throughout the City. Criminal violations of law for injuring or killing the chickens were also discussed.

A person who removes chicken eggs from their private property, injures, or kills a chicken while attempting to remove it from their private property is subject to criminal prosecution under our current ordinance. Amending our current ordinance to include chickens would allow private property owners to assist in the removal of these nuisance chickens from their property without subjecting themselves to potential criminal penalties. Amending our current ordinance would not jeopardize the City's position as a bird sanctuary and individuals who intentionally or knowingly tortured a chicken would still be subjected to criminal prosecution under Chapter 42, of the Texas Penal Code, § 42.09 – Cruelty to Animals. Under this section, "torture" is defined as any act that causes unjustifiable pain or suffering. Bastrop County Criminal District Attorney Bryan Goertz has opined that all of the livestock animals identified in this section of the statute are raised with the intention for human consumption and therefore, would be killed. It is the method used to kill the animal that would be examined to determine if the method caused unjustifiable pain or suffering. This determination of fact would be one that would ultimately be decided by a judge or jury in the event criminal charges were pursued against a person who killed an animal in a manner that "out of the ordinary" and could be deemed as torture.

During the April 9th Council Meeting, a discussion took place regarding a citizen refusing to allow the Animal Services Officer or a Police Officer on their property and how the current ordinance defined "harboring" an animal (chicken). It was agreed that the feral/free-ranging chickens were a threat to public health and deemed a nuisance. The elimination of a three-day period would be a reasonable amendment and facilitate the safe and humane capture, transportation and relocation of the chickens from private property throughout the City.

A review by the City Attorney revealed that current processes contained in the ordinance for the impoundment of estray livestock animals was duplicated by what State Law already requires the County Sheriff to perform.

On April 23, 2019, Council unanimously voted to approve the first reading of this ordinance.

POLICY EXPLANATION:

This amendment to the ordinance, if passed, would eliminate the requirement for a three-day period in order meet the definition of "harbor". This amendment would also eliminate the duties / process of handling estray livestock currently assigned to the City and allow the County Sheriff to perform these duties in accordance with State Law.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider action to approve the second reading of Ordinance No. 2019-15 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 2 Titled "ANIMAL CONTROL," Article 2.01 Titled "GENERAL PROVISIONS," Sections 2.01.001 Titled "DEFINITIONS" amending the definitions of various terms; amending 2.01.004 Titled "RESTRICTIONS ON KEEPING LIVESTOCK AND FOWL" to extend application to fowl being maintained in violation of this section; Article 2.04 Titled "IMPOUNDMENT," DIVISION 2 Titled "LIVESTOCK" by requiring Animal Control to refer any impounded livestock to the County Sheriff and repealing specific procedures for impounding livestock; and amending Article 2.07 Titled "NUISANCES" Section 2.07.001 Titled "CREATING HEALTH HAZARD" to extend applicability to animals "maintained" in violation of this section and repealing all prior ordinances that are in conflict herewith; as attached in Exhibit A; and providing for findings of fact, enactment, effective date, repealer, severability, and proper notice and meeting.

ATTACHMENTS:

- Ordinance 2019-15
- Attachment "A"



ORDINANCE NO. 2019-~~XX~~15

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS; AMENDING THE CODE OF ORDINANCES, CHAPTER 2 TITLED "ANIMAL CONTROL," ARTICLE 2.01 TITLED "GENERAL PROVISIONS," SECTIONS 2.01.001 TITLED "DEFINITIONS" AMENDING THE DEFINITIONS OF VARIOUS TERMS; AMENDING 2.01.004 TITLED "RESTRICTIONS ON KEEPING LIVESTOCK AND FOWL" TO EXTEND APPLICATION TO FOWL BEING "MAINTAINED" IN VIOLATION OF THIS SECTION; ARTICLE 2.04 TITLED "IMPOUNDMENT," DIVISION 2 TITLED "LIVESTOCK" BY REQUIRING ANIMAL CONTROL TO REFER ANY IMPOUNDED LIVESTOCK TO THE COUNTY SHERIFF AND REPEALING SPECIFIC PROCEDURES FOR IMPOUNDING LIVESTOCK; AND AMENDING ARTICLE 2.07 TITLED "NUISANCES" SECTION 2.07.001 TITLED "CREATING HEALTH HAZARD" TO EXTEND APPLICABILITY TO ANIMALS "MAINTAINED" IN VIOLATION OF THIS SECTION AND REPEALING ALL PRIOR ORDINANCES THAT ARE IN CONFLICT HERewith; AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, EFFECTIVE DATE, REPEALER, SEVERABILITY, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop ("City") has the responsibility to address any public health and safety problems; and

WHEREAS, the Bastrop City Council ("Council") has received information from the Community and the Police Department about the presence of free-ranging/feral chickens that are a nuisance to private property; and

WHEREAS, on November 29, 2017, Council conducted a Public Hearing to address the public's concerns pertaining to the free ranging/feral chickens that resided outside of the "Chicken Sanctuary;" and

WHEREAS, on March 27, 2018, after receiving an update, the Council unanimously opined that the removal of the "Chicken Sanctuary" would be in the City's best interest; and

WHEREAS, on May 22, 2018, and the Council repealed the Ordinance that established the "Chicken Sanctuary;" and

WHEREAS, on March 26, 2019, Council had a discussion and determined obtaining help from the property owners who are impacted by the free-ranging/feral chickens would be a positive step in eradicating these broods from the City; and

WHEREAS, the City is authorized by Tex. Loc. Gov't Code § 51.001 to adopt, appeal, or amend any ordinance that is for the good government, peace, or order of the municipality, and for the trade and commerce of the municipality, and is necessary or proper for carrying out a power granted by law to the municipality; and

WHEREAS, the City has the full power of local self-government as recognized by Tex. Loc. Gov't Code § 51.072; and

WHEREAS, the City Council finds this Ordinance to be reasonable and prudent, and in the best interest of the health, safety, and sanitation of the city for its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS THAT:

SECTION 1. FINDINGS OF FACT

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

SECTION 2. ENACTMENT

Chapter 2, Article 2.01, et. Seq. of the Code of Ordinances to the City of Bastrop, which is entitled "GENERAL PROVISIONS" is amended to read as described and attached hereto as *Exhibit "A."* City staff is directed to act in accordance with the Council's amendment to *Exhibit "A."*

SECTION 3. EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage.

SECTION 4. 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.

SECTION 5. 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.

SECTION 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, 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.

READ & ACKNOWLEDGED on First Reading on this, the 23rd day of April 2019.

READ & APPROVED on the Second Reading on this, the 14th day of May 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

City of Bastrop
Animal Control Ordinance Amendment

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Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

EXHIBIT "A"

City of Bastrop Code of Ordinances

Chapter 2 – ANIMAL CONTROL

ARTICLE 2.01 – GENERAL PROVISIONS

Sec. 2.01.001 - Definitions.

When used in the city Code of Ordinances, the following words and terms, unless the context indicates a different meaning, or unless otherwise specifically defined for application to a portion of this chapter, shall be interpreted as follows:

...

Harboring. The act of keeping and caring for an animal or of providing premises to which the animal returns for food, shelter or care ~~for a period of three (3) days or longer.~~ Refusal to allow animal control to impound an at large, stray or feral animal constitutes harboring said animal.

Keep. To retain on the premises by any means; to harbor, control, own or have custody or possession of an animal ~~for a period of three (3) days or longer.~~

...

Protected animals. ~~Poultry, fowl and~~ Bbirds that are harbored in any city park or park area.

Sec. 2.01.004 - Restrictions on keeping or maintaining livestock and fowl.

(a) *Keeping hogs prohibited; exceptions.*

- (1) It is unlawful and constitutes a violation of this chapter for a person to keep or maintain any hog in any house, shed, pen, lot, pasture or other enclosure in the corporate limits of the city.

(2) This subsection does not apply to hogs kept temporarily (i.e., for a period not to exceed forty-eight (48) consecutive hours) in shipping pens, when such holding pens are utilized for the purposes of shipment, nor does this subsection apply to hogs kept temporarily (i.e., for a period not to exceed seventy (70) consecutive hours) at auction or sales pens or barns for the purpose of a hog or livestock sale or show held within the city, if in compliance with all other applicable ordinances.

(3) The keeping of hogs by persons involved in recognized educational agricultural programs, such as FFA and 4-H, is exempt from the blanket prohibition noted in subsection (1) above, but such activities must comply with other applicable provisions in this chapter, for example those related to noises, odors and adequate housing for such animals.

(b) *Keeping or Maintaining animals near water supply wells.* It is unlawful and constitutes a violation of this chapter for a person, whether for himself or as the agent, representative or servant of other(s), to participate in keeping or maintaining any animal (other than pet animals) in any pen, pasture, lot, shelter, or enclosure which is located within fifty (50) feet of any water supply wells, or a water supply source from which the city or any citizen of the city obtains its water supply, as per V.T.C.A. Administrative Code, title 30, Natural Resources and Conservation, § 290.41(c)(1)(C), (D), (F), or in violation of any other applicable state or federal law related to drinking water supplies.

(c) *Keeping or Maintaining livestock and fowl generally.* It is unlawful and constitutes a violation of this chapter to keep or maintain any horse(s), cattle, sheep, goat, rabbit or other livestock, including poultry/fowl, at any place in the city if:

(1) Within fifty (50) feet of any private residence or dwelling place of a person other than the owners of the animals or fowl;

(2) Within one hundred (100) feet of any building or structure that is open to the public, with the exception of open park land; or

(3) The animals or poultry/fowl in question are being kept or maintained in any manner or location that results in noises, odors, pests, or other conditions associated with the animals or poultry/fowl that would annoy, offend or disturb the reasonable sensibilities of residents or person(s) occupying or visiting the private residences and dwelling places, or the buildings and structures which are open to the public.

While the distance provisions do not apply to open park land, the other requirements of this section relating to the manner in which animals are kept (i.e., provisions prohibiting annoyances and offensive conditions created by animals therein), shall apply.

ARTICLE 2.04 – IMPOUNDMENT

DIVISION 2. - LIVESTOCK

Sec. 2.04.031 - Running at large.

It is unlawful for any owner or person in control of any horse, mule, donkey, jack, jenney, cattle, hog, goat or sheep (estrays) to permit any such animal to run at large on land that is not owned or otherwise controlled by the owner or harbinger (e.g., via a lease or permit), or on any street, alley or other public property or place within the city's corporate limits.

Sec. 2.04.032 - Impoundment ~~authorized; procedures.~~

It shall be the duty of the animal control department to contact the sheriff or the sheriff's designee to take up (impound) any and all estrays and other livestock that may be found [running at large] and upon any street or alley or upon any unenclosed lot in the city, or otherwise found running at large, and to confine such estrays and other livestock for safekeeping until possession is taken by the sheriff or his designee. or destruction or other disposal by the city, as is deemed appropriate in the sole discretion of the city. Upon impoundment, the animal control department shall prepare a file, to be located in the animal control department, related to the incident of impoundment. Each entry shall include the following:

~~(1) The name and address of the person who notified the animal control department of the estray and other livestock being at large; (2) The date, time and location of the estray and other livestock when found; (3) The location of the estray and other livestock until disposition; and (4) A description of the animal impounded, including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.~~

~~Sec. 2.04.033 – Advertisement of impounded livestock.~~

~~When an estray or other livestock has been impounded, the animal control department shall make a diligent search of the register of recorded brands in the county for the owner of the estray or other livestock. If the search does not reveal the owner, the animal control department shall advertise the impoundment of the estray in a newspaper of general circulation in the county at least twice during the next fifteen (15) days following impoundment and post a notice of the impoundment of the estray or other livestock on the public notice board of city hall.~~

~~Sec. 2.04.034 – Claiming of animal by owner.~~

~~The owner of an estray or other livestock may recover possession of the animal at any time before the animal is sold under the terms of this article if:~~

~~(1) The owner has provided the animal control department with an affidavit of ownership of the estray or other livestock containing at least the following information: (A) The name and address of the owner; (B) The date the owner discovered that the animal was missing; (C) The property from which the animal strayed; (D) A description of the animal, including its breed, color, sex, size, all~~

Commented [EH1]: Per Texas Agriculture Code section 142.009 it is the duty of the County Sheriff to handle found estrays. Only exotic fowl are included in the definition of estray so we would not need to follow this procedure for chickens.

markings of any kind and any other identifying characteristics; (2) The owner has paid all handling fees to those entitled to receive them.

Sec. 2.04.035 – Fees.

For each and every estray or other livestock taken and impounded there shall be paid to the city by the owner thereof or his agents the fees established by the City Council, as set forth in section A2.04.035 of the fee schedule in appendix A to this code, for each and every day that the animal shall remain in the custody of the animal control department. The owner shall also pay for any veterinarian care or drug fees incurred for the animal(s) while in the custody of the animal control department, as well as all costs associated with feeding, grooming and housing and maintaining the estray or livestock. Additionally, the owner shall be responsible for reimbursing the city for all costs related to advertising pursuant to this chapter related to estrays and livestock recovered by the city and returned to the owner.

Sec. 2.04.036 – Sale of impounded livestock.

(a) If the ownership of an estray or other livestock is not determined within fourteen (14) days following the final advertisement required by this article, title to the estray or other livestock rests with the city and the animal control department shall then cause the estray or other livestock to be sold at a public auction. If there are not any bidders, ownership is forfeited to the city. (b) Title shall be deemed vested in the animal control department for the purposes of passing a good title, free and clear of all claims, to the purchaser at the sale. The disposition of the proceeds derived from the sale at public auction will be as follows: (1) Pay all handling fees to those entitled to receive them; and (2) Execute a report of sale of impounded stock; and (3) The net proceeds remaining from the sale of the estray or other livestock after the handling fees have been paid shall be delivered by the animal control department to the city's finance office. Such net proceeds shall be subject to claim by the original owner of the estray or other livestock, as provided herein, after payment to the city of all costs incurred by it in keeping and handling the strays and sale of same. If the bids are too low, the animal control department shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

Sec. 2.04.037 – Recovery of sale proceeds by owner.

(a) Within twelve (12) months after the sale of an estray or other livestock under the provisions of this article, the original owner of the estray may recover the net proceeds of the sale that were delivered to the finance office if: (1) The owner has provided the animal control department with an affidavit of ownership of the animal(s) sold; and (2) The animal control department has accepted the affidavit of ownership; and (3) Any proceeds remain after city costs are paid in full. (b) After the expiration of twelve (12) months from the sale of an estray or other livestock as provided by this article, the sale proceeds shall revert to the city. If the animal was forfeited to the city due to no bidders at the auction, then the city is not to be liable to the owner for any proceeds of the sale, since no proceeds were received.

Sec. 2.04.038 – Use of livestock while impounded.

~~During the period of time an estray or other livestock is held by one who impounded the estray or other livestock, it may be used by any person for any legal purpose that does not harm or otherwise endanger the animal.~~

~~Sec. 2.04.039 – Death or escape of livestock while impounded.~~

~~If the estray or other livestock dies or escapes while held by the person who impounded it, the person shall report the death or escape to the animal control department. The report shall be filed in the record of the impoundment related to the animal reported as dead or escaped.~~

ARTICLE 2.07 - NUISANCES

Sec. 2.07.001 - Creating health hazard.

(a) *Generally.* It shall be unlawful for any person to keep or maintain any animal, other than a protected animal, on any property located within the corporate limits of the city when the keeping of such animal constitutes a public nuisance or menace to public health or safety. Any person who harbors or keeps on his/her premises, or in or about premises under his/her control, an animal, other than a protected animal, and who allows his/her premises to become a hazard to the general health and welfare of the community, or who shall allow his/her premises to give off obnoxious or offensive odors and/or noises due to the activity or presence of such animals, other than the presences of a protected animal, shall be guilty or a class C misdemeanor.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 12E

TITLE:

Consider action to approve the second reading of Ordinance No. 2019-16 of the City Council of the City of Bastrop, Texas, repealing Emergency Ordinance 2018-1 [*Temporary Moratorium*] and implementing enhanced permit review measures to continue a heightened level of evaluation for certain building, construction and development permits; and providing for legislative findings of fact, repealer, enactment, duration, extension, severability, enforcement, proper notice and meeting, effective date, applicability, alternate approvals, appeals, and definitions.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager
Alan Bojorquez, City Attorney



ORDINANCE NO. 2019-16

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, REPEALING EMERGENCY ORDINANCE NO. 2018-1 [TEMPORARY MORATORIUM] AND IMPLEMENTING ENHANCED PERMIT REVIEW MEASURES TO CONTINUE A HEIGHTENED LEVEL OF EVALUATION FOR CERTAIN BUILDING, CONSTRUCTION AND DEVELOPMENT PERMITS; AND PROVIDING FOR LEGISLATIVE FINDINGS OF FACT, REPEALER, ENACTMENT, DURATION, EXTENSION, SEVERABILITY, ENFORCEMENT, PROPER NOTICE AND MEETING, EFFECTIVE DATE, APPLICABILITY, ALTERNATE APPROVALS, APPEALS, AND DEFINITIONS

WHEREAS, the Bastrop City Council enacted on August 14, 2018, and extended on November 15, 2018, Emergency Ordinance No. 2018-1 implementing a Temporary Moratorium staying the acceptance and processing of certain permits in the Bastrop City Limits and Extraterritorial Jurisdiction (ETJ); and

WHEREAS, the City Council enacted Emergency Ordinance No. 2018-1 to address significant historic and contemporary land use challenges that existing regulations and infrastructure were not designed to address; and

WHEREAS, Emergency Ordinance No. 2018-1 enabled the City of Bastrop, Texas ("City") to actively and diligently engage in its assessment of the City's drainage and regulatory program, including evaluating its subdivision ordinance, zoning codes, and the uniformity of its permitting process and goals for stormwater plans and improvements; and

WHEREAS, since the enactment of Emergency Ordinance No. 2018-1, the City has issued 617 permits, demonstrating that completely halting all development activity was not necessary in order to deter detrimental development while the City evaluated and updated its regulations and addressed infrastructure needs; and

WHEREAS, the heightened evaluation of certain permit applications under Emergency Ordinance No. 2018-1 proved sufficient to safeguard the public interest in orderly development while deterring detrimental development; and

WHEREAS, since enactment of Emergency Ordinance No. 2018-1, the City Council has approved Ordinance No. 2019-15, establishing drainage construction and development standards and procedures through the City of Bastrop Stormwater Design Manual; and

WHEREAS, the City Council finds that Emergency Ordinance No. 2018-1, as amended, is no longer necessary to achieve the community's goals under the Building Bastrop initiative; and

WHEREAS, the City Council finds it to be reasonable, necessary, and proper to perpetuate a process and criteria maintaining an elevated level of scrutiny for applications seeking certain construction, building, and development permits for the remainder of the Building Bastrop endeavor; and

WHEREAS, the City Council anticipates that this temporary, elevated level of scrutiny will only be necessary until the additional development standards and procedures are put in place in the fall of 2019; and

WHEREAS, the City is a Home-Rule City acting under the authority granted by its Charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution, and Chapter 9 of the Texas Local Government Code with the full power of local self-government under Texas Local Government Code §51.072; and

WHEREAS, Texas Local Government Code Section 51.001 provides the City general authority to adopt an Ordinance or police regulations that are for the good government, peace or order of the City and that is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, Texas Local Government Code Chapters 211, 213, 214 and 217 grant the City certain regulation authority concerning construction, land use, nuisances, structures, and development-related activities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AS FOLLOWS:

SECTION 1. Repealer: The City Council expressly and specifically repeals the Temporary Moratorium, Emergency Ordinance 2018-1 (as originally approved and as extended). In the case of any conflict between the other provisions of this ordinance and any existing ordinance of the city, the provisions of this Ordinance will control.

- SECTION 2. Enactment:** The City of Bastrop hereby enacts *Attachment “A”*, implementing an Enhanced Permit Review process. While the rules promulgated under *Attachment “A”* constitute an ordinance of the City, this Ordinance and *Attachment “A”* are temporary measures but have the full force of law, and thus are required to be published in the City’s Code of Ordinances in accordance with Section 3.17 of the Bastrop Home-Rule Charter.
- SECTION 3. Duration:** The duration of the Enhanced Permit Review measures implemented by this Ordinance shall be through December 10, 2019, or until the repeal of this Ordinance by the City Council through enactment of the Building Bastrop (B3) codes, whichever is sooner.
- SECTION 4. Legislative Findings of Fact:** The foregoing recitals and those found in *Attachment “B”* are based on evidence presented to the City Council, and are hereby incorporated into this Ordinance by reference as legislative findings of fact as if expressly set forth herein.
- SECTION 5. Severability:** If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.
- SECTION 6. Enforcement:** The City 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 such violation is hereby declared to be a public nuisance. Nothing in this Ordinance shall be construed as a waiver of the City’s right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law and/or equity.
- SECTION 7. 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 and a public hearing were also provided as required by Texas Government Code Chapter 212, Subchapter E.
- SECTION 8. Effective Date:** This Ordinance shall be effective immediately upon passage and final adoption, as provided by Texas Local Government Code Chapter 212, Subchapter E.

READ & ACKNOWLEDGED on First Reading on this, the 23rd day of April, 2019.

READ & APPROVED on the Second Reading on this, the 14th day of May, 2019.

APPROVED:

by: _____
Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

City of Bastrop, TX
Code of Ordinances
Enhanced Permit Review

- 1. APPLICABILITY:** This Ordinance applies to the acceptance and processing of certain applications and issuance of particular Permits and other forms of municipal authorizations related to specific construction and land development activities. This Ordinance applies to all city zoning districts and uses within the City Limits and the ETJ. This Ordinance shall not apply to the following types of projects:

(a) No Impact Projects: endeavors that do not:

- (1) increase horizontal density; or
- (2) increase impervious cover greater than five percent (5%); or
- (3) expand the footprint of an existing structure greater than five percent (5%); or
- (4) alter the current drainage pattern on the property.

Applicants seeking to establish they have a No Impact Project, and thus exempt their project from compliance with the Enhanced Permit Review measures described in this Ordinance, must submit to the City with their permit application a sealed letter from a licensed professional engineer documenting the criteria listed above are satisfied.

- (b) Minimal Drainage Projects:** endeavors that discharge less than one (1) cubic feet of water (post-project). Applicants seeking to establish they have a Minimal Drainage Project, and thus exempt their project from compliance with the Enhanced Permit Review measures described in this Ordinance, must submit to the City with their permit application a sealed letter from a licensed professional engineer documenting the criteria listed in this section is satisfied.

- (c) Fences:** residential fences that comply with section 41 of the zoning ordinance (Bastrop Code of Ordinances Chapter 14) and do not obstruct a drainage way or easement in such a way that a structure or debris is blocking or diverting the drainage channel, as determined by City staff (at staff's sole discretion).

- (d) Ongoing Projects:** endeavors for which construction is currently, actively in progress, and for which valid City permits have been issued that have not expired (as of August 14, 2018).

- (e) Grandfathered Projects:** endeavors that are grandfathered under state law. Property owners asserting grandfathered rights under Texas Local Government Code Chapter 245

must submit an application claiming an exception to this Ordinance in accordance with the City's Grandfathered Development Status ordinance, Ordinance 2019-10.

2. ENHANCED PERMIT REVIEW:

(a) Methodology:

- (1) Pre-Application Meetings:** Permits shall not be issued until after a pre-application meeting between the Applicant and representatives of the Planning and Development Department.
- (2) Site Visits:** Permits shall not be issued until after a site visit by representatives of the Planning and Development Department. Submission of an application for a permit shall be construed as in an invitation for representatives of the Planning and Development Department to perform a site visit. Site visits shall be scheduled with the Applicant and/or Property Owner if conducting an effective site visit necessitates traversing the property.
- (3) Suspension of Deadlines:** The deadlines specified in the Bastrop Code of Ordinances for City action on permit applications in the normal course of business are hereby temporarily suspended. Permit applications will be approved, denied, or addressed in staff comments as soon as reasonable under the circumstances. The City shall strive to provide approval, denial, or staff comments on permit applications within three (3) weeks of submittal.
- (4) Criteria:** In providing this heightened review of permit applications, city staff will be guided by the policy statement approved by the city council on February 26, 2019, in the form of Resolution 2019-24, which establishes the city's policy goals as creating a fiscally sustainable community through community land use regulations that are authentically Bastrop and geographically sensitive. Emphasis will be given to the need for gridded street layouts, connectivity between large projects, and walkability (i.e., multi-modality). Permit applications for projects that would exacerbate flooding, create unsustainable infrastructure, or be inconsistent with the historic culture of Bastrop, as determined by the City Engineer, will not proceed through the permitting process. The criteria stated in this subsection shall be cumulative of, and in addition to any standards listed elsewhere in the Bastrop Code of Ordinances. If there is a conflict between standards in this subsection and other sections in the Code of Ordinances, this subsection shall govern.

(b) Staff Approval. The following permits may be issued by staff without first receiving approval by the City Council.

- (1) Fence Permits:** residential fences that comply with section 41 of the zoning ordinance (Bastrop Code of Ordinances Chapter 14) so long as they do not obstruct a

drainage way or easement in such a way that a structure or debris is blocking or diverting the drainage channel, as determined by City staff (at staff's sole discretion).

(2) Minor Plats in the ETJ: minor plats, described in section 4.40.1(A)(2) of the subdivision ordinance (Bastrop Code of Ordinances Chapter 16) as being four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities, so long as drainage calculations showing that the lots will not exceed 60-percent (60%) impervious cover is submitted with the plat application.

(3) Accessory Structures: residential accessory structures with a surface area of one hundred sixty (160) square feet or smaller, so long as they comply with all regulations as outlined in the City of Bastrop's Code of Ordinances.

(c) City Council Approval. All permits not listed above are subject to approval by the City Council.

3. ALTERNATE APPROVALS.

Any property owner who seeks authorization to proceed with the permitting process without complying with the Enhanced Permit Review procedures listed above can request the following alternative forms of approval from the City:

(a) Planned Development District: Property Owners with an approval granted by the City Council including enactment of customized zoning regulations through negotiations of specialized rules applicable solely to the proposed project shall be exempt from application of this Ordinance. In considering whether to approve a Planned Development District, the City Council shall evaluate the project in accordance with the criteria listed in section 2(a)(4) of this Ordinance [above].

(b) ETJ Development Agreement: Property Owners with a negotiated approval granted by the City Council providing for construction standards, platting and development rules pursuant to Texas Local Government Code Chapter 212, Subchapter G, shall be exempt from application of this Ordinance. In considering whether to approve an ETJ Development Agreement, the City Council shall evaluate the project in accordance with the criteria listed in section 2(a)(4) of this Ordinance [above].

(c) Waiver: Property Owners agreeing to construct certain drainage infrastructure at property owners' sole expense, in accordance with Texas Local Government Code Chapter 212, Subchapter E, may apply for waiver from compliance with this Ordinance issued by the City Council in accordance with city policy.

4. APPEALS

Property Owners challenging application of this Ordinance to their property and/or projects may request to be excluded from the terms and conditions of this Ordinance by pursuing an

appeal as provided below.

- (a) Initial Review.** Property Owners challenging application of this Ordinance to their property and/or projects may request to be excluded from the terms and conditions of this Ordinance by filing a written notice of appeal with the Planning and Development Department explaining their position and offering evidence supporting their claim.

Within ten (10) business days of receipt of a notice of appeal, a group consisting of the Director of Planning and Development, the City Engineer, and the Public Works Director shall convene to review the evidence and regulations, and make an initial determination as to whether a Property Owner has made a valid claim for being excluded under this Ordinance. The initial determination shall promptly be sent to the Property Owner by U.S. Mail.

- (b) Secondary Review.** Property Owners seeking to challenge an initial determination may appeal that determination to the City Manager by filing a written notice of appeal with the City Secretary within ten (10) business days of receipt of the written initial determination. Within ten (10) business days of receipt of a notice of appeal, the City Manager shall make a secondary determination as to whether a Property Owner has made a valid claim for being excluded under this Ordinance. The secondary determination shall promptly be sent to the Property Owner by U.S. Mail.

- (c) Final Review:** Property Owners seeking to challenge a secondary determination may appeal that determination to the City Council by filing a written notice of appeal with the City Secretary within ten (10) business days of receipt of the written secondary determination. Within thirty (30) business days of receipt of a notice of appeal, the City Council shall make a final determination as to whether a Property Owner has made a valid claim for being excluded under this Ordinance. The final determination shall promptly be sent to the Property Owner by U.S. Mail. A final determination may be appealed to district court in accordance with applicable state law.

- 5. DEFINITIONS:** As used in this Ordinance, these terms shall be defined as follows. Terms appearing in this Ordinance but not defined herein shall have the meanings provided in the City's Code of Ordinances, or, if not defined by the City then the common meanings in accordance with ordinary usage or as defined in applicable state statutes.

Applicant: means a person or entity applying for a permit from the City under this Ordinance.

Commercial Property: means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

Essential Public Facilities: means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

Impervious Cover: means structures, buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevents infiltration of water.

Permit: means a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

The term includes (but is not limited to) permits covered by the following sections of the Code of Ordinances:

- §3.16.001: Permits for moving of structures, demolition and site work
- §3.18.002: Permit for construction, alteration or extension; construction or occupancy of permanent structures
- §3.20.051: Permit to erect or install a sign
- §10.03: Plats
- §14.02: Zoning
- §42.1: Site Plan & Development Plan Review

The term does not include Trade Permits, which are excluded from complying with this Ordinance.

Project: means an endeavor over which a regulatory agency exerts its jurisdiction and for which one (1) or more permits are required to initiate, continue, or complete the endeavor.

Property Development: means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.

Property Owner: means the record owner of real property, or their designated agents (i.e., those holding Power of Attorney or other written authorization to act on behalf of the owner).

Residential Property: means property zoned for or otherwise authorized for single-family or multi-family use.

Trade Permits: means permits required by the City's Code of Ordinances for the following work by skilled tradesmen: Electrical, HVAC, Mechanical, and Plumbing. For purposes of this Ordinance, the term also includes Roofing and Irrigation permits.

Legislative Findings of Fact
of the
City Council of the City of Bastrop, TX

1. The City will change drastically if unlimited growth and development should occur under the City’s existing Code of Ordinances, which do not currently adequately address concerns about the effect of development on the City; and
2. The City seeks to ensure that impending and future development is conducted in a fiscally sustainable and geographically sensitive manner that honors the City’s rich heritage and unique geographic makeup; and
3. The City has experienced historical flooding events over the last four (4) FEMA-declared disasters in the past three (3) years; and
4. The City’s existing development standards and regulations were based on 1983 and 1991 data that is outdated and used a one size fits all approach; and
5. The City Limits and Extraterritorial Jurisdiction (“ETJ”) are comprised of a combination of geographical and topographical features that create significant drainage and development challenges when using the one size fits all approach; and
6. In 2016, the City commissioned engineering firm Halff and Associates to study the City’s drainage issues; and
7. In 2018, Halff and Associates provided the City with Flood Protection Planning Studies for two (2) watersheds in the Bastrop area: Piney Creek and Gills Branch; and
8. On July 28, 2018, the City Council, accompanied by the Planning and Zoning Commission, participated in a properly posted, public bus tour of key locales around the community, including sites of significant development-related drainage challenges; and
9. The Gills Branch and Piney Creek Studies document the needs and challenges of the existing drainage and flood mitigation infrastructure across the City Limits and ETJ; and
10. The City and Bastrop County have been diligently evaluating and assessing the findings in the 2018 Gills Branch and Piney Creek Studies; and
11. The City Council held a work session on February 26, 2019, with Strand and Associates [engineers] to review the findings of the Gills Branch and Piney Creek Studies and outline potential action plans with the public; and

12. The City Council held a work session on February 26, 2019, with Verdunity, Inc. [planners and engineers] to review the findings of their public infrastructure fiscal sustainability studies and implications for the community; and
13. The City Council finds that certain essential public and private infrastructure, being drainage and storm water improvements throughout the City Limits and ETJ, are inadequate and insufficient to prevent, mitigate, or minimize flooding events; and
14. Additional evaluation of the existing infrastructure and development of measures to address flooding and drainage are needed to allow for growth and development within the City Limits and ETJ while protecting the health, safety, environment, quality of life, and general welfare of its residents; and
15. The City is in the process of studying and evaluating the impact of further development; appropriate impervious cover limitations; the need for drainage and detention improvements; appropriate zoning districts and district regulations; appropriate cut and fill regulations; and other issues that will affect future growth and development of the area within its jurisdiction; and
16. The City is in the process of seeking additional community input and providing opportunities for meaningful public participation in the planning and rule-making process; and
17. The City is in the process of studying and updating its development ordinances and procedures in order to clarify and improve its planning policies based on the forthcoming regulations, to strengthen the connection between the City's Code of Ordinances and the goals and needs of the City's residents, and to protect the health, safety, environment, quality of life, and general welfare of its residents; and
18. In order for the City to have adequate and reasonable time to continue to review, evaluate, and revise the City's development ordinances, and to continue to consider the impact of the ordinances upon future growth, public health and safety, development, the natural environment, and the place of architectural improvements, and ecological importance and significance within the City Limits and ETJ, the City wishes to continue the temporary, heightened degree of scrutiny in reviewing certain applications for development permits; and
19. The purpose of carefully evaluating certain applications for development permits and/ or approvals during this study period includes: eliminating incentives for hasty applications, facilitating thoughtful and consistent planning, avoiding exploitation of the delays inherent in the municipal legislative process, and preventing applications from undermining the effectiveness of the revised rules; and
20. The City Council has identified and considered evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to

prevent new development from causing the overcapacity of municipal and private drainage infrastructure or from being detrimental to the public health, safety, and welfare in an affected geographical area, that being the area within the City of Bastrop's City Limits and ETJ; and

21. The City Council has identified and considered evidence including that presented by City of staff, consulting engineering firms, FEMA, and observed during site visits demonstrating the extent of need beyond the estimated capacity of existing essential public and private drainage facilities that is expected to result from new property development, including identifying essential public facilities that are currently operating near, at, or beyond capacity in an affected area, that being the area within the City Limits and ETJ; and
22. The City Council has identified and considered evidence that alternative methods of achieving the objectives of the Enhanced Permit Review methodology are unsatisfactory; and
23. The City Council has approved a working plan and time schedule for achieving the objectives of the Building Bastrop initiative in the Fall of 2019; and
24. The City's program for addressing drainage issues during the temporary permit review includes planning, regulating, building, and educating; and
25. The City Council passed Emergency Ordinance No. 2018-1, which established a Temporary Moratorium commencing on August 23, 2018, for the purpose of creating a short-term freeze on the acceptance of applications for subdivision, building permits, or development permits for the purpose of preserving the *status quo* in order to allow the Council reasonable time to review, conduct research, receive public input, evaluate and establish reasonable policies, and prepare a comprehensive subdivision ordinance for future adoption; and
26. The City Council passed Emergency Ordinance No. 2018-2-A, which established additional requirements mandating data related to drainage and flooding for the acceptance, processing, and approval of certain projects in the city limits and the ETJ during the moratorium; and
27. The additional requirements mandated by Emergency Ordinance No. 2018-2-A have given the City the ability to assess the impact of these projects on potential future flooding events; and
28. The City Council adopted a temporary process that allows development to continue in the City of Bastrop during the Temporary Moratorium, requiring projects to be evaluated on a case-by-case basis through pre-application meetings and conformity to specific interim drainage measures to ensure that detrimental development does not occur; and
29. Although the purpose of the Temporary Moratorium was to create a short-term freeze on the acceptance of applications for subdivision, building permits, or development permits, since the inception of the moratorium (as of April 18th), the City has:

- (a) held 114 individual pre-application meetings; and
 - (b) issued 617 permits including:
 - 49 new single-family residences,
 - 13 commercial remodels,
 - 4 new commercial buildings including an office complex, self-storage facility, restaurant, and a home furnishings store, and
 - 3 commercial finish-out permits, and
 - (c) prevented one (1) house from unintentionally being built in a drainage area; and
30. The City has retained a planning consultant firm for the purpose of evaluating the City's historic, current and anticipated construction attributes, and is developing new standards to preserve the quality of life and to protect the health, safety, and general welfare of the citizens of the City and to direct and manage the rapid growth that is now occurring; and
31. The City's planning consulting firm has completed both an in-depth analysis of Downtown Bastrop's DNA and how it functions as a complete neighborhood and an extensive evaluation of the City's current development codes that identified significant challenges and code conflicts that are not aligned with the City's Comprehensive Plan 2036 or considered fiscally sustainable or geographically sensitive; and
32. The adoption process of new development standards will require community input and will take additional time to complete; and
33. Texas Local Government Code Section 212.136 allows a city to temporarily suspend or abate the routine permit approval process after holding a public hearing; and adopting written findings that identify the problem requiring the need for extending the short-term measures, describe the reasonable progress made to alleviate the problem, and specify a definite duration for the renewal period of the interim process; and
34. The City finds that the Temporary Moratorium (as enacted and extended) was necessary and proper, but is no longer warranted, although the heightened scrutiny of permit applications remains vital to the Building Bastrop effort; and
35. The City Council finds that continued temporary permit application review measures are necessary to provide the City with the time necessary to continue to properly conduct research, confer with experts, and solicit public input from residents, business owners, property owners, realtors and developers; and
36. In recognition of the importance of development permits and/ or approvals to the community, the City desires to extend the interim permit application review methods until September 10, 2019, and to include a waiver provision in accordance with Texas Local Government Code Chapter 212, Subchapter E; and

37. City officials and the city's planning consultants are diligently continuing their work to craft new regulations regarding planning, zoning, platting and construction. As a continuation of the Building Bastrop initiative, the city anticipates adopting new codes in the Fall of 2019 (including updated national / international codes, such as those from the International Code Council); and
38. The City is also evaluating and updating its Master Transportation Plan, which not only affects the framework for all development and redevelopment, it also addresses the primary form of drainage infrastructure in the city – streets; and
39. The City is also in the process of addressing funding and planning for massive public infrastructure improvements (such as the Gill's Branch project) and the formation of a municipal drainage utility; and
40. The City is preparing the engineering and financial data necessary for the City Council to consider creating a municipal drainage utility to fund the construction, maintenance, and operation of new municipal drainage infrastructure.
41. The City Council has approved Ordinance No. 2019-15, establishing drainage construction and development standards and procedures through the City of Bastrop Stormwater Design Manual, and thus other municipal regulations must be evaluated and revised to ensure consistency and compatibility.



STAFF REPORT

MEETING DATE: May 14, 2019

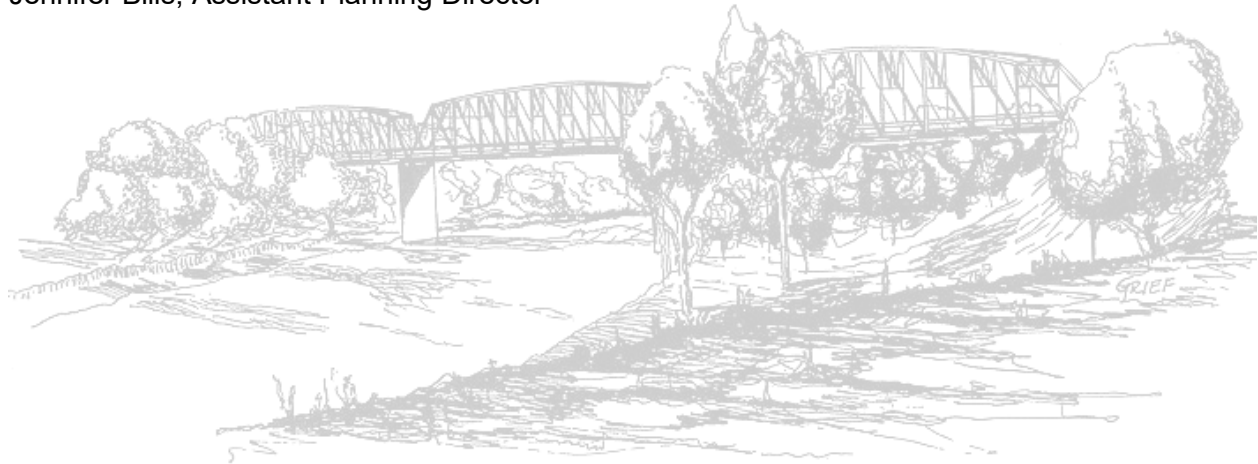
AGENDA ITEM: 13A

TITLE:

Consider action and approve Resolution No. R-2019-44 of the City Council of the City of Bastrop, Texas, making determinations regarding certain project-specific Exceptions and/or Exemptions as provided by Emergency Ordinance 2018-1, Section 8 (Temporary Moratorium); and Emergency Ordinance 2018-2, Section 7 (Emergency Drainage Application Rules).

STAFF REPRESENTATIVE:

Jennifer Bills, Assistant Planning Director





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 13B

TITLE:

Consider action to approve Resolution No. R-2019-45 of the City Council of the City of Bastrop, Texas confirming a Board and Commission appointment of the Mayor, as required in Section 3.08 of the City's Charter; and establishing an effective date.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager

BACKGROUND/HISTORY:

Section 3.08, Mayor and Mayor Pro Tem, of the City Charter states that the Mayor shall appoint members to all City boards and commissions, subject to confirmation by the City Council.

POLICY EXPLANATION:

Mayor Connie Schroeder has reviewed all applications and has appointed Barbara Sparks to Place 2, filling an unexpired term to end in 2020 for the Bastrop Art in Public Places.

RECOMMENDATION:

Consider action to approve Resolution No. R-2019-45 of the City Council of the City of Bastrop, Texas confirming a Board and Commission appointment of the Mayor, as required in Section 3.08 of the City's Charter; and establishing an effective date.

ATTACHMENT:

- Resolution

RESOLUTION NO. R-2019-45

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS
CONFIRMING A BOARD AND COMMISSION APPOINTMENT OF THE MAYOR,
AS REQUIRED IN SECTION 3.08 OF THE CITY'S CHARTER; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, Section 3.08, Mayor and Mayor Pro Tem, of the City Charter states that the Mayor shall appoint members to all City boards and commissions, subject to confirmation by the City Council; and

WHEREAS, Mayor Connie Schroeder has appointed Barbara Sparks to Place 2, filling an unexpired term to end in 2020 for Bastrop Art in Public Places; and

WHEREAS, City Council must confirm this appointment as required by the City Charter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1. That Mayor Connie Schroeder has appointed Barbara Sparks to Place 2, filling an unexpired term to end in 2020 for Bastrop Art in Public Places.

Section 2. That the City Council of the City of Bastrop confirms Mayor Schroeder's appointment of Barbara Sparks to Place 2 for Bastrop Art in Public Places.

Section 3. That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of May, 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 13C

TITLE:

Conduct a public hearing and consider action to approve the first reading of Ordinance No. 2019-18 of the City Council of the City of Bastrop, Texas, granting a Conditional Use Permit to allow a brewery, distillery and winery use on 0.266 acres of Building Block 4, West of Water Street located at 919 Main Street, an area zoned Downtown Bastrop Form-Based Code - HMS, Historic Main Street within the city limits of Bastrop, Texas; as shown in Exhibits A; setting out conditions; providing a severability clause; establishing an effective date, and move to include on the May 28, 2019 Consent Agenda for second reading.

STAFF REPRESENTATIVE:

Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

ITEM DETAILS:

Site Address: 919 Main Street (Exhibit A)
Total Acreage: 0.266 acres
Legal Description: 0.266 acres of Building Block 4, West of Water Street
Property Owner: Raymah Davis
Applicant Contact: Raymond Keyrouz

Existing Use: Restaurant
Existing Zoning: Downtown Form-Based Code - HMS, Historic Main Street
Future Land Use: Downtown Bastrop

BACKGROUND/HISTORY:

The 602 on Main is the current business at 919 Main Street. The applicant is looking to expand their business with the addition of a brewery. The system consists of a 3-barrel system that can produce up to 90 gallons in a cycle. The owner intends to brew approximately 300 gallons a week (Attachment 1).

POLICY EXPLANATION:

The purpose of conditional uses is to allow certain uses in districts that under some circumstances would not be compatible with other permitted uses but may be compatible if certain conditions and development restrictions are met. A Conditional Use Permit (CUP) is adopted by Ordinance, similar to a standard zoning request, with public hearings at Planning & Zoning Commission and City Council, as well as two ordinance readings at separate City Council meetings.

Section 33.2 of the Zoning Ordinance states that the Planning and Zoning Commission may consider the following criteria when approving a CUP:

- i. The use is harmonious and compatible with surrounding existing uses or proposed uses;
Small-scale production businesses and assembly space is compatible with the surrounding uses of historic downtown offices, retail, and restaurants.
- ii. The activities requested by the applicant are normally associated with the permitted uses in the base district;
Small-scale brewery within a restaurant is compatible with the Historic Main Street zoning district.
- iii. The nature of the use is reasonable;
Small retail breweries, distilleries and wineries are a reasonable size and scale use for the downtown.
- iv. Any negative impact on the surrounding area has been mitigated;
The production operations of the use will not produce any noxious emissions or noise. The wastewater discharge will comply with the City of Bastrop utility requirements in Chapter 13, Article 13.03, Sections 1 – 10, which regulates the discharge of water in public sewers.
- v. Any additional conditions specified [to] ensure that the intent of the district purposes are being upheld.
No additional criteria are required beyond mitigating production waste in the wastewater discharge.

Compliance with Emergency Ordinance 2018-1-A and 2018-2-A

The owner of the property held a Pre-Submission meeting with staff and qualifies for an Exception as a No Impact Project as no additional impervious cover or change to drainage is proposed.

PUBLIC COMMENTS:

Property owner notifications were mailed to four adjacent property owners on April 11, 2019. At the time of this report, four responses in support have been received (Attachment 3).

PLANNING & ZONING COMMISSION REPORT:

The Planning & Zoning Commission held a public hearing and considered this item at the April 25, 2019 regular meeting. The Commission voted 8 - 0 to recommend approval of the Conditional Use Permit with the standard listed conditions.

RECOMMENDATION:

Conduct a public hearing and consider action to approve the first reading of Ordinance No. 2019-18 of the City Council of the City of Bastrop, Texas, granting a Conditional Use Permit to allow a brewery, distillery and winery use on 0.266 acres of Building Block 4, West of Water Street located at 919 Main Street, an area zoned Downtown Bastrop Form-Based Code - HMS, Historic Main Street within the city limits of Bastrop, Texas; as shown in Exhibits A; setting out conditions; providing a severability clause; establishing an effective date, and move to include on the May 28, 2019 Consent Agenda for second reading.

Standard Conditions from Section 33.2:

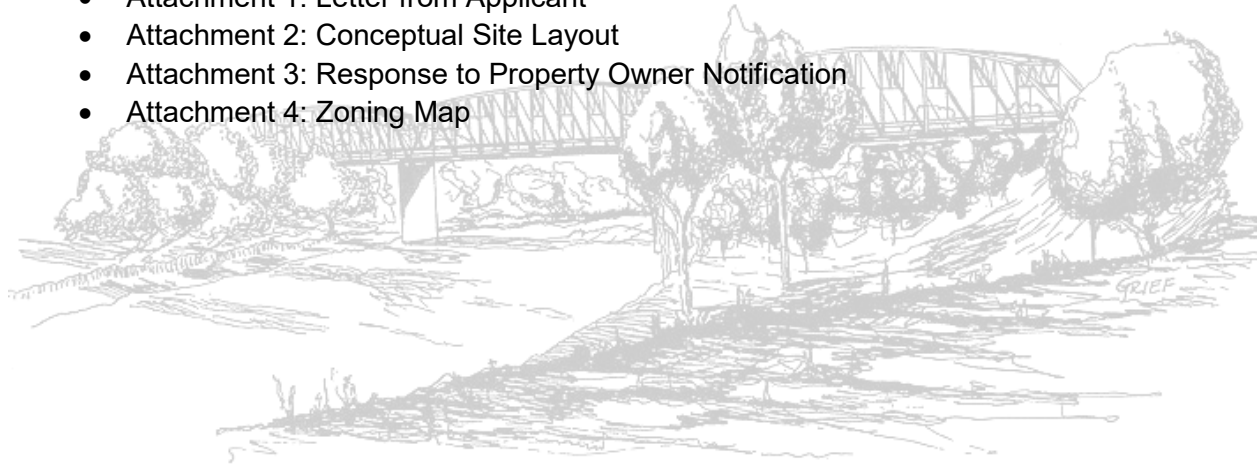
1. Construction and permits submitted shall be in conformance with the City of Bastrop regulations.
2. All necessary permits for the proposed development shall be acquired prior to construction on the subject property.
3. A Building Permit shall be applied for and secured within one (1) year from the date the conditional use permit is granted (second reading of the ordinance).

Additional Condition for the Use:

4. The wastewater discharge will comply with the City of Bastrop utility requirements in Chapter 13, Article 13.03, Sections 1 – 10, which regulates the discharge of water in public sewers.

ATTACHMENTS:

- Ordinance 2019-17
- Exhibit A: Property Location Map
- Attachment 1: Letter from Applicant
- Attachment 2: Conceptual Site Layout
- Attachment 3: Response to Property Owner Notification
- Attachment 4: Zoning Map



ORDINANCE 2019-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, GRANTING A CONDITIONAL USE PERMIT TO ALLOW A BREWERY, DISTILLERY AND WINERY USE ON 0.266 ACRES OF BUILDING BLOCK 4, WEST OF WATER STREET LOCATED AT 919 MAIN STREET, AN AREA ZONED DOWNTOWN BASTROP FORM-BASED CODE - HMS, HISTORIC MAIN STREET WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AS SHOWN IN EXHIBITS A; SETTING OUT CONDITIONS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE,

WHEREAS, Raymond Keyrouz (the “Applicant”) submitted a request for a Conditional Use Permit (CUP) to add a brewery, distillery, and winery use at 919 Main Street, within the city limits of Bastrop, Texas, hereinafter referred to as “the Property”; and

WHEREAS, a property site plan is attached hereto as Exhibit “A” (the “Property”); and

WHEREAS, the Property is currently zoned as Downtown Bastrop Form-Based Code – Historic Main Street (HMS); and

WHEREAS, pursuant to Section 10.4 of the City’s Zoning Ordinance, notice of the CUP was given to all property owners located within two hundred (200) feet of the Property, and the Planning and Zoning Commission of the City of Bastrop held a public hearing on the CUP request on April 25, 2019; and

WHEREAS, the applicant’s proposed development, with the stated conditions, meets the intent of the Zoning Ordinance, Section 33.2, Conditional Use Permit criteria; and

WHEREAS, after notice and hearing, the Planning and Zoning Commission recommended approval of the proposed request, subject to certain conditions set forth herein; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicant, and all other information presented, City Council finds by a majority vote of all members that it is in the public interest to approve the CUP.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS THAT:

Section 1: A Conditional Use Permit to add a brewery, distillery, and winery use at 919 Main Street, within the city limits of Bastrop, Texas as more particularly shown on Exhibits A, shall be and is hereby approved with the following conditions:

- a. Construction and permits submitted shall be in conformance with the City of Bastrop regulations.
- b. All necessary permits for the proposed development shall be acquired prior to construction on the subject property.
- c. A Building Permit shall be applied for and secured within one (1) year from the date the conditional use permit is granted (second reading of the ordinance).
- d. The wastewater discharge will comply with the City of Bastrop utility requirements in Chapter 13, Article 13.03, Sections 1 – 10, which regulates the discharge of water in public sewers.

Section 2: If any provision of this ordinance or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 3: This ordinance shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

READ and APPROVED on First Reading on the 14th day of May 2019.

READ and ADOPTED on the Second Reading on the 28th day of May 2019.

APPROVED:

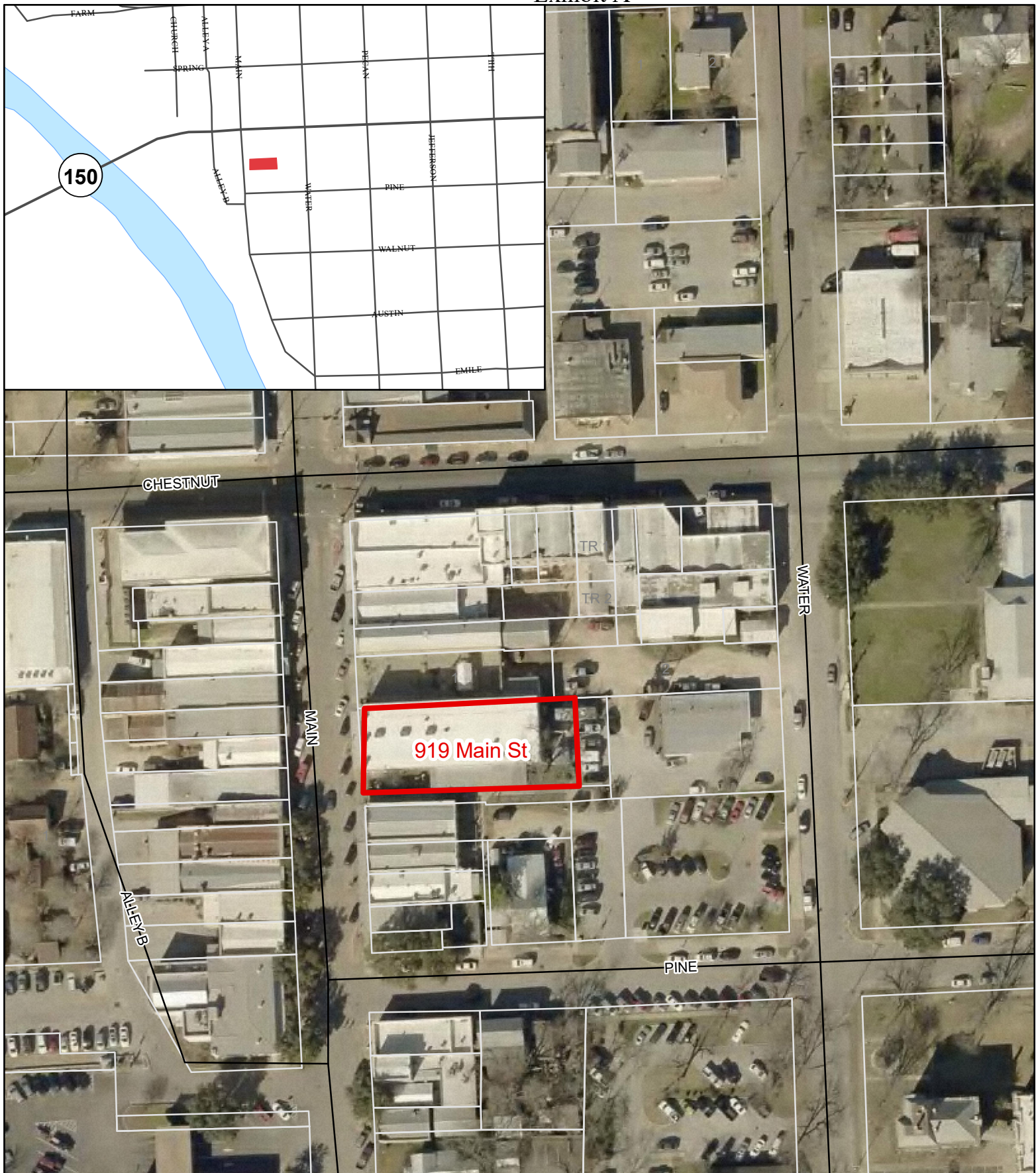
Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



Location Map
Conditional Use Permit
919 Main St



0 25 50 100 Feet



The accuracy and precision of this cartographic data is limited and should be used for information /planning purposes only. This data does not replace surveys conducted by registered Texas land surveyors nor does it constitute an "official" verification of zoning, land use classification, or other classification set forth in local, state, or federal regulatory processes. The City of Bastrop, nor any of its employees, do not make any warranty of merchantability and fitness for particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.

Date: 4/11/2019

Raymond Keyrouz
602 Brewery LLC
919 Main Street
Bastrop, TX 78602
512-773-5908

03-08-2019

City Of Bastrop

To whom this may concern:

My name is Raymond Keyrouz, president of 602 Brewery LLC.

We recently acquired the restaurant (The 602 on Main), located at 919 Main Street, Bastrop. It is currently in operation and we plan to keep it as a restaurant, with the addition of a brewery.

Once our brewery is in operation, we plan to brew 2-3 times a week, producing around 300 gallons of beer a week.

Our brewing system is a 3 barrel system capable of producing 90 gallons each time we brew.

Any grains we use for brewing, (roughly about 300-350 lbs each time we brew), will be donated to local farmers to feed their livestock, or to be composted.

Thank you for considering our project, (The 602 Project).

RECEIVED

FEB 11 2019

By



Attachment 2



Nick Smith
Senior Planner
325 Simpson Ave.
Cedar Creek, TX 78612
(512) 409-6819
nick@centexblueprint.com

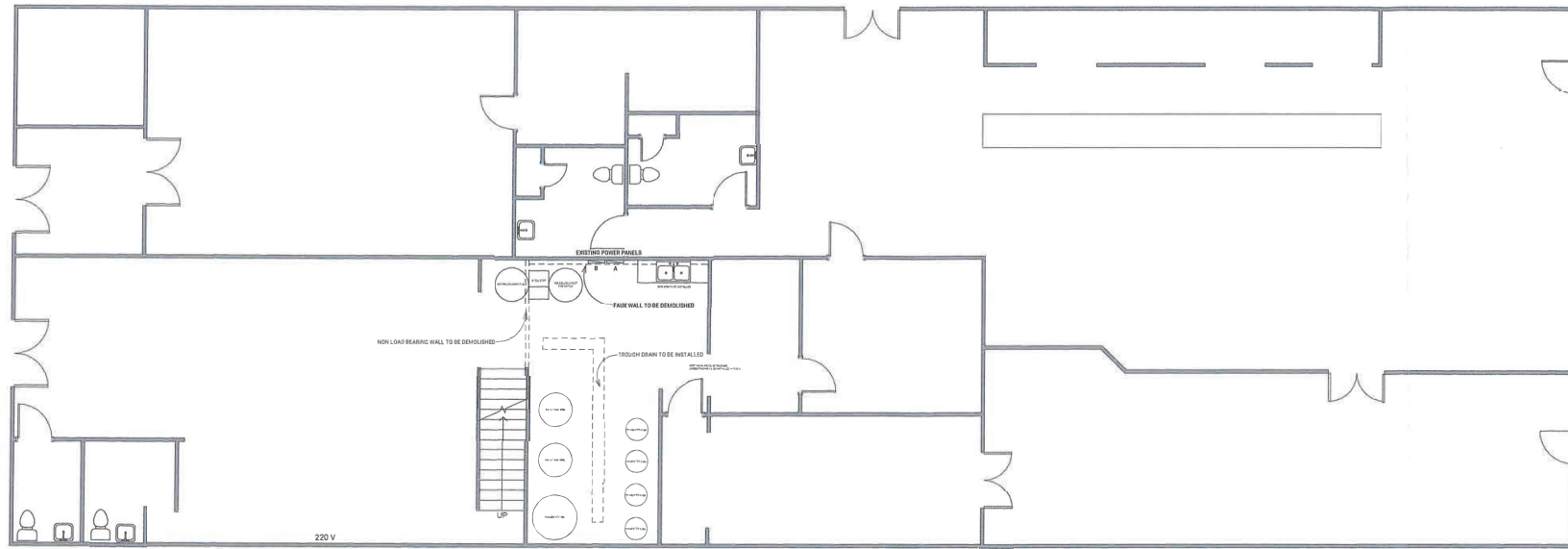
602 MAIN BREWERY
919 MAIN STREET
BASTROP TX 78602



RECEIVED

FEB 11 2019

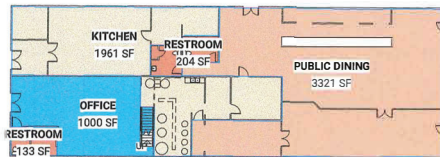
By



OCC. LOAD
3/16" = 1'-0"

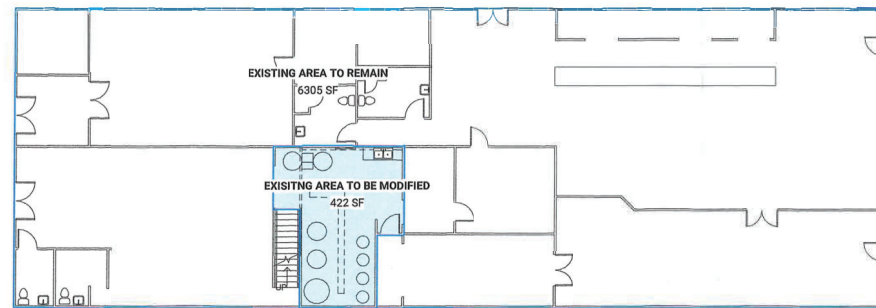
OCCUPANCY LOAD CALCULATION TABLE				
Classification	Name	Area	Occupancy Load	Occupancy Load Calculation
Kitchen, Commercial	KITCHEN	1961 SF	200	10
Business	OFFICE	1000 SF	100	10
Unconcentrated Assembly	PUBLIC DINING	3321 SF	15	221
Business	RESTROOM	133 SF	100	1
Business	RESTROOM	204 SF	100	2
		6618 SF		245

AREA		
Comments	Name	Area
Non HVAC	EXISTING AREA TO BE MODIFIED	422 SF
Non HVAC	EXISTING AREA TO REMAIN	6305 SF
	TOTAL BUILDING AREA	6727 SF



OCC. LOAD
1" = 20'-0"

Schema Legend
 KITCHEN
 OFFICE
 PUBLIC DINING
 RESTROOM



AREA PLAN
1" = 10'-0"

REMODEL

FLOOR PLAN

Project Number 19.0
Date 3/8/2019 10:00:26 AM

A3

Scale As indicated

Notice of Pending Conditional Use Permit Approval
City of Bastrop
Planning & Zoning Commission
And City Council



Dear Property Owner:

The Planning & Zoning Commission will conduct a public hearing on Thursday, April 25, 2019 at 6:00 p.m. and the City Council will conduct a public hearing (first reading) Tuesday, May 14, 2019 at 6:30 p.m. in the City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas on the request to approve an ordinance for a Conditional Use Permit to allow a brewery, distillery and wine use on 0.266 acres, Building Block 4, West of Water Street located at 919 Main Street, an area zoned Downtown Bastrop Form Based Code - HMS, Historic Main Street, within the city limits of Bastrop.

Applicant: Raymond Keyrouz

Owner: Raymah Davis

Address: 919 Main Street

Legal Description: 0.266 acres, Building Block 4, West of Water Street

The site location map and a letter from the property owner is attached for reference.

As a property owner within 200 feet of the above referenced property, you are being notified of the upcoming meetings per the Bastrop Code of Ordinances CUP Regulations. For more information on this project, you can contact the Planning & Development offices at (512) 332-8840, plan@cityofbastrop.org, or visit the office at 1311 Chestnut Street, Bastrop, Texas.

For additional information, please visit or call the Planning & Development offices.

~~X~~

PROPERTY OWNER'S RESPONSE

As a property owner within 200': (please check one)

- ☒ I am in favor of the request.
☐ I am opposed to the request.
☐ I have no objection to the request.

Property Owner Name: CHAREIL, INC (LAW OFF. OF DEREK VAN GILDER)
Property Address: 916 MAIN ST
Phone (optional): 512-303-4747
Mailing Address: - SAME -
Email (optional): derek@vangilderlaw.com
Property Owner's Signature: Derek Van Gilder

Comments: (Optional)

None -

Please provide reply to the address below, via fax (512) 332-8829, or email: plan@cityofbastrop.org

RE: 919 Main_602 Brewery CUP

PLANNING & DEVELOPMENT

TUCK LAW GROUP, PLLC

906 Main Street, Bastrop, Texas 78602
Tel: (512) 321-4944 ■ Fax: (512) 321-4946

Joe Grady Tuck

Elizabeth Beyer

Marilyn Poole

Chris Kirby

joe@tucklawcorp.com

elizabeth@tucklawgroup.com

marilyn@tucklawgroup.com

chris@tucklawgroup.com

April 17, 2019

plan@cityofbastrop.org

City of Bastrop

Planning & Zoning Commission

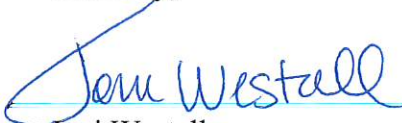
And City Council

Re: 919 Main Street

Good Afternoon,

Please see the attached Property Owner's Response for the Conditional Use Permit relating to 919 Main Street. Please do not hesitate to give us a call if we can be of further assistance.

Sincerely,



Joni Westall,

Administrator

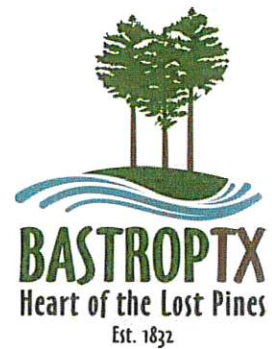
Tuck Law Group, PLLC

CC: Raymond Keyrouz via: Raymond.keyrouz@gmail.com

Raymah Davis via: raymah.davis@co.bastrop.tx.us

rcvd 4/17/19 vnh

Notice of Pending Conditional Use Permit Approval
City of Bastrop
Planning & Zoning Commission
And City Council



Dear Property Owner:

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Applicant: Raymond Keyrouz
Owner: Raymah Davis
Address: 919 Main Street
Legal Description: 0.266 acres, Building Block 4, West of Water Street

The site location map and a letter from the property owner is attached for reference.

As a property owner within 200 feet of the above referenced property, you are being notified of the upcoming meetings per the Bastrop Code of Ordinances CUP Regulations. For more information on this project, you can contact the Planning & Development offices at (512) 332-8840, plan@cityofbastrop.org, or visit the office at 1311 Chestnut Street, Bastrop, Texas.

For additional information, please visit or call the Planning & Development offices.

✂

PROPERTY OWNER'S RESPONSE

As a property owner within 200': (please check one)

- ☒ I am in favor of the request.
☐ I am opposed to the request.
☐ I have no objection to the request.

Property Owner Name: Joe Grady Tuck
Property Address: 906 main
Phone (optional): 512-321-4944
Mailing Address: _____
Email (optional): _____
Property Owner's Signature: [Signature]

Comments: (Optional)

rcvd 4/17/19 vnh

Please provide reply to the address below, via fax (512) 332-8829, or email: plan@cityofbastrop.org

RE:919 Main_602 Brewery CUP

PLANNING & DEVELOPMENT

Notice of Pending Conditional Use Permit Approval
City of Bastrop
Planning & Zoning Commission
And City Council



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PROPERTY OWNER'S RESPONSE

As a property owner within 200': (please check one)

- ☒ I am in favor of the request.
☐ I am opposed to the request.
☐ I have no objection to the request.

rcvd 4/18/19 wnh

Property Owner Name: DAVID SARTAIN
Property Address: 905 MAIN ST
Phone (optional): _____
Mailing Address: 201 HUNTERS CROSSING BLVD #10-154 BASTROP, TX 78602
Email (optional): _____
Property Owner's Signature: [Signature]
Comments: (Optional)

Please provide reply to the address below, via fax (512) 332-8829, or email: plan@cityofbastrop.org

RE:919 Main_602 Brewery CUP

PLANNING & DEVELOPMENT

Notice of Pending Conditional Use Permit Approval
City of Bastrop
Planning & Zoning Commission
And City Council



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Applicant: Raymond Keyrouz
Owner: Raymah Davis
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The site location map and a letter from the property owner is attached for reference.

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For additional information, please visit or call the Planning & Development offices.

PROPERTY OWNER'S RESPONSE

As a property owner within 200': (please check one)

- ☒ I am in favor of the request.
☐ I am opposed to the request.
☐ I have no objection to the request.

Property Owner Name: Ann VanZandt for Lost Pines Business Properties LLC
Property Address: 711 Chestnut St
Phone (optional): _____
Mailing Address: 711 Chestnut St
Email (optional): _____
Property Owner's Signature: Ann VanZandt

Comments: (Optional)

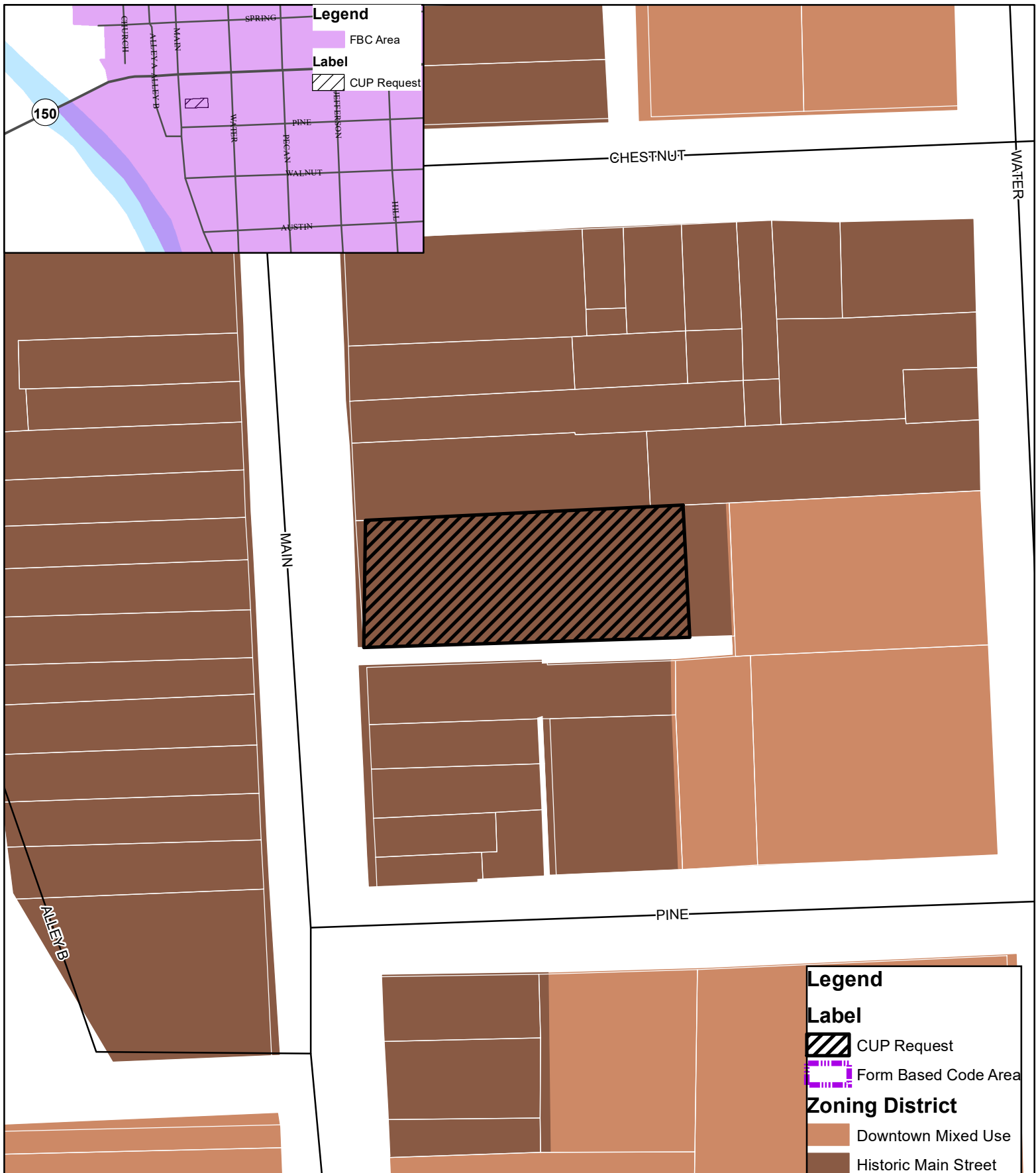
rcvd with 4/22/19

Please provide reply to the address below, via fax (512) 332-8829, or email: plan@cityofbastrop.org

RE:919 Main_602 Brewery CUP

PLANNING & DEVELOPMENT

Attachment 4



Attachment 4 Location and Zoning Map Conditional Use Permit Request 919 Main Street

1 inch = 66.67 feet



The accuracy and precision of this cartographic data is limited and should be used for information /planning purposes only. This data does not replace surveys conducted by registered Texas land surveyors nor does it constitute an "official" verification of zoning, land use classification, or other classification set forth in local, state, or federal regulatory processes. The City of Bastrop, nor any of its employees, do not make any warranty of merchantability and fitness for particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.

Date: 4/17/2019

919 Main Street Brewery CUP

Conduct a public hearing and consider action to approve the first reading of Ordinance No. 2019-17 of the City Council of the City of Bastrop, Texas, granting a Conditional Use Permit to allow a brewery, distillery and winery use on 0.266 acres of Building Block 4, West of Water Street located at 919 Main Street, an area zoned Downtown Bastrop Form-Based Code - HMS, Historic Main Street within the city limits of Bastrop, Texas; as shown in Exhibits A; setting out conditions; providing a severability clause; establishing an effective date, and move to include on the May 28, 2019 Consent Agenda for second reading.



Request

- Add a brewery to the existing 602 on Main restaurant.
- Brewery:
 - 3-barrel system
 - Produces up to 90 gallons a cycle
 - 300 gallons brewed per week
- Allowed by CUP under the brewery, distillery and winery use in the Downtown Bastrop Form-based Code

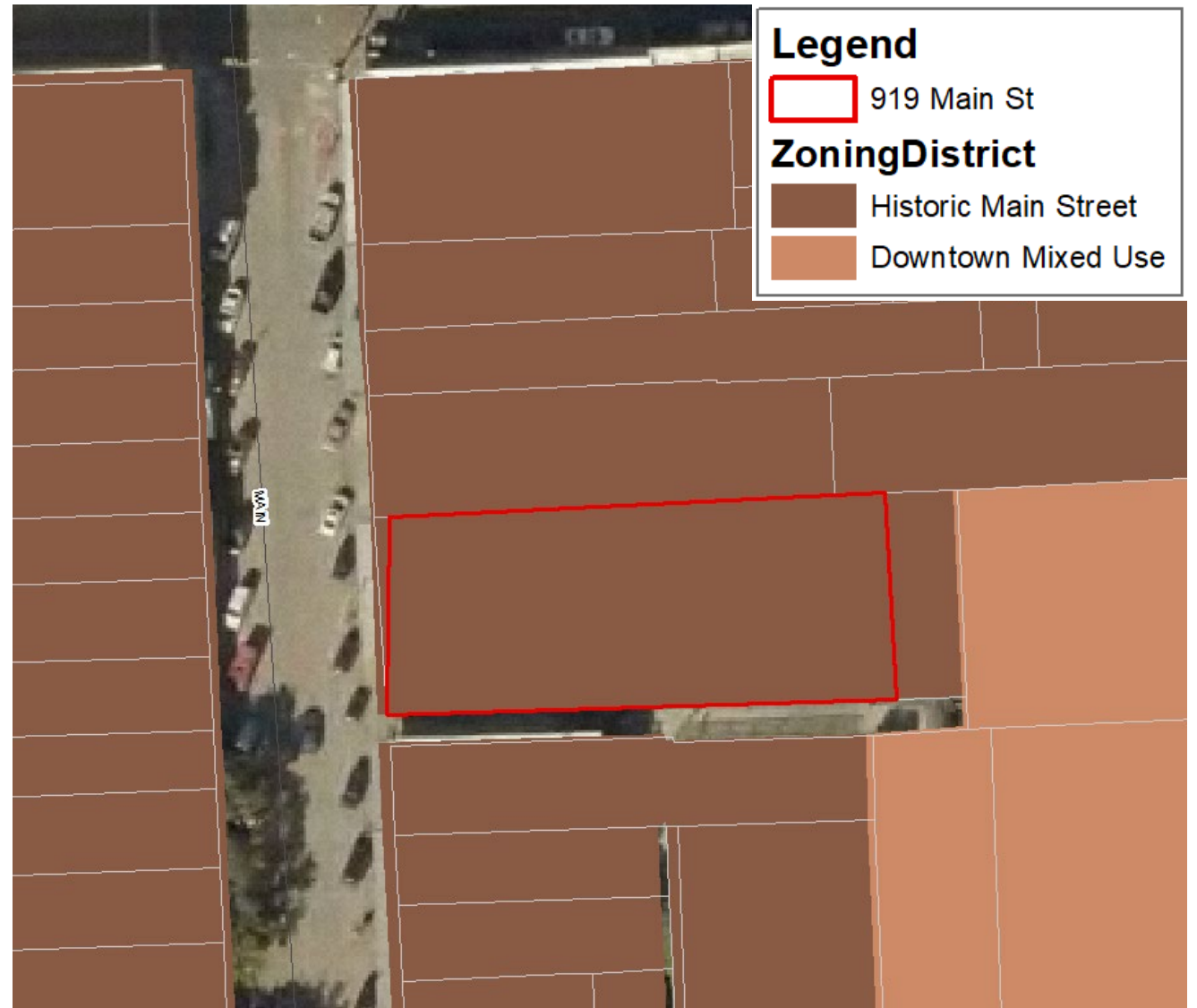


Location – 919 Main Street



Zoning

- Downtown Bastrop From-based Code - Historic Main Street



Section 33.2 of the Zoning Ordinance CUP Criteria

- i. The use is harmonious and compatible with surrounding existing uses or proposed uses;

Small scale production businesses and assembly space is compatible with the surrounding uses of historic downtown offices, retail, and restaurants.

- ii. The activities requested by the applicant are normally associated with the permitted uses in the base district;

Small scale brewery within a restaurant is compatible with the Historic Main Street zoning district.

- iii. The nature of the use is reasonable;

Small retail breweries, distilleries, and wineries are a reasonable size and scale use for the downtown.



Section 33.2 of the Zoning Ordinance CUP Criteria (cont.)

- iv. Any negative impact on the surrounding area has been mitigated;

The production operations of the use will not produce any noxious emissions or noise. The wastewater discharge will comply with the City of Bastrop utility requirements in Chapter 13, Article 13.03, Sections 1 – 10, which regulates the discharge of water in public sewers.

- v. Any additional conditions specified [to] ensure that the intent of the district purposes are being upheld.

No additional criteria are required beyond mitigating production waste in the wastewater discharge.



Planning & Zoning Commission Report

- The P&Z met at there regular meeting on April 25, 2019 to hold a public hearing and consider the item. A recommendation of approval was approved by a vote of 8-0.



Compliance with the Moratorium

- This qualifies for an Exemption, as a No Impact project, as no new exterior construction is proposed.



Recommendation

Conduct public hearing and consider action approve with the following conditions:

Standard Conditions per Section 33.2

1. Construction shall be in conformance with the City of Bastrop regulations.
2. All necessary permits for the proposed development shall be acquired prior to occupying the building.
3. A Building Permit shall be applied for and secured within one year from the date the Conditional Use Permit is granted (second reading of the ordinance).

Additional Condition for the Use

4. The wastewater discharge will comply with the City of Bastrop utility requirements in Chapter 13, Article 13.03, Sections 1 – 10, which regulates the discharge of water in public sewers.



Questions?





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 13D

TITLE:

Consider action to approve the second reading of Ordinance No. 2019-17 of the City Council of the City of Bastrop, Texas, enacting a new Chapter 16, "Stormwater Drainage," of the Bastrop Code of Ordinances establishing stormwater drainage requirements in order to minimize flood risks, stabilize and decrease stream bank and channel erosion, and facilitate comprehensive watershed-based planning, and repealing Emergency Ordinance 2018-2, Amendment to Emergency Ordinance 2018-2-A, and Section 1.40, "Drainage Criteria and Design Standards," Article 5.30, "Alleys," Article 5.90, "Drainage and Storm Sewers," Section 6.80.3, "Roadside Drainage Ditches," Article 6.100 "Rural Subdivision Drainage Requirements," and Article 7.50, "Drainage" from Chapter 10, "Subdivisions" of the Bastrop Code of Ordinances; adopting a stormwater drainage design manual ("The City of Bastrop Stormwater Drainage Design Manual"); and establishing an effective date.

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services

BACKGROUND/HISTORY:

On August 14, 2018, City Council adopted an Emergency Drainage Ordinance while a new Stormwater Drainage Ordinance could be written and adopted. Paramount to this policy decision is drainage continues to be a significant concern for all citizens in Bastrop. The City has experienced four (4) FEMA-declared flooding disasters since 2015, and it was determined that the City's current regulations and review process were inadequate and insufficient to prevent, mitigate, or minimize future flooding events. This Emergency Drainage Ordinance required pre-submission meetings with City Staff and an exemption/exception process with City Council. It was also noted at the time of adoption that before a new Stormwater Drainage Ordinance could be written and adopted, Atlas 14 data needed to be finalized and Halff Associates needed to complete the 2-D Model for Gills Branch.

POLICY EXPLANATION:

This Stormwater Drainage Ordinance meets Council's intent to have appropriate drainage regulations that do not create detrimental development. Atlas 14 information has been published and its findings have been incorporated into this Ordinance. Halff Associates have completed the Gills Branch 2-D Model, which has established policy requirements in this Ordinance. In addition, it incorporates the pre-submission process that puts drainage at the "forefront" of the process instead of being an "after-thought." This Ordinance will only require a permit when the addition of 5,000 square feet of impervious cover or land disturbance of 10,000 square feet occurs.

This Ordinance will direct the customers to a new stormwater Drainage Design Manual that will give guidance for detention and better control velocities leaving the property. It will also provide for a new stormwater permit process at the time of final platting including a permit application and several checklists. Once a detention/drainage structure is built, it must function correctly in

perpetuity. Therefore, this Ordinance requires a maintenance plan and fiscal surety to ensure it always functions as designed. Other notable improvements include:

1. Minimizing flood risks associated with land development:
 - Maintains or improves existing pre-development runoff discharges.
 - Requires downstream assessments that consider the entire tributary watershed by seeing what the downstream system can handle first.
 - Requires stormwater control measures to mimic pre-development hydrology and provides low impact development techniques as an optional alternative.
2. Facilitates watershed-based planning that promotes fiscally sustainable and geographically sensitive land development:
 - Focuses on integrating stormwater management into early concept-level stages of land development process.
 - Moves discussion of stormwater to the forefront rather than be an afterthought.
 - Identified and preserves sensitive natural areas (i.e. floodplains, steep slopes), while also minimizing impervious area.
 - Encourages innovative approaches to stormwater management.
3. Stabilizes and decreases streambank erosion:
 - Reinforces/stabilizes downstream conditions.
 - Requires control of channel forming a 2-year, 24-hour storm event.
 - Keeps post-development discharges at or below allowable velocity limits.

There was a Street & Drainage Rodeo held on April 10, 2019, where input on this Ordinance was sought from citizens and Engineering Firms. Comments received and the City's response to each comment has been provided in a separate attachment.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider action to approve the second reading of Ordinance No. 2019-17 of the City Council of the City of Bastrop, Texas, enacting a new Chapter 16, "Stormwater Drainage," of the Bastrop Code of Ordinances establishing stormwater drainage requirements in order to minimize flood risks, stabilize and decrease stream bank and channel erosion, and facilitate comprehensive watershed-based planning, and repealing Emergency Ordinance 2018-2, Amendment to Emergency Ordinance 2018-2-A, and Section 1.40, "Drainage Criteria and Design Standards," Article 5.30, "Alleys," Article 5.90, "Drainage and Storm Sewers," Section 6.80.3, "Roadside Drainage Ditches," Article 6.100 "Rural Subdivision Drainage Requirements," and Article 7.50, "Drainage" from Chapter 10, "Subdivisions" of the Bastrop Code of Ordinances; adopting a stormwater drainage design manual ("The City of Bastrop Stormwater Drainage Design Manual"); and establishing an effective date.

ATTACHMENTS:

- Drainage Ordinance
- Stormwater Drainage Design Manual
- PowerPoint Presentation
- Comments from Engineering Firms/Response from City

CITY OF BASTROP, TX

ORDINANCE NO. 2019-17

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, ("CITY") ENACTING CHAPTER 16, TITLED "STORMWATER DRAINAGE," SECTIONS 16.01.001 THROUGH 16.01.015; ESTABLISHING DRAINAGE CONSTRUCTION AND DEVELOPMENT STANDARDS AND PROCEDURES FOUND IN THE CITY OF BASTROP STORMWATER DRAINAGE DESIGN MANUAL; AMENDING APPENDIX A – FEE SCHEDULE, ARTICLE A3.22 - CULVERT INSTALLATIONS OR DRAINAGE CHANNEL MODIFICATIONS; AND PROVIDING FOR FINDINGS OF FACT, PURPOSE AND INTENT, DEFINITIONS, APPLICABILITY, JURISDICTION, TECHNICAL AND PERFORMANCE STANDARDS, PERMITTING PROCEDURES AND FEES, STORMWATER MANAGEMENT PLAN, MAINTENANCE AGREEMENTS, EXEMPTIONS, FINANCIAL GUARANTEE, EXEMPTIONS AND WAIVERS, ENFORCEMENT, APPEALS, A REPEALER, AND SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Bastrop ("City Council") seeks to promote orderly, safe and reasonable development of land within the City Limits and Extraterritorial Jurisdiction ("ETJ"); and

WHEREAS, the City of Bastrop, Texas (the "City") is a Home-Rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council, as a duly-elected legislative body, finds it is facing significant historic and contemporary drainage and flooding challenges that are not adequately addressed under the existing permitting review process; and

WHEREAS, Texas Local Government Code Section 51.001 provides the City general authority to adopt an Ordinance or police regulations that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, Texas Local Government Code Chapters 211, 213, 214, and 217 grant the City certain regulation authority concerning construction, land use, nuisances, structures, and development-related activities; and

WHEREAS, the City is in the process of studying and evaluating the impact of further development; appropriate impervious cover limitations; the need for drainage and detention improvements; appropriate zoning districts and district regulations; appropriate cut and fill regulations; and issues that will affect future growth and development of the area within its jurisdiction; and

WHEREAS, the City has determined that it is necessary to study and update its development ordinances and procedures in order to clarify and improve its planning policies based on the forthcoming regulations, strengthening the connection between the City's Code of Ordinances and the goals and needs of the City's citizenry, and to protect the health, safety, environment, quality of life, and general welfare of its citizens; and

WHEREAS, the City has experienced historical flooding events over the decades and four (4) Federal Emergency Management Agency ("FEMA")-declared disasters in the past three (3) years; and

WHEREAS, to address the fact that the City's previous review process for drainage and stormwater improvements were inadequate and insufficient to prevent, mitigate, or minimize future flooding events, the City Council enacted Emergency Ordinance 2018-2 on August 14, 2018, which provided additional requirements mandating data relating to drainage and flooding for the acceptance, processing, and approval of certain permits in the city limits and ETJ, and on August 23, 2018, the City Council enacted an amendment to that ordinance; and

WHEREAS, the City Council finds that the review process created by Emergency Ordinance 2018-2, as amended by 2018-2-A, is necessary to prevent, mitigate, and minimize future flooding events, and should therefore be codified in the City's Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein. In addition, The City of Bastrop finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

(1) degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

(2) diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

(3) alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

(4) reduce the quality of groundwater by increasing pollutant loading.

(5) threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

(6) threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.

(7) undermine floodplain management efforts by increasing the incidence and levels of flooding.

SECTION 2. APPLICABILITY

The City of Bastrop hereby enacts this Ordinance to adopt standard policies and criteria for the design and implementation of stormwater drainage infrastructure, development and implementation of stormwater management plans, permitting, maintenance agreements, and financial guarantees for development within its city limits and ETJ.

SECTION 3. PURPOSE

The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

(a) minimize flood risks to citizens and properties related to increases in peak runoff rates, volumes and velocities.

(b) stabilize and decrease streambank and channel erosion within downstream receiving waterways.

(c) facilitate comprehensive watershed-based planning that promotes fiscally sustainable and geographically sensitive land development and future growth.

SECTION 4. INTENT

In order to achieve the purposes above, it is the City's intent to require that new land development strongly consider low-impact development (LID) and green infrastructure approaches to stormwater management to mimic and restore pre-development hydrology. Further supporting information describing LID strategies is provided within the

City of Bastrop Stormwater Drainage Design Manual, as amended. It is also the intent of the City of Bastrop that the requirements outlined in this ordinance regulate post-construction stormwater discharges to downstream receiving waterbodies. This ordinance may be applied on a site-by-site basis. However, the City of Bastrop recognizes that the preferred method of achieving the stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices, or systems, any of which may be designed to convey and manage runoff from more than one site prior to discharge to downstream receiving waterbodies. Where such plans are in conformance with the performance standards outlined in the City of Bastrop's Stormwater Drainage Design Manual and this ordinance and have been approved by the City of Bastrop, it is the intent of this ordinance that the approved plan be used to identify post-construction stormwater management measures acceptable for the community.

SECTION 5. ENACTMENT

The Code of Ordinances of the City of Bastrop is amended to add a new Chapter 16, which is titled "Stormwater Drainage," and to amend Article A3.22, "Culvert Installations or Drainage Channel Modifications," of Appendix A, as described and attached hereto as Exhibit "A."

SECTION 6. REPEALER

This Ordinance expressly repeals Emergency Ordinance 2018-2 and the Amendment to Emergency Ordinance 2018-2-A. This Ordinance also expressly repeals Section 1.40, "Drainage Criteria and Design Standards," Article 5.30, "Alleys," Article 5.90, "Drainage and Storm Sewers," Section 6.80.3, "Roadside Drainage Ditches," Article 6.100 "Rural Subdivision Drainage Requirements," and Article 7.50, "Drainage" from Chapter 10, "Subdivisions" of the Code of Ordinances of the City of Bastrop. In the case of any conflict between other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 7. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

SECTION 8. ENFORCEMENT

The City 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 such violation is hereby declared to be a nuisance.

Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and/or equity.

SECTION 9. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

SECTION 10. OPEN MEETINGS

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.

READ & ACKNOWLEDGED on First Reading on the ____ day of April 2019.

READ & APPROVED on the Second Reading on the ____ day of May 2019.

APPROVED:

by

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

City of Bastrop Code of Ordinances

Chapter 16 – STORMWATER DRAINAGE

Sec. 16.01.001 - APPLICABILITY AND JURISDICTION.

(a) *Applicability.*

(1) Where not otherwise limited by law, this ordinance applies to land development activity that meets one or more of the following criteria:

(A) any development, including redevelopment and in-fill development, that results in 10,000 square feet or more of land disturbing activity;

(B) any development, including redevelopment and in-fill development, that results in the addition of 5,000 square feet or more of impervious area;

(C) a subdivision plat; or

(D) a development of any size that, in the opinion of the City Engineer, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

(2) A site that meets any of the following criteria is exempt from the requirements of this ordinance:

(A) a site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre;

(B) nonpoint discharges from agricultural facilities and practices;

(C) nonpoint discharges from silviculture activities;

(D) routine maintenance for project sites, with under 5 acres of land disturbance, if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility; or

(E) underground utility construction such as water, sewer, power, and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(b) *Jurisdiction.* This ordinance applies to land disturbing construction activities on land:

(1) within the City Limits of the City of Bastrop;

(2) within the City's Extraterritorial Jurisdiction (to the extent authorized by the 1445 agreement between the City of Bastrop and Bastrop County, as amended); or

(3) subject to a development agreement between a developer and the City.

Sec. 16.01.002 - DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Business day means a day the office of the City is routinely and customarily open for business.

City Engineer means the registered engineer designated by the City Manager to review engineering aspects of projects located within the City.

City Manager means the City Manager of the City of Bastrop.

City of Bastrop Stormwater Drainage Design Manual means the stormwater drainage design manual adopted by the City of Bastrop concurrently with the adoption of this ordinance, as amended and incorporated by reference.

Connected Imperviousness means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

Development means any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging,

filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

Development Review Committee ("DRC") means a group consisting of the Director of Planning and Development, the City Engineer, and the Public Works Director.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Extraterritorial Jurisdiction ("ETJ") means the area outside of the City of Bastrop municipal limits in which the City exercises joint zoning authority with Bastrop County.

Final Stabilization means that all land disturbing construction activities at the construction site have been completed and that:

(A) a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or

(B) equivalent permanent stabilization measures have been employed.

Financial Guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City by the Responsible Party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

Impervious Surface means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

In-fill Development means development of vacant parcels, or demolition of existing structures within previously built areas, which are already served by public infrastructure, such as transportation, water, wastewater, and other utilities.

Infiltration means the entry of precipitation or runoff into or through the soil.

Infiltration System means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop

downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

Land Development Activity means any construction related activity that results in the addition or replacement of impervious surfaces such as rooftops, roads, parking lots, and other structures. Measurement of areas impacted by land development activity includes areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Land Disturbing Construction Activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

Maintenance Agreement means a legal document that provides for long-term maintenance of stormwater management practices.

Off-site means located outside the property boundary described in the permit application.

On-site means located within the property boundary described in the permit application.

Performance Standard means a narrative or measure specifying the minimum acceptable outcome for a facility or practice.

Permit Administration Fee means a sum of money paid to the City by the permit applicant for the purpose of recouping the expenses incurred by the City in administering the permit.

Pervious Surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Post-construction Site means a construction site following the completion of land disturbing construction activity and final site stabilization.

Pre-development Condition means the extent and distribution of land cover types present before the initiation of land disturbing construction activity,

assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Public Works Director means the individual appointed by the City Manager to administer the installation and operation of city infrastructure.

Redevelopment means areas where, in the determination of the City Engineer, development is replacing older development.

Responsible Party means any entity holding fee title to the property, or an entity contracted to develop the property.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Stop Work Order means an order issued by the City which requires that all construction activity on the site be stopped.

Stormwater Management Plan is a comprehensive plan designed to reduce the discharge of runoff from hydrologic units on a regional or municipal scale.

Stormwater Management Permit means a written authorization made by the City to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Stormwater Maintenance Plan means the set of tasks that must be performed in order to operate and maintain a stormwater management facility.

Technical Standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Zoning Board of Adjustment ("ZBA") means the citizen board appointed by the City Council pursuant to Section 9, of Chapter 14 of the Bastrop Code of Ordinances, as provided by Texas Local Government Code Chapter 211.

Sec. 16.01.003 - TECHNICAL STANDARDS, DESIGN METHODS AND PROCEDURES.

All drainage facilities and practices required to comply with this ordinance shall comply with the technical standards and design methods, and follow the processes specified in the City of Bastrop Stormwater Drainage Design Manual, incorporated into this ordinance by reference. Where not superseded by stricter requirements in the City of Bastrop Stormwater Drainage Design Manual, the following standards are also incorporated by reference:

- (1) other design guidance and technical standards identified or developed by the Texas Commission on Environmental Quality (TCEQ) under the Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR150000.
- (2) other technical standards approved by the City Engineer.
- (3) the City of Bastrop Comprehensive Master Plan.
- (4) the effective Flood Insurance Study (FIS) and effective Flood Insurance Rate Maps (FIRM) prepared by FEMA.

Sec. 16.01.004 - PERFORMANCE STANDARDS.

(a) *Stormwater drainage performance standards.* All drainage facilities and practices required to comply with this ordinance shall meet performance standards specified in the City of Bastrop Stormwater Drainage Design Manual.

(b) *Location and regional treatment option requirements.*

(1) Stormwater Drainage Facilities required to meet this ordinance may be located on-site or off-site as part of a regional stormwater device, practice, or system.

(2) The City may approve off-site rather than on-site management measures only if all of the following conditions are met:

(A) the City determines that the post-construction runoff is covered by a stormwater drainage system plan that is approved by the City of Bastrop and that contains drainage requirements consistent with the purpose and intent of this ordinance; and

(B) the off-site facility:

i. will be in place before the need for the facility arises as a result of on-site construction activities;

ii. is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance; and

iii. has a legally obligated entity responsible for its long-term operation and maintenance.

(3) Where a regional treatment option exists such that the City may exempt the applicant from all or part of the minimum on-site stormwater drainage requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the City. In determining the fee for post-construction runoff, the City shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(c) *Alternative Drainage Requirements.* The City Engineer may establish alternative stormwater drainage requirements to those set forth in the City of Bastrop Stormwater Drainage Design Manual, if the City determines that an added level of protection is needed to address downstream stormwater drainage issues based on a regional study or engineering plan commissioned by the City; or that extraordinary hardships or practical difficulties may result from strict compliance with these regulations. Exceptions or waivers to stormwater drainage requirements set forth in this ordinance and the City of Bastrop Stormwater Drainage Design Manual shall be considered in accordance with Section 16.01.013.

Sec. 16.01.005 - PERMITTING REQUIREMENTS, PROCEDURES, AND FEES.

(a) *Permit required.* Before starting any land disturbing construction activity, the Responsible Party shall first:

(1) request and participate in a pre-application meeting with the Directors (or their designees) of the City Planning Department, City Engineer's Office, and Public Works Department;

(2) receive a post-construction runoff permit from the City; and

(3) receive a permit from the City as provided in this section.

(b) *Permit application and fees.* Unless specifically excluded by this ordinance, any Responsible Party desiring a permit shall submit to the City a permit application made on a form provided by the City for that purpose.

(1) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a stormwater management plan, a stormwater operations and maintenance plan, a maintenance agreement (where required) and, where not otherwise covered by a developer's agreement, a non-refundable permit administration fee. The permit administration fee, where applicable, shall be consistent with a fee schedule maintained by the City.

(2) The stormwater management plan, the stormwater operations and maintenance plan, the maintenance agreement, and the erosion control plan shall be prepared to meet the requirements outlined in the City of Bastrop Stormwater Drainage Design Manual.

(3) All applications for development that may impact drainage must also be accompanied by a signed, sealed and dated letter from a registered engineer certifying that they have personally reviewed the topography and completed a field investigation of the existing and proposed flow patterns for stormwater runoff from the subject development to the main stem of all creeks that may impact the project, and build-out conditions allowable by zoning, restrictive covenant or plat note, that the stormwater flows from the subject development will not cause any additional adverse flooding impacts for storms of magnitude up through the one-hundred (100) year event.

(c) *Review and approval of permit application.* The City shall review any permit application that is submitted with a stormwater management plan, stormwater maintenance plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(1) The City may request additional information if required for a complete application within 15 business days of receipt of any permit application. Within 30 business days of the receipt of a complete permit application, the City shall inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved based on the requirements of this ordinance. The 30-day review period begins once the City has received all information necessary for the review and deems the application is complete, or 15 business days after receipt of the permit application if additional information has not been requested.

(2) If the stormwater permit application, stormwater management plan, stormwater maintenance plan, and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the City shall issue the permit.

(3) If the stormwater permit application, stormwater management plan, stormwater maintenance plan, or maintenance agreement is disapproved, the

City shall detail in writing the reasons for disapproval so that the applicant may apply for a permit after correcting the deficiencies.

(4) The City may request additional information from the applicant while reviewing the application. If additional information is submitted, the City shall have 10 additional business days from the date the additional information is received to inform the applicant that the application, stormwater management plan, stormwater maintenance plan, and maintenance agreement are either approved or disapproved.

(d) *Permit requirements.* All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City may suspend or revoke a permit for violation of a permit condition, following written notification of the Responsible Party. An action by the City to suspend or revoke this permit may be appealed in accordance with Section 16.01.012.

(1) Compliance with this permit does not relieve the Responsible Party of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(2) The Responsible Party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and the permit.

(3) The Responsible Party shall notify the City at least two business days before commencing any work in conjunction with the stormwater management plan, and within three business days upon completion of the stormwater management practices. If required as a special condition under Section 16.01.006 of this Chapter, the Responsible Party shall make additional notification according to a schedule set forth by the City so that practice installations can be inspected during construction.

(4) Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer in the State of Texas. Completed stormwater management practices must pass a final inspection by the City or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The City or its designee shall notify the Responsible Party in writing of any changes required in such practices to bring them into compliance with the conditions of the permit.

(5) The Responsible Party shall notify the City of any proposed modifications to an approved stormwater management plan. The City may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the Responsible Party.

(6) The Responsible Party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the City of Bastrop or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(7) The Responsible Party authorizes the City to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property, or to charging such costs against the financial guarantee posted under Section 16.01.011.

(8) If so directed by the City, the Responsible Party shall repair at the Responsible Party's own expense all damage to adjoining facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.

(9) The Responsible Party shall allow the City or its designee to access the property for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.

(10) Where site development or redevelopment involves changes in direction, increases in peak rate, and/or total volume of runoff from a site, the City may require the Responsible Party to make appropriate legal arrangements with affected property owners.

(11) The Responsible Party is subject to the enforcement actions and penalties detailed in Section 16.01.014 if the Responsible Party fails to comply with the terms of this permit.

(e) *Permit conditions.* Permits issued under this subsection may include conditions established by the City related to the requirements needed to meet the performance standards in Section 16.01.004 or a financial guarantee as provided for in Section 16.01.011.

(f) *Permit duration.* Permits issued under this section shall be valid from the date of issuance through the date the City notifies the Responsible Party that all stormwater management practices have passed the final inspection required under paragraph (d) of this subsection. The permit shall be invalid if work is not commenced within 1 year of permit issuance.

Sec. 16.01.006 - STORMWATER MANAGEMENT PLAN.

(a) *Plan requirements.* The Responsible Party shall be responsible for developing and implementing a stormwater management plan. The stormwater management plan shall be prepared and submitted to the City by a registered engineer on behalf of the Responsible Party. The stormwater management plan shall incorporate the requirements of section 16.01.004 and include, at a minimum, information required in the City of Bastrop Stormwater Drainage Design Manual, maintained and periodically updated by the City. The City may waive certain submittal requirements if determined by the City to be unnecessary to demonstrate compliance with ordinance standards.

(b) *Alternative requirements.* The City may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Section 16.01.004.

Sec. 16.01.007 - MAINTENANCE PLAN.

(Reserved).

Sec. 16.01.008 - MAINTENANCE AGREEMENT.

(a) *Maintenance agreement required.* The maintenance agreement required for stormwater management practices shall be an agreement between the City and the Responsible Party to provide for maintenance of stormwater practices beyond the duration period of the permit. The maintenance agreement shall be filed by the Responsible Party in the deed records of Bastrop County as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.

(b) *Agreement provisions.* The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Section 16.01.007:

(1) identification of the stormwater facilities and designation of the drainage area served by the facilities;

(2) a schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under Section 16.01.006;

(3) identification of the property or easement owner, organization, or entity responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under Section 16.01.006.

(4) a requirement that the Responsible Party or parties identified in paragraph (3) shall maintain stormwater management practices in accordance with the schedule included in paragraph (2).

(5) authorization for the City to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

(6) a requirement that the City will maintain records of the results of the site inspections, will inform the party responsible for maintenance of the inspection results, and will specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.

(7) a provision that the Responsible Party or parties identified in paragraph (3) shall be notified by the City of maintenance conditions requiring correction or repair. The specified corrective actions shall be undertaken within a reasonable time frame set by the City.

(8) authorization for the City to perform the corrected actions identified in the inspection report if the Responsible Party or parties identified in paragraph (3) do not make the required corrections in the specified time period.

(9) authorization for the City to take any action allowed by law to enforce the agreement and enforce this Chapter.

Sec. 16.01.009 – EROSION CONTROL PLAN.

(Reserved)

Sec. 16.01.010 – EASEMENTS.

(Reserved)

Sec. 16.01.011 - FINANCIAL GUARANTEE.

(a) *Establishment of the guarantee.* The City may require the submittal of a financial guarantee by the Responsible Party on the form prescribed in the City of Bastrop Stormwater Drainage Design Manual. The financial guarantee shall be in an

amount determined by the City to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period that the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the City the authorization to use the funds to complete the stormwater management practices if the Responsible Party defaults or does not properly implement the approved stormwater management plan, upon written notice to the Responsible Party by the City that the requirements of this ordinance have not been met.

(b) *Conditions for release of the guarantee.* Conditions for the release of the financial guarantee are as follows:

(1) The City shall release the portion of the financial guarantee established under this section to cover the estimated cost of construction, less any costs incurred by the City to complete installation of practices, upon submission of “as built plans” by a licensed professional engineer of the state of Texas. The City may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(2) The City shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices and facilities, less any costs incurred by the City, at such time that the responsibility for practice or facility maintenance is passed on to another entity via an approved maintenance agreement.

Sec. 16.01.012 - FEE SCHEDULE.

The fee referred to in other sections of this ordinance is found in Section A3.22.022 of Appendix A of this Code and may from time to time be modified by ordinance.

Sec. 16.01.013 - EXCEPTIONS AND WAIVERS.

(a) *Generally.* The Development Review Committee may recommend, and the Zoning Board of Adjustment may approve exceptions or waivers to these requirements so that substantial justice may be done, and the public interest secured where extraordinary hardship or practical difficulties may result from strict compliance with this ordinance or if the purposes of this ordinance may be served to a greater extent by an alternative proposal. The exceptions or waivers shall not have the effect of nullifying the intent and purpose of this ordinance. The DRC shall only recommend approval of an exception or waiver if, based upon the evidence presented to it, all of the following conditions are met by the petitioner:

(1) the granting of the exception or waiver will not be detrimental to the public safety, health, or welfare, and will not be injurious to other property;

(2) the conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

(3) because of the location or conditions affecting the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

(4) the relief sought will not materially alter the provisions of any existing regional stormwater management plan except that the plan may be amended in the manner prescribed by law; and

(5) the granting of the exception or waiver will not result in a violation of State or Federal laws or permits.

(b) *Conditions.* In recommending exceptions or waivers, the Development Review Committee may require such conditions as will in its judgement secure substantially the purposes described in this ordinance and accompanying written stormwater management and erosion control requirements.

(c) *Petition for exception or waiver.* A petition for an exception or waiver shall be submitted in writing by the Responsible Party at the time when the Development Plan is filed for the consideration by the City. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The DRC shall recommend approval or disapproval of the petition, in writing, within fourteen (14) business days of receiving the petition, stating the reasons for approval or disapproval.

(d) *Approval or disapproval of committee recommendation.* Once the DRC issues its recommendation, the ZBA shall approve or disapprove the petition in writing at the next meeting of the ZBA that has a quorum.

Sec. 16.01.014 - ENFORCEMENT.

(a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance shall be deemed a violation of this ordinance unless conducted in accordance with the requirements of this ordinance.

(b) The City shall notify the Responsible Party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice

shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.

(c) Upon receipt of written notification from the City under paragraph (2), the Responsible Party shall correct work that does not comply with the stormwater management plan or other provisions of this ordinance. The Responsible Party shall make corrections as necessary to meet the specifications and schedule set forth by the City in the notice.

(d) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City plus interest and legal costs shall be billed to the Responsible Party.

(e) The City is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request that the City Attorney obtain a cease and desist order in any court with jurisdiction.

(f) The City may revoke a permit issued under this ordinance for non-compliance with the ordinance provisions.

(g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City, City Attorney, or by a court with jurisdiction.

(h) The City is authorized to refer any violation of this ordinance, or of a stop work order, or of a cease and desist order issued pursuant to this ordinance, to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.

(i) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a fine not to exceed \$2,000 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(j) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before an injunction is sought.

(k) When the City determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management

plan, the City or a party designated by the City may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial guarantee posted pursuant to Section 16.01.011 of this ordinance. Where such a guarantee has not been established, or where such a guarantee is insufficient to cover these costs, the City may take any action allowed by law to enforce this Chapter.

Sec. 16.01.015 - APPEALS.

(a) *Role of the Zoning Board of Adjustment.* The zoning board of adjustment of the City of Bastrop:

(1) shall approve or disapprove the recommendations of the DRC regarding the granting of exceptions or waivers from certain provisions of this Chapter, using the criteria in Section 16.01.013(a); and

(2) shall hear and decide appeals where it is alleged that there is an error in any order, decision, or determination made by the City in administering this Chapter, except for cease and desist orders obtained under Section 16.01.014; and

(3) shall apply the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals.

(b) *Who may appeal.* Appeals to the zoning board of adjustment may be taken by any aggrieved person or by an officer, department, or board of the City of Bastrop affected by any decision of the City in administering this Chapter.

Appendix A – FEE SCHEDULE

ARTICLE A3.22 - ~~CULVERT INSTALLATIONS OR DRAINAGE CHANNEL MODIFICATIONS~~ PERMIT FEE.

Sec. A3.22.022 - Drainage permit fee.

Drainage permit: \$125.00

City of Bastrop

Stormwater Drainage Design Manual



May 9, 2019

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SECTION 1 INTRODUCTION

SECTION 1 - INTRODUCTION

A. Purpose and Intent Statements

Managing and resolving stormwater drainage issues and flooding problems has historically been one of the most persistent and critical challenges experienced by the City of Bastrop. In the past, the City's stormwater drainage control regulations for new land development have not effectively taken into account the City's unique topographic and geographic landscape. As a result, recent development has aggravated existing stormwater drainage and flooding issues at many locations within the City. Consequently, one of the City's highest priorities is to develop a strong stormwater drainage policy and criteria that ensures that new development does not increase flooding and erosion in the City of Bastrop.

The overarching purpose of this Drainage Design Manual is to establish standard policies and criteria for the design and implementation of stormwater drainage infrastructure that will promote geographically sensitive and fiscally responsible land development within the City and its extraterritorial jurisdiction.

Note that it is assumed that the reader of this document will already have a working knowledge of the basic mathematical theories and methodologies involved with hydrology and hydraulics and is seeking to understand standard City stormwater drainage policies and practices.

Specific goals and objectives of the City's Stormwater Drainage Design Manual include:

1. Minimizing flood risks to citizens and properties related to increases in peak runoff rates, volumes and velocities.
2. Stabilizing and decreasing streambank and channel erosion within downstream receiving waterways.
3. Facilitating comprehensive watershed-based planning that promotes controlled and sustainable land development and future growth.

In order to achieve the goals and objectives listed above, it is the City's intent to require that new land and development strongly consider low-impact development (LID) and natural approaches to stormwater management to mimic and restore pre-development hydrology. LID strategies that are encouraged in this document include:

1. Avoiding traditional engineering approaches to stormwater management that rapidly conveys runoff into large-scale drainage systems and discharges large volumes of stormwater and associated pollutants to downstream receiving waters.
2. Promoting management of stormwater runoff closer to its source by using small, distributed stormwater control devices that seek to slow down, infiltrate, and retain stormwater runoff using native or improved soils, vegetation, and bioengineering.
3. Studying, identifying and preserving sensitive natural areas such as floodplains,

wetlands, and steep slopes, while also reducing impervious land cover.

4. Supporting potential multi-objective functions of stormwater management features by implementing trails, green space, parkland, greenways, and other recreational and natural features, so long as they are compatible with the primary function of the stormwater feature.
5. Focusing on integrating stormwater management into the early concept-level stages of the land development process.

It is also the intent of the City of Bastrop that the requirements outlined herein regulate post-construction stormwater discharges to downstream receiving waterbodies. This design manual may be applied on a site-by-site basis. However, the City of Bastrop recognizes that the preferred method of achieving the stormwater performance standards set forth in this design manual is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to convey and managed from more than one site prior to discharge to downstream receiving waterbodies. Where such plans are in conformance with the performance standards outlined in the City of Bastrop's Stormwater Drainage Design Manual and have been approved by the City of Bastrop, it is the intent of this document that the approved plan be used to identify post-construction stormwater management measures acceptable for the community.

B. General Provisions

1. Conformance with Comprehensive Plan. All drainage design must comply with the City of Bastrop Comprehensive Master Plan and the effective Flood Insurance Study (FIS) and effective Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA) or best available data. The developer shall provide those drainage improvements which traverse or abut the proposed development, where specified in the comprehensive plan. All costs for such improvements shall be paid by the Responsible Party, except where the City Manager determines that the improvements benefit other properties more than that of the proposed subdivision in which case the City Manager shall determine the equitable City participation in such improvements. Such City participation, or any appeal of such requirements, shall be subject to the approval of the City Council.
2. To protect health, safety and environmental quality, it shall be the policy of the City of Bastrop that no new development will be allowed within the one hundred-year floodplain, as delineated by FEMA or based on best available data, unless a Letter of Map Revision (LOMR) is approved by FEMA, that compensating storage be provided for any floodplain encroachments, and that there is no significant rise in the base flood elevation. Undeveloped land within the floodplain may be used for agricultural purposes, be incorporated into adjacent lots outside of the floodplain,

or set aside as private or public open space.

3. Development shall not increase stormwater runoff peak flow discharge or velocities over natural conditions, particularly on adjacent and downstream properties for the two-year, 25-year or 100-year, 24-hour storm events, unless a downstream assessment shows no impact to the downstream receiving stream. When preliminary drainage studies indicate that peak flows or velocities will be increased, then detention basins or other techniques shall be provided to reduce flows to natural conditions.
4. Development within the Gills Branch Watershed shall be required to limit post-developed 100-year, 24-hour design storm peak stormwater runoff discharges to not exceed pre-developed 25-year, 24-hour design storm peak stormwater runoff discharges. When the results of the required downstream drainage assessment indicate that receiving stormwater conveyance systems have less than a 25-year, 24-hour design storm capacity, developments shall be required to reduce 100-year, 24-hour design storm peak runoff discharges to not exceed the receiving stormwater conveyance system capacity as determined in the downstream drainage assessment.
5. The Responsible Party shall be responsible for the conveyance of all storm drainage flowing through or abutting the property to be developed. This responsibility includes the drainage directed to that property by prior development, future development of the watershed, as well as the drainage naturally flowing through the property.
6. The subdivider shall pay for the cost of all drainage improvements required for the development of the subdivision, including the subdivision's proportionate cost for any necessary off-site channels or storm sewers and acquisition of the required easements.
7. The Planning and Zoning Commission shall not recommend for approval and the Council may not approve any plat of a subdivision which does not make adequate provisions for stormwater or floodwater runoff channels or basins. Drainage provisions shall ensure the health and safety of the public and the property in times of flood.
8. Where the improvement or construction of a storm drainage facility is required along a property line common to two (2) or more owners, the Responsible Party hereafter proposing development or use of their property, shall be responsible for all the required improvements on either side of the common property line, regardless of ownership, at the time of development, including the dedication by the legal owner(s) of all necessary rights-of-way or easements, to accommodate

the construction and maintenance of improvements.

9. Where a property Responsible Party proposes development or use of only a portion of their property, provision for stormwater drainage shall only be required in that portion of the property proposed for immediate development or use, except for construction or improvements of a drainage facility outside that designated portion necessary for the proposed development. However, future development runoff shall be considered in the design of the proposed development.
10. The Responsible Party shall dedicate to the City the required drainage easements and/or rights-of-way to contain the drainage improvements or surface water flows. Determination of minimum easements and/or rights-of-way required shall be made by the City Engineer.
11. The Responsible Party shall extend to provision of adequate drainage improvements to accommodate the full effects of the development of their property. Such drainage improvements shall prevent a diversion, impounding or increase of the natural flow of surface waters caused by the development of the property from damaging the property of another. Such improvements may be on-site or off-site, or a combination of both, and shall be made at the expense of the Responsible Party or developer. Such drainage improvements shall be a condition of plat approval.
12. Inundation by a One-Percent Probability (100-Year Frequency) Storm: Any water course, whether natural or manmade, shall have provision to accommodate the rainfall runoff generated by a 100-year frequency storm such that there is no loss of, or be detrimental to, property or to create an undue inconvenience to the public.
 - a. Any watercourse with a contributing drainage area greater than ten (10) acres, whether natural or manmade, shall have provision to accommodate the rainfall runoff generated by a 100-year frequency storm such that there is no loss of, or be detrimental to, property or to create an undue inconvenience to the public.
 - b. Delineation of the limits of areas subject to inundation by a 100-year frequency storm shall be shown on a drainage plan and shall be based on detailed hydrologic and hydraulic computations prepared by a Registered Professional Engineer of the State of Texas. Effective FEMA floodplain information or best available data shall be shown when available.
 - c. Easements shall be provided to contain areas inundated by a 100-year frequency storm along natural and manmade drainage ways and any additional width necessary to provide sufficient ingress and egress for maintenance purposes.

- d. A grading plan shall be prepared for each subdivision, by a Registered Professional Engineer of the State of Texas, and show in sufficient detail grading of all roads, streets, drainage structures, channels, swales, or other drainage related features and provide minimum finished floor elevations, based on an acceptable elevation datum, for proposed structures to assure no inundation of such structures by the rainfall run-off by a 100-year frequency storm. All buildings shall have a minimum finished floor elevation of two feet (2') above the base flood elevation water surface elevation generated by a 100-year frequency storm, or as stipulated in the City of Bastrop's Flood Damage Prevention Regulations, whichever is greater.

C. Definitions

Applicant means the owner of land proposed to be subdivided, or their representative when written consent is obtained from the legal owner of the premises. The terms "applicant," "developer," and "subdivider" are used interchangeably in these rules, regulations and procedures.

Best Management Practice or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

Capital improvements means facilities of a permanent nature, such as streets, drainage, sanitary sewer, etc.

Channel sinuosity equals the length between two points on the channel thalweg divided by the straight-line distance.

City or The City shall mean the City of Bastrop, Texas.

City Council means the City Council of the City of Bastrop, Texas.

City Engineer means the registered engineer designated by the City Manager to review engineering aspects of projects located within the City limits and ETJ.

City Inspector means the person designated by the City Manager to provide inspection services for public improvements or buildings located within the City Limits and ETJ.

City Manager means the person duly approved by the City Council and charged with the responsibility of administering the City's various departments.

City of Bastrop Construction Standards Manual means the Construction Standards Manual adopted by the City Council, as amended.

City Secretary shall mean the City Secretary of the City of Bastrop or the authorized representative of the secretary.

Common area means an area or facility that is owned jointly by the owners within the subdivision

and/or members of the property-owners association. Common areas include, but are not limited to, private parks, community buildings and screening walls.

Comprehensive Plan means the comprehensive plan of the City of Bastrop, Texas, as adopted by the City Council of the City of Bastrop, Texas.

Concept Plan means a sketch drawing of initial development ideas superimposed on a topographic map to indicate generally the plan of development and to serve as a working base for noting and incorporating suggestions of the staff, City Engineer, utilities or others who are consulted prior to the preparation of the preliminary plat.

Construction plans means the maps or construction drawings accompanying a subdivision plat that show the specific location and design of all required or proposed improvements to be installed in the subdivision.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

Detention pond means a pond or impoundment designed to store stormwater runoff for controlled release during or immediately following the storm event for a limited period of time.

Develop or Development means any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

Developer means an individual, partnership, corporation, or governmental entity undertaking the subdivision or improvement of land and other activities covered by the subdivision ordinance or the design standards and criteria, including the preparation of a subdivision plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider" even though personnel in successive stages of a project may vary.

Developer's agreement means a written contractual agreement between the City and the developer establishing the terms and conditions for approval and acceptance of the public improvements required for a development.

Director of Planning and Development means the person designated by the City Manager to oversee the City of Bastrop Planning Department.

Drainage easement means an easement created for conveying stormwater across property either on the surface or in an underground system. A drainage easement entitles the City to make necessary improvements within the easement to adequately convey stormwater.

Drainage plan means an engineering study evaluating stormwater runoff and flows that recommends drainage improvements necessary to comply with design standards adopted by the City.

Easement means an interest in land granted to the City, to the public generally, and/or to a private or public utility corporation for installing and/or maintaining public facilities or utilities or providing access to such facility or utility

Energy dissipaters means devices designed to protect downstream areas from erosion by reducing the velocity of flow to acceptable limits.

Engineer means a person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Erosion control means structural and nonstructural techniques to prevent the erosion and sedimentation of soil from rainfall and/or runoff.

Extraterritorial Jurisdiction (ETJ) means the area outside of the City of Bastrop municipal limits in which the City exercises joint zoning authority with Bastrop County.

Final plat means the one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor with the subdivision location references to a survey corner or other established reference and all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. Angular measurements and bearings shall be accurate to the nearest tenth of a foot. The final plat of any lot, tract, or parcel of land shall be recorded in the Plat Records of Bastrop County, Texas.

Floodplain means an area identified by FEMA or based on best available data as possibly being flood-prone at or below the base flood elevation (100-year floodplain, or one-percent probability flood event). The issuance of building permits for construction of any structure within such floodplain is regulated by a separate specific ordinance governing the safeguards, preventing actions against flooding, types of uses permitted in flood-prone areas, etc.

Floodway means the channel of a river or other water course and the adjacent land areas that must be reserved to discharge the base flood as defined by FEMA without cumulatively increasing the water surface elevation more than one foot.

Floodway fringe means the area within the floodplain but outside of the floodway.

Geotechnical testing means testing by a qualified professional testing laboratory to determine the engineering characteristics of soil, rock and/or fill material.

Greenbelt means an open space area consisting of primarily natural features, that may be in a floodplain or along a creek channel or be used as a buffer between land uses or be used as an open space linkage between various land uses.

Homeowners Association shall mean an incorporated or unincorporated association that is

designated as the representative of the owners of the property in the Suburban Subdivision that: (1) has a membership primarily consisting of the owners of the property covered by the dedicatory instrument for the Suburban Subdivision, and (2) manages and/or regulates the Suburban Subdivision for the benefit of the owners of property in the subdivision.

Hydrograph means a plot of the variation of discharge with respect to time or the variation of stage or other water property with respect to time.

Impervious surface means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

In-fill area means an undeveloped area of land located within existing development or which adjacent properties on at least three sides are developed or in public rights-of-way, as determined by the City Engineer.

Infiltration means the entry of precipitation or runoff into or through the soil.

Infiltration system means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns, or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

Infrastructure means facilities needed to sustain manufacturing, residential, commercial and all other land use activities. Infrastructure includes water lines, sewer lines, and other utilities, streets and roads, communications, and public facilities, such as fire stations, parks, schools, and other similar type uses.

iSWMTM means the Integrated Stormwater Management Design Manual TM as published by the North Central Texas Council of Governments and as modified and adopted by the City of Bastrop.

Land development activity means any construction related activity that results in the addition or replacement of impervious surfaces such as rooftops, roads, parking lots, and other structures. Measurement of areas impacted by land development activity includes areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Land disturbing construction activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

Land use plan means part of the comprehensive plan showing future land use.

Landscape plan means a plan showing the proposed landscape improvements to be made on a site.

Lot of Record means any unplatted tract of land whose boundaries have not been changed since April 20, 1981.

Low-Impact Development (LID) means an approach to land development or re-development that works with nature to manage stormwater as close to its source as possible.

Natural flow means the flow of water or drainage over land whose topography has not been altered.

Outfalls means the outlet of any stormwater conveyance system.

Owner means an entity holding fee title to the property and shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Pervious surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Planning and Zoning Commission means the City of Bastrop Planning and Zoning Commission.

Plat means the map, drawing, chart, or plan showing the exact layout of a subdivision into lots, blocks, streets, parks, school sites, drainage ways, easements and/or any other element required by this chapter which a subdivider shall submit for approval in accordance with this chapter. It shall include plan, plat or replat, both singular and plural.

Policy means a statement or document which has been enacted by the governing body of the City that forms the basis for enacting legislation or making decisions.

Pre-development condition means the extent and distribution of land cover types present before the initiation of land disturbing construction activity; assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Preliminary plat means a formal document showing the detailed concept of the subdivision, presented with the required accompanying material to the Planning and Zoning Commission for approval. The graphic expression of the proposed overall plan for subdividing, improving and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing existing and proposed drainage features and facilities, street layout and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of proposed development.

Public facilities mean any facilities authorized or franchised by the City for the public welfare, usually including public utilities, governmental buildings and public schools.

Public facilities system means the water, wastewater, roadway, drainage or parks facilities owned

or operated by or on behalf of the City to provide services to the public, including existing and new developments and subdivisions.

Public improvements mean facilities such as streets or drainage systems which are dedicated for public use.

Public infrastructure improvement means a water, wastewater, roadway, drainage or park facility that is part of one or more of the City's public facilities systems.

Public open space easement means an easement that restricts construction or plantings so that open space and/or sight visibility is maintained.

Public utility and storm sewer easement means an easement upon a private street not having the same width as the lot which is intended to contain privately owned and maintained pavement as well as publicly owned and maintained water lines, sanitary sewer lines, storm sewers and such other utility or franchise infrastructure as can be reasonably accommodated.

Responsible Party means the owner or any entity holding fee title to the property, or an entity contracted to develop the property.

Retention pond means a pond or other impoundment designed to store stormwater runoff permanently.

Right-of-way means lands dedicated to the public for use as a street, alley or crosswalk.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Site Development Plan means a plan prepared by a licensed and registered professional land surveyor, and/or a licensed professional engineer that complies with the requirements of City of Bastrop Code of Ordinances Article V. Section 42.

Steep slope means areas that contain slopes over fifteen percent grade and are characterized by increased runoff and erosion hazards.

Stormwater and Stormwater runoff means rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Management Plan means a comprehensive plan designed to reduce the discharge of runoff from hydrologic units on a regional or municipal scale.

Stormwater Maintenance Plan means the set of tasks that must be performed in order to operate and maintain a stormwater management facility.

Stormwater Maintenance Agreement

Stormwater Pollution Prevention Plan (SWPPP or SW3P) means the plan created by constructors

to show their plans for sediment and erosion control. The SWPPP identifies all potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site.

Subdivision shall mean the division of any lot, tract or parcel of land into two or more parts to lay out a subdivision of the tract, including an addition to the City or its extraterritorial jurisdiction, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A division of a tract under this subsection includes a division regardless of whether it is made by using metes and bounds descriptions in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. Each subdivision shall be classified as a rural or standard subdivision. Subdivision includes resubdivision and one-lot plats.

Subdivider means the owner or his appointed representative(s) that proposes to subdivide a tract of land within the corporate City limits of [or] ETJ of the City of Bastrop.

Suburban Subdivision means a subdivision in which the minimum lot width is one hundred and twenty-five feet (125') and the minimum lot size is one (1) acre, if on-site sewer facilities are to be used on the lot; or the minimum lot size is 0.6 acres if the public sewer collection and treatment system serves the lot.

Thalweg means is the line of lowest elevation within a valley or watercourse.

TR-55 means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

Watercourse means a channel, with a well-defined bed and banks, in which water flows as a stream and has a permanent source of supply.

SECTION 2 STORMWATER DRAINAGE POLICY

SECTION 2 - STORMWATER DRAINAGE POLICY

A. Stormwater Drainage Design Goals and Objectives

Drainage shall be designed for two goals (streambank protection and flood mitigation), to be evaluated by three storm events for projects with more than 10,000 square feet of land disturbance or the net addition of 5,000 square feet of impervious surface, as shown in Table 2-1.

Table 2-1. Design Storm Events	
Storm Event Name	Storm Event Description
"Streambank Protection"	2-year, 24-hour storm event
"Conveyance"	25-year, 24-hour storm event
"Flood Mitigation"	100-year, 24-hour storm event

1. Streambank Protection: Increased peak flows from urban runoff can increase erosion from more frequent bank full flows. Streambank protection can be provided by minimizing increases of the 2-year, 24-hour storm event by reducing the controlled release of water of the 2-year, 24-hour storm over 24 hours from the site. Reinforcing or stabilizing streambanks downstream may also be used in limited circumstances. A downstream assessment will be required.
2. Flood Mitigation and Conveyance: To protect citizens and property from flooding, increases in the 100-year, 24-hour storm event must be controlled. Flood mitigation can be met by limiting discharges from the site to no more than under pre-development conditions, or by providing adequate conveyance of the 100-year flows downstream of the site. A downstream assessment will be required. Protection during the Conveyance storm event (25-year, 24-hour storm) is designed to minimize localized flooding of streets, sidewalks and property. As stated in Section 1.B.4 of this document, development within the Gills Branch Watershed shall be required to limit post-developed 100-year, 24-hour design storm peak runoff discharges to not exceed pre-developed 25-year, 24-hour design storm peak runoff discharges.

B. Stormwater Drainage Design Process

1. Preliminary Conference and Concept Plan Review.
 - a. Preliminary Conference. Prior to the official filing of a preliminary plat, the subdivider should consult with and present a proposed plan (concept plan) of subdivision to the Director of Planning and Development for comments and guidance of the procedures, specifications, and standards required by the City for the subdivision of land.

- b. Before submitting the regulating and conceptual site drainage plan, the Applicant should discuss with the planning staff and City Engineer the procedure set for the adoption of a subdivision plat and the requirements of the "Design Standards," the iSWM TM Design Manual and of any pertinent City ordinances. Planning staff and City Engineer shall also advise the Applicant of existing conditions which may affect the proposed subdivision, such as existing or proposed streets, adjacent subdivisions or properties, floodplain and drainage, sewage, fire protection, reservation of land, and similar matters, referring the Applicant to the proper agencies if services are not provided by the City.
 - c. Concept Plan Review. Concept plan review will normally be accomplished by submission of supporting plan material and a conference with the Director of Planning and Development.
 - (1) Three (3) copies of the Concept Plan.
 - (2) Two (2) copies of the Site Analysis and Conceptual Site Drainage Plan, in accordance with the requirements described below.
- 2. Site Analysis: Using field and mapping techniques approved by the City Engineer, the developer's engineer shall collect and review information on the existing site conditions and map the following features:
 - a. Topography
 - b. Drainage patterns and basins
 - c. Intermittent and perennial streams on-site and off-site that contribute to or receive water from the site
 - d. Soil types and their susceptibility to erosion
 - e. Property lines, adjacent areas and easements
 - f. Wetlands and critical habitat areas
 - g. Boundaries of wooded areas and tree clusters (tree survey)
 - h. Existing FEMA (or best available data) floodplain and floodway boundaries and base flood elevations
 - i. Ground cover and vegetation, particularly unique or sensitive vegetation areas to be protected during development
 - j. Existing development
 - k. Existing stormwater facilities on-site and off-site that will receive discharges from the proposed development
 - l. Steep slopes
 - m. Required buffers and setbacks along waterbodies
 - n. Proposed stream crossing locations

3. Conceptual Drainage Plans

Based on the Site Analysis, the design engineer shall prepare a Conceptual Drainage Plan for the proposed site layout to give the developer and the City

Planning and Engineering staff an initial look at the project. This plan will typically be submitted along with the Concept Plan. A copy of the Concept Drainage Plan submittal checklist is included within Appendix A. The Design engineer should typically follow the following steps:

- a. Use applicable LID techniques to develop the site layout, including:
 - (1) Preserving the natural feature conservation areas defined in the site analysis
 - (a) Preserve undisturbed natural areas
 - (b) Preserve riparian buffers
 - (c) Avoid floodplains
 - (d) Avoid steep slopes
 - (e) Minimize siting on porous or erodible soils
 - (2) Use lower impact site design techniques
 - (a) Fit design to the terrain
 - (b) Locate development in less sensitive areas
 - (c) Reduce limits of clearing and grading
 - (d) Use open space development
 - (e) Consider creative designs
 - (3) Reducing impervious surface areas
 - (a) Reduce roadway lengths and widths
 - (b) Reduce building footprints
 - (c) Reduce the parking footprint
 - (d) Use fewer or alternative cul-de-sacs
 - (e) Create parking lot stormwater “islands”
 - (4) Preserving and using the natural drainage system wherever possible
 - (a) Use buffers and undisturbed areas
 - (b) Use natural drainage ways instead of storm sewers
 - (c) Use vegetated swale instead of curb and gutter
 - (d) Drain rooftop runoff to pervious areas

While implementation of LID techniques is not mandated, the developer is strongly encouraged to consider the above-referenced LID techniques.

- b. Calculate conceptual estimates for the design requirements for the 2-year 24-hour storm volume, 25-year 24-hour storm volume and 100-year, 24-hour storm volume events.
- c. Determine any appropriate temporary and permanent structural stormwater controls and identify potential locations on the site.

4. Preliminary Drainage Plans

This step builds on the data developed in the Conceptual Drainage Plan by ensuring that requirements and criteria are met, opportunities have been taken to minimize adverse effects of the development and providing more detail. The Preliminary Drainage Plan will be submitted along with the Preliminary Plat and shall consist of maps, plan sheets, narrative and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater system. A copy of the Preliminary Drainage Plan submittal checklist is included as Appendix B.

5. Final Drainage Plans

The Final Drainage Plan and Construction Plans shall be submitted to the City Engineer along with the Final Plat or site development plan prior to any construction activities. A copy of the Final Drainage Plan submittal checklist is included as Appendix C.

6. Operations and Maintenance Plan

An Operations and Maintenance Plan (O&M Plan) shall be submitted along with the Final Drainage Plans to clearly state which entity has responsibility for the operation and maintenance of temporary and permanent stormwater controls and drainage facilities to ensure that they will function in the future. The O&M Plan shall include, but is not limited to:

- a. Responsible party for all facilities and tasks in the plan
- b. Inspection and maintenance requirements
- c. Maintenance of permanent stormwater controls and drainage facilities during construction
- d. Cleaning and repair of permanent stormwater controls and drainage facilities before transfer of ownership
- e. Frequency of inspections for the life of the permanent facility
- f. Funding source for long-term maintenance
- g. Description of maintenance tasks and frequency
- h. Access and safety issues
- i. Maintenance easements
- j. Any required maintenance agreements, reviewed and approved by the City (sample stormwater maintenance agreement provided as Appendix G)
- k. Testing and disposal of sediments
- l. Projected lifespan of structures and required replacement intervals and cost

C. Stormwater Drainage Design Criteria

1. Hydrologic Methods: For general guidance on drainage calculations, the design engineer shall use the Integrated Stormwater Manual, Hydrology Technical

Manual (<http://iswm.nctcog.org/technical-manual.html>). The design engineer may use any of the empirical hydrologic methods shown in Table 2-2, subject to the limitations indicated.

2. Hydrologic design procedures shall conform to the following methods where appropriate and shall assume a fully developed watershed upstream of the proposed development. It may be assumed that the undeveloped area will be developed under the same regulations.
 - a. "Computer Program for Project Formulation-Hydrology" distributed by SCS through Technical Release No. 20 (SCS-TR-20).
 - b. Hydraulic Engineering Center, Hydrologic Modeling System, U.S. Army Corp of Engineers (HEC-HMS).
 - c. Other stormwater modeling programs capable of developing and routing hydrographs, subject to approval by the City Engineer.

3. Rainfall Estimation

Rainfall estimates should be based on published values in the National Oceanic and Atmospheric Administration (NOAA) Atlas 14, Volume 11: Precipitation-Frequency Atlas of the United States. Rainfall intensity shall be computed using the following Intensity-Duration-Frequency (IDF) equation and coefficients.

$$i = b / (t + d)^e$$

where:

i = rainfall intensity (inches per hour)

t = rainfall duration (minutes) or time of concentration

b , d and e = parameters found in Table 2-3

Rainfall intensities for Bastrop Depth-Duration-Frequency (DDF) values are provided in Table 2-4.

Time of concentration can be calculated by the nomograph or the equation in the iSWM Technical Manual but must remain within the ranges in Table 2-5.

4. Rational Method: For sizing of stormwater conveyance systems with drainage areas less than 100 acres and situations where reflecting storage volume routing effects is not necessary, the Rational Method is acceptable. To determine the runoff rates for the various areas, the standard rational method may be used. The Rational Formula is expressed as follows:

$$Q = CIA$$

where:

Q = maximum rate of runoff (cfs)

C = runoff coefficient representing a ratio of runoff to rainfall

I = average rainfall intensity for a duration equal to the t_c (in/hr)

A = drainage area contributing to the design location (acres)

Table 2-2. Constraints on Using Recommended Hydrologic Methods		
Method	Size Limitations¹	Comments
Rational	0 – 100 acres	Method can be used for estimating peak flows and the design of small site or subdivision storm sewer systems.
Modified Rational ²	0 – 200 acres	Method can be used for estimating preliminary runoff volumes for storage design. Final storage sizing and design shall use Unit Hydrograph (SCS) Method.
Unit Hydrograph (SCS) ³	Any Size	Method can be used for estimating peak flows and hydrographs for all design applications. Required for sizing of conveyance measures draining greater than 100 acres.
TXDOT Regression Equations	10 to 100 Sq. Miles	Method can be used for estimating peak flows for rural conveyance design applications.
USGS Regression Equations	3 to 40 Sq. Miles	Method can be used for estimating peak flows for urban conveyance design applications.
¹ Size limitation refers to the drainage basin for the stormwater management facility (e.g., culvert, inlet). ² Where the Modified Rational Method is used for conceptualizing, the engineer is cautioned that the method could underestimate the storage volume. ³ This refers to SCS routing methodology included in many readily available programs (such as HEC-HMS) that utilize this methodology.		

Table 2-3. IDF Coefficients for Bastrop

	2 year	5 year	10 year	25 year	50 year	100 year
e	0.841	0.814	0.805	0.793	0.786	0.784
b	67	77	87	100	113	130
d	13.3	11.5	11.1	10.8	10.8	11.3

Source: TxDOT, 2015. New Rainfall Coefficients, Research Report 0-6824

Table 2-4. Rainfall Depth (in inches) for Bastrop by Duration and Recurrence Frequency

Tc(min)	2-year	5-year	10-year	25-year	50-year	100-year
10	0.86	1.07	1.24	1.48	1.67	1.85
15	1.08	1.34	1.56	1.85	2.07	2.30
30	1.53	1.89	2.19	2.59	2.89	3.20
60	2.00	2.50	2.90	3.46	3.87	4.30
120	2.47	3.14	3.71	4.52	5.15	5.83
180	2.74	3.53	4.22	5.22	6.03	6.90
360	3.22	4.20	5.10	6.43	7.54	8.78
720	3.68	4.84	5.94	7.60	9.02	10.60
1440	4.17	5.51	6.81	8.81	10.50	12.60

Design storm depth for given Annual Recurrence Interval in inches. 60 min. = 1 hr.; 120 min. = 2 hrs.; 180 min. = 3 hrs.; 360 min. = 6 hrs.; 720 min. = 12 hrs.; 1440 min. = 24 hrs.]

Source: NOAA Atlas 14, Vol. 11, Ver. 2, Location: Lat.: 30.1102 deg., Long.: -97.3187 deg.

Table 2-5 Time of Concentration Ranges

Table 2-5. Time of Concentration Ranges		
Land Use	Minimum (minutes)	Maximum (minutes)
Residential Development	10	30
Commercial and Industrial	10	25
Central Business District	10	15

Source: ISWM Technical Manual, NCTCOG, Sept. 2014

Runoff coefficients in Table 2-6 must be used, unless otherwise authorized by the City Engineer.

The coefficients given in Table 2-6 are applicable for storms with return periods less than or equal to 10 years. Less frequent, higher intensity storms may require modification of the coefficient because infiltration and other losses have a proportionally smaller effect on runoff (Wright-McLaughlin Engineers, 1969). The adjustment of the Rational Method for use with major storms can be made by multiplying the right side of the Rational Formula by a frequency factor Cf. The modified Rational Formula now becomes:

$$Q = C_f CIA$$

Table 2-6. Recommended Runoff Coefficient Values

Description of Area	Runoff Coefficients (C)
Lawns:	
Sandy soil, flat, 2%	0.10
Sandy soil, average, 2 - 7%	0.15
Sandy soil, steep, > 7%	0.20
Clay soil, flat, 2%	0.17
Clay soil, average, 2 - 7%	0.22
Clay soil, steep, > 7%	0.35
Agricultural	0.30
Forest	0.15
Streams, Lakes, Water Surfaces	1.00
Business:	
Downtown areas	0.95
Neighborhood areas	0.70
Residential:	
Single Family (1/8 acre lots)	0.65
Single Family (1/4 acre lots)	0.60
Single Family (1/2 acre lots)	0.55
Single Family (1+ acre lots)	0.45
Multi-Family Units, (Light)	0.65
Multi-Family, (Heavy)	0.85
Commercial/Industrial:	
Light areas	0.70
Heavy areas	0.80
Parks, cemeteries	0.25
Playgrounds	0.35
Railroad yard areas	0.40
Streets:	
Asphalt and Concrete	0.95
Brick	0.85
Drives, walks, and roofs	0.95
Gravel areas	0.50
Graded or no plant cover:	
Sandy soil, flat, 0 - 5%	0.30
Sandy soil, flat, 5 - 10%	0.40
Clayey soil, flat, 0 - 5%	0.50
Clayey soil, average, 5 - 10%	0.60

Source: iSWM Technical Manual, NCTCOG, Sept. 2014

Table 2-7. Frequency Factors for Rational Formula	
Recurrence Interval (years)	C_f
10 or less	1.0
25	1.1
50	1.2
100	1.25

Source: iSWM Technical Manual, NCTCOG, Sept. 2014

The C_f values that can be used are listed in Table 2-7. The product of C_f times C shall not exceed 1.0.

5. Unit Hydrograph Methods:

The National Resources Conservation Service (formerly the U.S. Soil Conservation Service) unit hydrograph methods are acceptable for any size drainage area and are required for design of stormwater conveyance measures that have drainage areas larger than 100 acres. Unit hydrograph methods shall be used for design of all stormwater storage measures (detention basins). The Engineer can propose to use other hydrologic methods but must have their use approved by the City Engineer. Details of the methodology can be found in the Natural Resources Conservation Service's *National Engineering Handbook Hydrology Chapters* or in the iSWM Technical Manual.

Detention ponds shall be designed using SCS unit hydrograph methods. The engineer can propose to use other hydrologic methods but must have their use approved by the City Engineer.

When unit hydrograph methods for computing runoff are proposed, the following NOAA Atlas 14 rainfall depths shall be used, applying the appropriate NOAA Atlas 14 temporal rainfall distributions provided in Table 2-8 below.

Table 2-8. NOAA Atlas 14 Rainfall Depths							
Design Storm	2-year	5-year	10-year	25-year	50-year	100-year	500-year
24-hour depth (in)	4.17	5.51	6.81	8.81	10.50	12.60	18.50

Source: NOAA Atlas 14, Vol. 11, Ver. 2, Location: Lat.: 30.1102 deg., Long.: -97.3187 deg.

The appropriate hydrologic soil group must be obtained from the SCS Soil Survey for Bastrop County for the soils that comprise the watershed. Runoff Curve Numbers can then be obtained from Table 2-9.

When a drainage area has more than one land use, a composite curve number can be calculated and used in the analysis. It should be noted that when composite curve numbers are used, the analysis does not account for the location of the specific land uses but sees the drainage area as a uniform land use represented by the composite curve number.

Table 2-9. Runoff Curve Numbers ¹					
Cover Description		Curve numbers for hydrologic soil groups			
<i>Cover type and hydrologic condition</i>	<i>Average percent impervious area²</i>	A	B	C	D
Cultivated Land:					
Without conservation treatment		72	81	88	91
With conservation treatment		62	71	78	81
Pasture or range land:					
Poor condition		68	79	86	89
Good condition		39	61	74	80
Meadow:					
Good condition		30	58	71	78
Wood or forest land:					
Thin stand, poor cover		45	66	77	83
Good cover		25	55	70	77
Open space (lawns, parks, golf courses, cemeteries, etc.)³					
Poor condition (grass cover < 50%)		68	79	86	89
Fair condition (grass cover 50% to 75%)		49	69	79	84
Good condition (grass cover > 75%)		39	61	74	80
Impervious areas:					
Paved; curbs and storm drains (excluding right-of-way)		98	98	98	98
Paved; open swales (including right-of-way)		83	89	92	93
Gravel (including right-of-way)		76	85	89	91
Dirt (including right-of-way)		72	82	87	89
Urban districts:					
Commercial and business	85%	89	92	94	95
Industrial	72%	81	88	91	93
Residential districts by average lot size:					
1/8 acre or less (town house)	65%	77	85	90	92
1/4 acre	38%	61	75	83	87
1/3 acre	30%	57	72	81	86
1/2 acre	25%	54	70	80	85
1 acre	20%	51	68	79	84
2 acres	12%	46	65	77	82
Developing urban areas and newly graded areas (previous areas only, no vegetation)		77	86	91	94

¹ Average runoff condition, and $I_a = 0.2S$

² The average percent impervious area shown was used to develop the composite CNs. Other assumptions are as follows: impervious areas are directly connected to the drainage system, impervious areas have a CN of 98, and pervious areas are considered equivalent to open space in good hydrologic condition. If the impervious area is not connected, the SCS method has an adjustment to reduce the effect.

³ CNs shown are equivalent to those of pasture. Composite CNs may be computed for other combinations of open space cover type.

Source: United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

SECTION 3 STORMWATER DRAINAGE PRACTICES

SECTION 3 - STORMWATER DRAINAGE PRACTICES

A. Downstream Assessments

In evaluating controls for streambank protection and flood mitigation, the downstream effects of the development must be evaluated. The assessment shall extend from the outfall of the proposed development to a point downstream where the discharge no longer has a significant impact on the receiving stream or storm drain system, known as the zone of influence. Generally, the zone of influence is the stream length between the outfall and a point where the drainage area controlled by the detention or storage facility comprises ten percent (10%) of the total drainage area. The downstream assessment should include:

1. Hydrologic analysis of the pre- and post-development on-site conditions
2. Drainage path which defines the extent of the analysis
3. Capacity analysis of all existing constraint points along the drainage path
4. Off-site undeveloped areas are considered as “full build-out” for both the pre- and post-development analyses
5. Evaluation of peak discharges and velocities for the following design storm events:
 - a. Streambank protection storm (2-year, 24-hour storm)
 - b. Conveyance storm (25-year, 24-hour storm)
 - c. Flood mitigation storm (100-year, 24-hour storm)
6. Assessment of whether the post-development discharges are greater than the predevelopment discharges, whether the post-development velocities are greater than the predevelopment velocities, and whether the post-development velocities are greater than the allowed velocities for the receiving system.

After starting with a simple drainage area analysis using a topographic map, the zone of influence may need to be adjusted after running the pre- and post-development peak flows and velocities.

If it is shown that no peak flow increases occur downstream, and post-development velocities are acceptable, then control of the flood mitigation storm volume may be waived by the City Engineer. If peak discharges are increased by development, then an on-site structural stormwater control facility must be designed such that the post-development flows do not increase the peak flows, and the velocities are not erosive.

Note that for all land development occurring within the Gills Branch Watershed, post-developed peak runoff discharges for a 100-year, 24-hour design storm shall not exceed the pre-developed peak runoff discharges for a 25-year, 24-hour design storm.

Where it is anticipated that additional runoff incidental to the development of the subdivision will overload an existing downstream drainage facility, whether natural

or manmade, the Planning and Zoning Commission may withhold approval of the subdivision until appropriate provisions have been made to accommodate the problem, and plans shall be provided which include all necessary off-site improvements including storm sewer systems, channel grading, driveway adjustments, culvert improvements, etc.

In areas where downstream pipes or channels are inadequate to handle proposed increased flows, the City, as one alternative, may consider accepting cash payment in lieu of actual drainage improvements. The developer must show that the proposed pipe system to handle the flow from their development would not function properly without substantial downstream improvements. Prior to permitting any development that will significantly increase flood heights downstream or upstream, a hearing before the Planning and Zoning Commission is required with special notice to the adjacent property owners.

B. Streambank Protection

If the downstream assessment shows that the proposed project does not exceed acceptable downstream velocity or the downstream conditions are improved to adequately handle the increased velocity, then no additional streambank protection is required. If velocities exceed the allowable velocities, then one or more of the following options are required:

1. Reinforce or stabilize downstream conditions using stone riprap, gabions, and/or bioengineered methods. Additional easements downstream may be required and conformance with Corps of Engineers permits is required.
2. Install Stormwater Controls to maintain existing Downstream Conditions to reduce post-development discharges at or below allowable velocity limits.
3. Control the release of the 2-year, 24-hour storm to provide 24-hours of extended detention.

C. Flood Mitigation

When the downstream assessment shows an increase in peak flood discharges, the developer must address downstream flood mitigation using one of the following three options:

1. Provide adequate downstream conveyance systems.
2. Install stormwater controls to maintain existing downstream conditions by providing detention designed and constructed so that there is no increase in downstream peak discharges or water surface elevations resulting from the development.
3. In lieu of a downstream assessment, maintain existing on-site runoff conditions by providing detention that limits runoff from the development site to pre-development conditions. For many developments, the results of a downstream assessment may show that significantly less flood mitigation is required, as well as reducing the potential of exacerbating downstream flooding resulting from the timing of flood

peaks. The developer must confirm that providing detention does not exacerbate peak flows in downstream reaches.

SECTION 4 STORMWATER FACILITY DESIGN STANDARDS

SECTION 4 - STORMWATER FACILITY DESIGN STANDARDS

A. General

1. Drainage facilities shall be provided and constructed as specified by the City Engineer. Hydraulic design procedures shall conform to the following methods where appropriate. The methodology selected is a function of the complexity of the hydraulic design and may use the following methods (or others if approved by the City Engineer).
 - a. United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986 (hereinafter referred to as T.R. 55).
 - b. Hydraulic Design Manual (HDM) prepared and compiled by the Texas Department of Transportation Bridge Division.
 - c. Integrated Stormwater Manual, Hydraulics Technical Manual (<http://iswm.nctcog.org/technical-manual.html>).
 - d. Manning's Equation for computing normal depths for flows confined to uniform cross-sections with free surface flow.
 - e. The Hydraulic Gradient Method shall be used for closed conduit systems flowing full.
 - f. The HEC-RAS, Flood Plain Hydraulics, developed by the U.S. Army Corps of Engineers will be used for non-uniform channel design or analysis and back water surface profiles.

Notwithstanding, all designs shall be in accordance with good engineering practices and are not to be limited to minimum criteria when it is deemed necessary for the welfare or safety of the public to implement more stringent requirements or criteria.
2. Approval of necessary storm drain facilities and construction requirements shall be the responsibility of the City Engineer. Where there is a question as to the justification of the size of the facility required, the question will be resolved in favor of additional drainage capacity.
3. All drainage structures shall be designed to convey the design storms specified and in such a manner that no ponding, pooling, erosion, sedimentation or other adverse condition would be created.
4. All storm sewers, inlets, head walls and manholes in the drainage system shall be designed and built in accordance with the current City of Bastrop Construction Standards Manual.
5. All drainage facilities shall be constructed on public right-of-way or easements dedicated for this purpose. Drainage easements shall be of a sufficient size to

permit access for maintenance of the drainage facility. The easement shall be designed to facilitate maintenance access to the drainage channel by City crews and equipment. Additional easements shall be required at any access points and the access points shall be designed to restrict access by unauthorized personnel. An access point will typically be required at every intersection of the drainage easement with street right-of-way.

6. When a drainage channel or storm drain pipe, culvert or bridge is proposed, calculations shall be submitted showing the basis for the design and completed plans, profiles and specifications shall be submitted, showing complete construction details and a detailed cost estimate.
7. All drainage improvements shall be designed to an acceptable outfall as approved by the City Engineer.
8. Off-Site Drainage.
 - a. Adequate consideration shall be given by the Responsible Party in the development of property to determine how the discharge leaving the proposed development will affect adjacent property.
 - b. On lots or tracts of three acres or more where stormwater runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing creeks, channels or storm sewers unless proper drainage easements or notarized letters of permission from the affected property owners are provided. Such letters of permission shall be recorded in the property records of Bastrop County.

B. Streets and Roads

Streets may be used for conveyance of surface runoff within the following standards:

1. Streets and Right-of-Way: Depth in the street shall not exceed top of curb or maximum flow spread limits for the conveyance storm (25-year storm), or no more than 6 inches of depth at the edge of pavement. The flood mitigation storm (100-year storm) shall be contained within the rights-of-way or drainage easements.
2. Flow Spread Limits: Inlets shall be spaced so that the spread of flow in the street for the conveyance storm (25-year) shall not exceed the guidelines listed in Table 4-1, as measured from the gutter or face of the curb.

Table 4-1. Flow Spread Limits	
Street Classification	Allowable Encroachment
Collectors, Arterial, and Thoroughfares (greater than 2-lanes)	8 feet or one travel lane, both sides for a divided roadway
Local Residential Streets	Curb depth or maximum 6 inches at gutter while keeping one 11-foot travel lane open

3. Where inlets are required, inlets shall be spaced so that the maximum travel distance of water in a gutter will not exceed six hundred (600) feet. On-grade inlets will be sized using an allowable capacity of one (1) cubic foot per second of opening for a throat height of five (5) inches. Design of inlets shall conform to the City of Bastrop Construction Standards Manual.
4. Parking Lots: Parking lots shall be designed for the conveyance storm (25-year) not to exceed the top of the curb with maximum ponding at low points of six (6) inches and one (1) foot for the 25- and 100-year storm event, respectively. The flood mitigation storm (100-year) shall also be contained on-site or within dedicated easements.
5. Roadside Swales & Driveway Culverts
 - a. Roadside drainage swales shall conform to the following:
 - (1) Minimum grade - 0.5%
 - (2) Maximum grade in sandy soils - 5%
 - (3) Maximum grade in clay soils - 8%
 - (4) All open swales, channels, bar ditches or other drainage ways shall have a minimum velocity of two feet per second.
 - (5) Maximum velocities:
 - (a) coarse sand - 4 feet per second
 - (b) fine gravel - 6 feet per second
 - (c) sandy silt - 2 feet per second
 - (d) clay - 3.5 feet per second
 - (e) grass-lined sandy silt - 6 feet per second
 - (f) silt clay - 8 feet per second
 - (g) poor rock (usually sedimentary) - 10 feet per second
 - (h) soft sandstone - 8 feet per second
 - (i) soft shale - 3.5 feet per second
 - (j) good rock (usually igneous or hard metamorphic) - 12 feet per second
 - (k) reinforced concrete lining - 15 feet per second
 - b. Rock or riprap retards shall be used to control the erosive characteristics of drainage in roadside swales on steep slopes. Retards shall be designed to reduce drainage water velocity to an acceptable level and to prevent drainage water from encroaching on the driving surface. Retards shall not project onto shoulder surfaces and shall blend into ditch lines so that

normal roadside ditch maintenance is possible.

- c. Roadside swales shall be designed to carry the 25-year event, provided that the 100-year event is maintained in the right-of-way or an easement and that 100-year storm flood depths do not exceed one foot within any portion of the roadway. Roadside swales (bar ditches) shall have a maximum front slope of 6:1 (horizontal:vertical). The maximum back-slope shall be 4:1 (horizontal:vertical). Exceptions to the slopes may be made by the City's Engineer for unusual circumstances, provided slopes are adequate for maintenance, soil stability and traffic safety.
- d. The design engineer shall calculate the culvert sizes for every lot within the subdivision and provide a table identifying each lot, culvert size and elevations.
- e. The length of culvert pipe, where used, shall be sufficient to allow for driveway base width (including radius as applicable) plus three times the pipe diameter plus three feet (3'), but in any case, no less than twenty feet (20'). All driveway culvert ends shall be constructed with safety end treatments.
- f. Headwalls, catch basins or other culvert structures shall be designed in accordance with the drainage requirements of these specifications and the Typical Construction Details of the Texas Department of Transportation or these specifications whichever is applicable. No headwall, wingwall or other structural member shall protrude above the surface of the traveled roadway. Flush headwalls at three to one (3:1) maximum or flatter slopes are preferred for any culverts parallel to streets (driveways, etc.).
- g. All special designs of roadside ditches, retaining walls, etc., requires the specific approval of the City.
- h. All grass-lined drainage systems, including bar ditches shall be seeded per TxDOT right-of-way vegetation standards Item 164, and the developer shall make provisions to establish vegetation per Stormwater Pollution Prevention Plan.

6. Drainage at Drive Approaches

- a. Conveyance - Driveway installations requiring conveyance for storm drainage in roadside ditches shall be sized to provide adequate capacity to pass the 25-year storm event.
- b. Dip-Type Driveways - Properly designed and installed dip-type driveway installations function better to pass roadside drainage with minimum scour damage to driveway and/or road shoulders or surface and are preferred where terrain will allow economical installation. Standard details are provided in the City of Bastrop's Construction Standards Manual for both concrete and asphalt surfaces. Installation of dip- type driveways approved

under these standards for subdivision development shall be the responsibility of the Developer. If the Developer does not wish to construct these driveways at the time the roadways and other improvements are constructed or prior to the sale of lots, he must provide a cash bond or performance bond in the amount of the driveway construction cost to the City prior to approval of other subdivision improvements. Dip-type driveways may be allowed provided the design event flow can be accommodated. Dip-type driveways shall be constructed of six-inch concrete paving from the edge of pavement to the property line. Such driveways shall not exceed a slope of 0.5 feet over a distance of 10 feet.

- c. Culvert Pipe Driveway Installations - Installation of culvert pipe driveway entrances for subdivision development approved under these standards shall be the responsibility of the Developer. If the Developer does not wish to construct these driveways at the time the roadways and other improvements are constructed, he must provide a cash bond or performance bond to the City and/or County in the amount of the driveway construction cost prior to approval of other subdivision improvements.

- (1) Culvert Pipe Length - The length of culvert pipe, where used, be sufficient to allow for driveway base width (including radius as applicable) plus three times the pipe diameter plus three feet (3'), but in any case, no less than twenty feet (20').

C. Storm Sewers

- 1. All storm sewers, inlets, manholes or junctions shall be designed in accordance with the Texas Department of Transportation hydraulic criteria. However, as stated in 2a. below, the hydraulic grade line (HGL) for the design storm event will be allowed to operate under pressure flow conditions.
- 2. Design Frequency
 - a. Pipe Design: The conveyance storm (25-year) event within pipe with hydraulic grade line (HGL) below throat of inlets. In no case shall the system surcharge back through an inlet or inlets.
 - b. Right-of-way and Easements: The flood mitigation storm (100-year) event must be contained within the right-of-way or easement.
- 3. Design Criteria
 - a. For ordinary conditions, storm drain pipes shall be sized on the assumption that they will flow full or practically full under the design discharge but will not be placed under pressure head. Capacity of storm sewers shall be determined by using Manning's formula based on hydraulic gradients rather than physical slope of the pipe.
 - b. The maximum hydraulic gradient shall not produce a velocity that exceeds

15 feet per second (fps). Table 4-2 shows the desirable velocities for most storm drainage designs. Storm drains shall be designed to have a minimum mean velocity flowing full at 2.5 fps.

Table 4-2. Desirable Velocity in Storm Drains	
Description	Maximum Desirable Velocity (feet per second)
Culverts (All types)	15
Storm Drains (Inlet laterals)	No Limit
Storm Drains (Collectors)	15
Storm Drains (Mains)	15

- c. The minimum desirable physical slope shall be that which provides a minimum velocity of 2.5 feet per second.
- d. If the hydraulic grade line elevation is less than one foot below ground elevation or gutter line for the design flow, adjustments are needed in the system to reduce the elevation of the hydraulic grade line.
- e. Manholes: Manholes (inlets and junction boxes) shall be provided at all changes in grade or alignment of sewer intersections, and at a maximum of one thousand (1,000) feet on straight lines. Alternatives to providing manholes at changes in grade and alignment may include providing precast reinforced concrete pipe joints and bends. Design of manholes shall conform to the current City of Bastrop Construction Standards Manual. Access manholes are required at intermediate points along straight runs of closed conduits. Table 4-3 gives the maximum spacing criteria.

Table 4-3. Access Manhole Spacing Criteria (HEC 22, 2001)	
Pipe Size (inches)	Maximum Spacing (feet)
12-24	300
27-36	400
42-54	500
60 and up	600

- f. Pipe: Pipe for storm drains located within the public right-of-way shall be reinforced concrete pipe in sizes as shown on the approved plans. The minimum size of the storm sewer shall be eighteen (18) inches and shall be reinforced concrete pipe minimum ASTM C76, Class III. Where, in the opinion of the City Engineer, added strength of pipe is needed for traffic loads over minimum cover or for excessive height of backfill, concrete pipe shall be ASTM C14 Extra Strength or ASTM C76, Class IV or Class V. Pipe shall have a minimum cover of not less than one (1) foot over the top of the

pipe. Storm sewers will be required where subsurface conditions indicate a potential for seepage or underground flow as determined by the City Engineer. Alternate pipe materials may be used for areas located on private lands or within the public right-of-way where the City Engineer determines they meet an equivalent or better performance criteria.

- g. The developer may install an approved open channel in lieu of installing pipe larger than sixty (60) inches. This open channel shall be at the rear of residential lots and shall be adequately armored with a material approved by the City (e.g., concrete, rock gabions, etc.). In the event it is necessary to locate the drainage facility adjacent to and parallel to a street, it shall be a closed conduit even though pipe sizes larger than sixty inches are required.
- h. Outfalls: Whenever possible, outfalls from storm sewers and swales into natural drainage ways shall enter at the grade of the natural drainage channel. The engineer will design drop-type outfall structures, or otherwise provide adequate protection against erosion.

D. Bridges and Culverts

- 1. For this Section, bridges are defined as cross drainage facilities with a span of 20 feet or larger.
- 2. Design of culvert and bridge structures shall conform to the TxDOT Standard Specifications for Construction of Highways, Streets and Bridges, latest revision. Culvert and bridge design loading and widths for roads and streets shall conform to the TxDOT standards. Bridge widths shall conform to Design Standards for Farm to Market Roads, secondary roads division, TxDOT, or as directed by the City. Structures of this nature require the specific approval of the City. All street and road culverts shall be constructed of reinforced concrete box culverts or reinforced concrete pipe culverts.
- 3. Design Frequency for Bridges:
 - a. Flood mitigation storm (100-year) for all bridges.
- 4. Design Criteria for Bridges
 - a. Freeboard considerations outlined in Chapter 9 of the TxDOT Hydraulic Design Manual should be followed.
 - b. The contraction and expansion of water through the bridge opening creates hydraulic losses. These losses are accounted for by using loss coefficients. Table 4-4 gives recommended values for the Contraction (K_c) and Expansion (K_e) Coefficients.
- 5. For this Section, culverts are cross drainage facilities that transport runoff under

roadways or other improved areas.

6. Culvert hydraulics shall be analyzed using Federal Highway Administration (FHWA) Hydraulic Design Series Number 5 (HDS-5) HYDRAULIC DESIGN OF HIGHWAY CULVERTS methods.
7. Box culverts shall conform to TxDOT design standards and details.

Table 4-4. Recommended Loss Coefficients for Bridges

Transition Type	Contraction (K_c)	Expansion (K_e)
No losses computed	0.0	0.0
Gradual transition	0.1	0.3
Typical bridge	0.3	0.5
Severe transition	0.6	0.8

Source: TxDOT Hydraulic Design Manual, July 2016

8. Design Frequency for Culverts

- a. Culverts shall be designed for the flood mitigation storm (100-year) or in accordance with TxDOT requirements, whichever is more stringent. Consideration when designing culverts includes: roadway type, tailwater or depth of flow, structures, and property subject to flooding, emergency access, and road replacement costs. Culverts must convey the Conveyance Storm (25-year), and the headwater surface elevation shall not exceed the minimum road surface elevation. The headwater depth for a 100-year frequency storm shall not exceed one foot (1') over the minimum roadway surface elevation.
- b. The flood mitigation storm (100-year) shall be routed through all culverts to be sure building structures (e.g., houses, commercial buildings) are not flooded or increased damage does not occur to the highway or adjacent property for this design event.

9. Design Criteria for Culverts

a. Velocity Limitations

- (1) The maximum velocity shall be consistent with channel stability requirements at the culvert outlet.
- (2) The maximum allowable velocity for corrugated metal pipe is 15 feet per second. There is no specified maximum allowable velocity for reinforced concrete pipe, but outlet protection shall be provided where discharge velocities will cause erosion conditions.
- (3) To ensure self-cleaning during partial depth flow, a minimum

- (2) For culverts that discharge to an open channel, a stage-discharge curve using Manning's Equation for the channel must be determined.
- (3) If an upstream culvert outlet is located near a downstream culvert inlet, the headwater elevation of the downstream culvert will establish the design tailwater depth for the upstream culvert.
- (4) If the culvert discharges to a lake, pond, or other major water body, the expected high-water elevation of the water body will establish the culvert tailwater.

e. Other Criteria

- (1) In designing debris control structures, the Hydraulic Engineering Circular No. 9 entitled *Debris Control Structures* or other approved reference is required to be used.
 - (2) If storage is being assumed or will occur upstream of the culvert, refer to *Section 2.0 of the iSWM Hydraulics Technical Manual* regarding storage routing as part of the culvert design.
 - (3) Reinforced concrete pipe, pre-cast and cast-in-place concrete boxes are recommended for use:
 - (a) under a roadway,
 - (b) when pipe slopes are less than one percent (1%), or
 - (c) for all flowing streams.
 - (4) Driveway corrugated metal pipe culverts to single residences may be used with an approved design from the City Engineer.
 - (5) Use of any storm drain pipe material other than reinforced concrete pipe shall require prior approval from the City Engineer.
 - (6) Culvert skews shall not exceed forty-five degrees (45°) as measured from a line perpendicular to the roadway centerline without approval.
- f. The minimum allowable pipe size for a storm drain main shall be twenty-four inches (24"). Eighteen-inch (18") pipe may be used for storm drain lead lines with approval from City.
- g. Erosion, sediment control, and velocity dissipation shall be designed in accordance with *Section 4.0 of the Hydraulics Technical Manual*.

10. Headwalls and Wingwalls

- a. All headwall and wingwalls shall conform to TxDOT design standards and

- (2) For culverts that discharge to an open channel, a stage-discharge curve using Manning's Equation for the channel must be determined.
- (3) If an upstream culvert outlet is located near a downstream culvert inlet, the headwater elevation of the downstream culvert will establish the design tailwater depth for the upstream culvert.
- (4) If the culvert discharges to a lake, pond, or other major water body, the expected high-water elevation of the water body will establish the culvert tailwater.

e. Other Criteria

- (1) In designing debris control structures, the Hydraulic Engineering Circular No. 9 entitled *Debris Control Structures* or other approved reference is required to be used.
 - (2) If storage is being assumed or will occur upstream of the culvert, refer to *Section 2.0 of the iSWM Hydraulics Technical Manual* regarding storage routing as part of the culvert design.
 - (3) Reinforced concrete pipe, pre-cast and cast-in-place concrete boxes are recommended for use:
 - (a) under a roadway,
 - (b) when pipe slopes are less than one percent (1%), or
 - (c) for all flowing streams.
 - (4) Driveway corrugated metal pipe culverts to single residences may be used.
 - (5) Use of any storm drain pipe material other than reinforced concrete pipe shall require prior approval from the City Engineer.
 - (6) Culvert skews shall not exceed forty-five degrees (45°) as measured from a line perpendicular to the roadway centerline without approval.
- f. The minimum allowable pipe size for a storm drain main shall be twenty-four inches (24"). Eighteen-inch (18") pipe may be used for storm drain lead lines with approval from City.
- g. Erosion, sediment control, and velocity dissipation shall be designed in accordance with *Section 4.0 of the Hydraulics Technical Manual*.

10. Headwalls and Wingwalls

- a. All headwall and wingwalls shall conform to TxDOT design standards and

details.

- b. No headwall, wingwall or other structural member shall protrude above the surface of the traveled roadway.
- c. All headwall and wingwalls within the "clear zone" as defined by TxDOT of any roadway shall conform to TxDOT design standards and details for safety end treatment or shall be protected by a traffic barrier.

E. Drainage Channels

1. Design Frequency

- a. Open channels, including all natural or structural channels and swales shall be designed for the flood mitigation storm event (100-year).
- b. Channels shall be designed with multiple stages. A low flow channel section containing the streambank protection flows (2-year) and a high flow section that contains the conveyance (25-year) and flood mitigation storms (100-year) will improve stability and better mimic natural channel dimensions.

2. Design Criteria

- a. Open channels shall incorporate meanders to the maximum extent practical; however, the two-year peak flow shall be conveyed in a channel with the following meander configuration:
 - (1) Channel sinuosity ratio (distance measured between two points along the channel flow line divided by the straight-line distance between the same two points) shall exceed 1.5;
 - (2) The angle between the channel centerline and the valley axis is less than 90 degrees;
 - (3) Sinusoidal curvature patterns may be regular or irregular; and
 - (4) The ratio of the design radius of curvature to the channel width shall be between 1.5 and 4.5.
- b. If the channel slope exceeds ten percent (10%), or a combination of channel linings will be used, additional procedures not presented below are required. References include HEC-15 and HEC-14 (USDOT, FHWA, 1983).
- c. HEC-RAS, or similarly capable software approved by the entity with jurisdiction, shall be used to confirm the water surface profiles in open channels.
- d. The final design of artificial open channels shall be consistent with the velocity limitations for the selected channel lining. Maximum velocity values for selected lining categories are presented in Table 4-5. Seeding and

mulch shall only be used when the design value does not exceed the allowable value for bare soil. Velocity limitations for vegetative linings are reported in Table 4-5. Vegetative lining calculations and stone riprap procedures are presented in *Section 3.2 of the iSWM Hydraulics Technical Manual*.

- e. Drainage swales, where approved by the City Engineer, may be used for outfalls to natural or major drainage channels. Swales shall be designed to have a minimum of one (1) foot of freeboard at design flow and side slopes shall not be steeper than 4:1.
- f. Channels with slopes less than one percent (1.0%) shall be constructed with a reinforced concrete pilot channel, unless other low flow methods are approved by the City Engineer.
- g. Water surface profiles for all channels shall be computed using a standard step backwater model, such as US Army Corps of Engineers (USACE) HEC-RAS. The engineer can propose to use other hydraulic methods but must have their acceptability approved by the City Engineer.
- h. Open channels shall meet the criteria of either the Texas State Department of Highways and Public Transportation or S.C.S. TR. No. 25 Design of Open Channels and shall be constructed in accordance with one of the design methods. Design of channels shall consider velocities and shall be shaped, graded, lined, or protected to minimize or prevent scour and erosion from excessive velocities. This requirement shall extend to roadside drainage swales. Concrete or rock retards shall be used when velocities exceed four feet (4') per second with sandy soil conditions or five feet (5') per second with clay soil conditions. All channels or roadside drainage swales without a protective lining shall have an established vegetative or grass cover. The depth of the 100-year frequency storm runoff shall not exceed one foot (1') over the minimum roadway surface elevation.
- i. The Applicant may be required by the City Engineer to carry away by pipe or open ditch any spring or surface water that exists prior to, or because of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in the perpetual unobstructed drainage easements of appropriate width and shall be constructed in accordance with the City of Bastrop Construction Standards Manual.
- j. Trapezoidal channels shall have a minimum channel bottom width of six feet (6').
- k. Channels with bottom widths greater than six feet (6') shall be designed with a minimum bottom cross slope of 12 to 1 (12:1) or with compound cross sections.

Table 4-5. Roughness Coefficients (Manning's n) and Allowable Velocities for Natural Channels

Channel Description	Manning's n	Max. Permissible Channel Velocity (ft/s)
MINOR NATURAL STREAMS		
Fairly regular section		
1. Some grass and weeds, little or no brush	0.030	3 to 6
2. Dense growth of weeds, depth of flow materially greater than weed height	0.035	3 to 6
3. Some weeds, light brush on banks	0.035	3 to 6
4. Some weeds, heavy brush on banks	0.050	3 to 6
5. Some weeds, dense willows on banks	0.060	3 to 6
For trees within channels with branches submerged at high stage, increase above values by Irregular section with pools, slight channel meander, increase above values by	0.010	
	0.010	
Floodplain – Pasture		
1. Short grass	0.030	3 to 6
2. Tall grass Floodplain –	0.035	3 to 6
Cultivated Areas		
1. No crop	0.030	3 to 6
2. Mature row crops	0.035	3 to 6
3. Mature field crops	0.040	3 to 6
Floodplain – Uncleared		
1. Heavy weeds scattered brush	0.050	3 to 6
2. Wooded	0.120	3 to 6
MAJOR NATURAL STREAMS		
Roughness coefficient is usually less than for minor streams of similar description because of less effective resistance offered by irregular banks or vegetation on banks. Values of "n" for larger streams of mostly regular sections, with no boulders or brush	Range from 0.028 to 0.060	3 to 6
UNLINED VEGETATED CHANNELS		
Clays (Bermuda Grass)	0.035	5 to 6
Sandy and Silty Soils (Bermuda Grass)	0.035	3 to 5
UNLINED NON-VEGETATED CHANNELS		
Sandy Soils	0.030	1.5 to 2.5
Silts	0.030	0.7 to 1.5
Sandy Silts	0.030	2.5 to 3.0
Clays	0.030	3.0 to 5.0
Coarse Gravels	0.030	5.0 to 6.0
Shale	0.030	6.0 to 10.0
Rock	0.025	15
For natural channels with specific vegetation type, refer to Table 4-7 for more detailed velocity control.		

Source: iSWM Technical Manual, NCTCOG, Sept. 2014

- l. Channel side slopes shall be stable throughout the entire length and the side slope shall depend on the channel material. Roadside swales shall have maximum foreslopes of 4:1 and maximum backslopes of 3:1.
- m. Trapezoidal or parabolic cross sections are preferred over triangular shapes.
- n. For vegetative channels, design stability shall be determined using low vegetative retardance conditions (Class D as defined in Table 4-7). For design capacity, higher vegetative retardance conditions (Class C as defined in Table 4-7) shall be used.
- o. For vegetative channels, flow velocities within the channel shall not exceed the maximum permissible velocities given in Tables 4-5 and 4-6.
- p. If relocation of a stream channel is unavoidable, the cross-sectional shape, meander, pattern, roughness, sediment transport, and slope shall conform to the existing conditions insofar as practicable. Energy dissipation will be necessary when existing conditions cannot be duplicated.
- q. Streambank stabilization shall be provided, when appropriate, as a result of any stream disturbance such as encroachment and shall include both upstream and downstream banks as well as the local site.
- r. Vegetative Design: A two-part procedure is required for final design of temporary and vegetative channel linings.
 - (1) Part 1- the design stability component, involves determining channel dimensions for low vegetative retardance conditions, using Class D as defined in Table 4-7.
 - (2) Part 2: the design capacity component, involves determining the depth increase necessary to maintain capacity for higher vegetative retardance conditions, using Class C as defined in Table 4-7.
 - (3) If temporary lining is to be used during construction, vegetative retardance Class E shall be used for the design stability calculations.

Design examples outlining the steps of design stability calculations are provide within Section 3.2.6 of the iSWM Technical Manual.
- s. For gabions, design velocities range from 10 fps for 6-inch mattresses up to fifteen feet per second (15 fps) for one-foot (1') mattresses. Some manufacturers indicate that velocities of twenty feet per second (20 fps) are allowable for basket installations. The design of stable rock riprap lining depends on the intersection of the velocity (local boundary shear) and the size and gradation of the riprap material. More information on calculating acceptable riprap velocity limits is available in *Section 3.2.7 of the Hydraulics Technical Manual*.

- t. Swales: Drainage swales, where approved by the City Engineer, may be used for outfalls to natural or major drainage channels. Swales shall be designed to have a minimum of one foot (1') of freeboard at design flow and side slopes shall not be steeper than 4:1 and constructed with a reinforced concrete trickle channel.
- u. A permanent chain link fence or other fence meeting the requirements of the City shall be constructed along the top of any channel exceeding three feet (3') in depth to enclose the area where it is adjacent to residential lots and in other cases, where it is deemed necessary to restrict access to the channel.

Table 4-6. Maximum Velocities for Vegetative Channel Linings		
<u>Vegetation Type</u>	Slope Range (%)¹	Maximum Velocity² (ft/s)
Bermuda grass	0-5	6
Bahia		4
Tall fescue grass mixtures ³	0-10	4
Kentucky bluegrass	0-5	6
Buffalo grass	5-10 >10	5 4
Grass mixture	0-5 ¹ 5-10	4 3
Sericea lespedeza, Weeping lovegrass, Alfalfa	0-5 ⁴	3
Annuals ⁵	0-5	3
Sod		4
Lapped sod		5
¹ Do not use on slopes steeper than 10% except for side-slope in combination channel. ² Use velocities exceeding 5 ft/s only where good stands can be maintained. ³ Mixtures of Tall Fescue, Bahia, and/or Bermuda ⁴ Do not use on slopes steeper than 5% except for side-slope in combination channel. ⁵ Annuals - used on mild slopes or as temporary protection until permanent covers are established.		

Source: Manual for Erosion and Sediment Control in Georgia, 1996.

Table 4-7. Classification of Vegetal Covers as to Degrees of Retardance		
Retardance Class	Cover	Condition
A	Weeping Lovegrass	Excellent stand, tall (average 30")
	Yellow Bluestem Ischaemum	Excellent stand, tall (average 36")
B	Kudzu	Very dense growth, uncut
	Bermuda grass	Good stand, tall (average 12")
	Native grass mixture Little bluestem, bluestem, blue gamma other short and long stem Midwest grasses	Good stand, unmowed
	Weeping lovegrass	Good stand, tall (average 24")
	Laspedeza sericea	Good stand, not woody, tall (average 19")
	Alfalfa	Good stand, uncut (average 11")
	Weeping lovegrass	Good stand, unmowed (average 13")
	Kudzu	Dense growth, uncut
C	Blue gamma	Good stand, uncut (average 13")
	Crabgrass	Fair stand, uncut (10 – 48")
	Bermuda grass	Good stand, mowed (average 6")
	Common lespedeza	Good stand, uncut (average 11")
	Grass-legume mixture: summer (orchard grass redtop, Italian ryegrass, and common lespedeza)	Good stand, uncut (6 – 8 ")
	Centipede grass	Very dense cover (average 6")
D	Kentucky bluegrass	Good stand, headed (6 – 12")
	Bermuda grass	Good stand, cut to 2.5"
	Common lespedeza	Excellent stand, uncut (average 4.5")
	Buffalo grass	Good stand, uncut (3 – 6")
	Grass-legume mixture: fall, spring (orchard grass, redtop, Italian ryegrass, and common lespedeza)	Good stand, uncut (4 – 5")
E	Lespedeza serices	After cutting to 2" (very good before cutting)
	Bermuda grass	Good stand, cut to 1.5"
	Bermuda grass	Burned stubble

Note: Covers classified have been tested in experimental channels. Covers were green and generally uniform. Source: HEC-15, 1988.

F. Detention/Retention Structures

1. General

- a. Retention (maintains a permanent pool elevation) and detention (no permanent pool storage) shall be designed in accordance with the criteria below.
- b. Stormwater detention facilities shall be required where deemed appropriate by the City when it is determined that adverse downstream flooding would occur due to a proposed development. Stormwater detention shall be used to reduce the net increase in stormwater runoff due to development of the property at the 2-, 25-, and 100-year events, unless a downstream assessment shows that none is required. Multi-stage outlet structures may be required. Within the Gills Branch Watershed, stormwater detention shall be used to reduce the net increase in stormwater runoff due to development to reduce the post-developed 100-year storm peak discharge to the pre-developed 25-year storm peak discharge.
- c. Retention/detention ponds shall be encompassed by an easement. The facility will remain the maintenance responsibility of the Responsible Party or property-owners association, unless otherwise accepted by the City. Acceptance by the City will be contingent upon the facility being a part of a dedicated park or other such property which meets with the City's approval.
- d. Preservation of major floodplains is strongly encouraged and detention/retention may be required if a proposed drainage improvement is found to create actual or potential upstream, adjacent or downstream property damage due to the creation of excessive flood velocities or heights.
- e. Runoff from development sites that exceeds 10,000 square feet of land disturbance or a net increase of 5,000 square feet of impervious surface must not exceed pre-development levels for the 2-year, 25-year and 100-year, 24-hour events, unless a downstream assessment determines that it is not required. Multi-phase developments will be considered as a single entity in determining the requirement for detention. For development sites not exceeding the above referenced disturbed area and impervious area thresholds, the City may at their discretion require that stormwater detention be provided.
- f. No increase or concentration of stormwater may be conveyed off-site without easements and/or downstream drainage improvements. Increased stormwater runoff attributable to new development must not exceed the capacity of the downstream drainage system. If no downstream drainage system exists, increased stormwater runoff must not adversely affect adjoining property. In cases where the proposed runoff would exceed the capacity of downstream facilities, the developer will be required to provide detention to prevent overloading of downstream systems.

- g. In all new developments where stormwater runoff has been collected or concentrated, discharge shall be conveyed off-site by creeks, channels or storm sewer systems. Easements shall be provided by the Responsible Party to the City for off-site drainage facilities, as well as for on-site facilities. All flows shall be discharged in a non-erosive manner.
- h. The Responsible Party shall pay for the cost of all drainage improvements required, including any necessary off-site channels or storm sewers and acquisition of the required easements.
- i. If it is anticipated that additional runoff caused by the development will overload any existing downstream drainage facility, whether natural or improved, and result in hazardous conditions, approval of the improvements for the proposed subdivision may be withheld until appropriate provisions have been made to accommodate the problem. If existing capacity is not available downstream and property damage could occur, the Responsible Party shall provide a drainage system or detention facility to mitigate the deficiency. In any case, a letter of acknowledgement shall be obtained from the downstream property owner indicating that the downstream property owner is aware of proposed drainage improvements impacting drainage on or to said owner's property.
- j. Permanent impoundments of water shall be constructed in such a way that negative effects on aesthetics, function, flooding, health, and safety are minimized. Such improvements shall be allowed at the discretion of the City Engineer. The developer shall be responsible for all necessary permitting required by the Texas Commission on Environmental Quality for impounding public water. The City Engineer may require calculations and/or other documentation that no negative impact is created. All Texas Commission on Environmental Quality (TCEQ) requirements for impoundments and dam safety shall apply. These requirements relate to both the size and the hazard classification of the embankment. Copies of all materials submitted to TCEQ for permitting, along with the TCEQ permits, must be submitted to the City Engineer.
- k. All storage facilities shall be designed and analyzed using reservoir routing of an inflow unit hydrograph. The software program or computational method must be approved by the City Engineer. The analysis should consist of comparing the design flows at a point or points downstream of the proposed storage site with and without storage. Design calculations shall show the effects of the detention facility in each of the 2-, 25-, and 100-year storm events. This may require the use of multi-stage control structures. The detention facility shall be designed to provide the required detention for all the above-listed frequencies.
- l. The facilities shall be designed using SCS unit hydrograph methodologies or by other approved hydrograph routing methods.

- m. Detention ponds may be counted toward the required parkland dedication if designed to accommodate recreational activities.

2. Design Frequency

Detention structures shall be designed for the three storms (streambank protection (2-year), conveyance (25-year), and flood mitigation storms (100-year)) for the critical storm duration that results in the maximum (or near maximum) peak flow.

3. Design Criteria

- a. Dry detention basins are sized to temporarily store the volume of runoff required to provide flood protection up to the flood mitigation storm, if required.
- b. Extended detention dry basins are sized to provide extended detention of the streambank protection volume over 24 hours and can also provide additional storage volume for normal detention (peak flow reduction) of the flood mitigation storm event.
- c. Routing calculations must be used to demonstrate that the storage volume and outlet structure configuration are adequate. See *Section 2.0 of the iSWM Hydraulics Technical Manual* for procedures on the design of detention storage.
- d. Detention Basins shall be designed with an 8-foot-wide maintenance access.
- e. A freeboard of one (1) foot will be required for all detention ponds. Freeboard distance is measured between the elevation of the emergency spillway crest and the elevation of the top of the detention basin containment embankment/berm.
- f. A calculation summary shall be provided on construction plans. For detailed calculations of unit hydrograph studies, a separate report shall be provided to the City for review and referenced on the construction plans. Stage-storage-discharge values shall be tabulated and flow calculations for discharge structures shall be shown on the construction plans.
- g. An emergency spillway shall be provided at the flood mitigation maximum storage elevation with sufficient capacity to convey the flood mitigation storm assuming blockage of the outlet works with six inches of freeboard. Spillway requirements must also meet all appropriate state and federal criteria.
- h. A landscape plan shall be provided for all detention ponds.
- i. All detention basins shall be stabilized against significant erosion and include a maintenance plan.
- j. Design calculations will be provided for all spillways and outlet structures.

- k. Stormwater maintenance agreements shall be included for all detention structures (example stormwater maintenance agreement is provided as Appendix G).
- l. Storage may be subject to the requirements of the Texas Dam Safety Program (see iSWM Program Guidance) based on the volume, dam height, and level of hazard.
- m. Earthen embankments six feet (6') in height or greater shall be designed per TCEQ guidelines for dam safety (see iSWM Program Guidance).
- n. Vegetative slopes shall be less than ten feet (10') in height and shall have side slopes no steeper than 4:1.
- o. Areas above the normal high-water elevations of the detention facility should be sloped toward the basin to allow drainage and to prevent standing water. Careful finish grading is required to avoid creation of upland surface depressions that may retain runoff. The bottom area of storage facilities should be graded toward the outlet to prevent standing water conditions. A low flow or pilot channel across the facility bottom from the inlet to the outlet (often constructed with riprap) is recommended to convey low flows and prevent standing water conditions.

4. Outlet Structures

- a. Outlet structures shall be designed to intercept sediment and floatables from the 25-year storm. The potential for the impact of sedimentation on the detention facility should be evaluated. A means of access for maintenance of the facility shall be provided.
- b. The outlet control structures for storage facilities typically include a principal outlet and an emergency overflow. The principal outlet functions to restrict the outflow and cause the runoff to use the available storage volume. The principal outlet shall be designed to accommodate the multiple frequency storms listed above while maintaining the minimum freeboard of one foot. The emergency overflow shall be paved and provide positive overflow.
- c. The outlet control structure may be drop inlets, pipes, culverts, weirs, or orifices. Checks should be made to determine if the outlet structure is controlled by weir or orifice flow. The tailwater on the structure could significantly affect its capacity. The engineer should carefully evaluate the tailwater depth. For detention facilities in a series, the lower facility should not cause inundation of the upper outlet control structure. The calculation of the hydraulic capacity for outlet control structures is based on the type of structure used, using standard hydraulic calculations.
- d. Extended detention (ED) orifice sizing is required in design applications that provide extended detention for downstream streambank protection (2-year). The release rate for the orifice shall discharge the ED volume in a

period of 24 hours or longer. In this case an extended detention orifice or reverse slope pipe must be used for the outlet.

e. Design Frequency

- (1) Streambank protection storm (2-year, 24-hour)
- (2) Conveyance storm (25-year, 24-hour)
- (3) Flood mitigation storm (100-year, 24-hour)

f. Design Criteria

- (1) Estimate the required storage volumes for streambank protection, conveyance storm, and flood mitigation.
- (2) Design extended detention outlets for each storm event.
- (3) Outlet velocities shall be within the maximum allowable range based on channel material as shown in Tables 4-5 and 4-6.
- (4) Design necessary outlet protection and energy dissipation facilities to avoid erosion problems downstream from outlet devices and emergency spillway(s).
- (5) Perform buoyancy calculations for the outlet structure and footing. Flotation will occur when the weight of the structure is less than or equal to the buoyant force exerted by the water.
- (6) Additional design guidance is in *Section 2.2 of the iSWM Hydraulics Technical Manual*.

5. Energy Dissipation

a. Design Frequency

All drainage system outlets, whether for closed conduits, culverts, bridges, open channels, or storage facilities, shall provide energy dissipation to protect the receiving drainage element from erosion.

- (1) Conveyance storm (25-year, 24-hour)
- (2) Flood mitigation storm (100-year, 24-hour)

b. Design Criteria

- (1) *Energy dissipaters* are engineered devices such as rip-rap aprons or concrete baffles placed at the outlet of stormwater conveyance systems for reducing the velocity, energy and turbulence of the discharged flow.
- (2) Erosion problems at culvert, pipe and engineered channel outlets are common. Determination of the flow conditions, scour potential,

and channel erosion resistance shall be standard procedure for all designs.

- (3) Energy dissipaters shall be employed whenever the velocity of flows leaving a stormwater management facility exceeds the erosion velocity of the downstream area channel system.
- (4) Energy dissipater designs will vary based on discharge specifics and tailwater conditions.
- (5) Outlet structures shall provide uniform redistribution or spreading of the flow without excessive separation and turbulence.
- (6) Energy dissipaters are a required component of the Final Drainage Plan.
- (7) Recommended Energy Dissipaters for outlet protection include the following:
 - (a) Riprap apron
 - (b) Riprap outlet basins
 - (c) Baffled outlets
 - (d) Grade Control Structures

The reader is referred to *Section 4.0 of the iSWM Hydraulics Technical Manual* and the Federal Highway Administration Hydraulic Engineering Circular No. 14 entitled, Hydraulic Design of Energy Dissipaters for Culverts and Channels, for the design procedures of other energy dissipaters.

SECTION 5 EASEMENTS

SECTION 5 - EASEMENTS

The subdivider shall dedicate or grant easements as follows, and record them in the in the deed records of Bastrop County:

A. General Policy

1. Drainage easements shall generally be located along the existing drainage way and should be of sufficient width for the designed improvements (if any) to be installed and enough extra width for maintenance equipment to be able to work.
2. All drainage easements shall be so designed to allow maintenance equipment to enter the easement and be able to perform the necessary work.

B. Drainage Easements

Where a subdivision is traversed by a watercourse, drainage way, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such watercourse, plus additional width to accommodate future needs as determined by the City of Bastrop Comprehensive Plan and the City Manager. Natural waterways and channels should be used wherever practical to carry runoff. Any modification to an existing waterway and channel requires approval by the City Engineer and City Manager.

Easements shall be retained along drainage ways, which carry drainage away from roads or which convey main drainage from and through the lots or tracts. Easements shall be a minimum of twenty-five-feet (25') wide for open drainage channels or sized to accommodate the 100-year flood plain. A suitable note on the plat must restrict all properties within the subdivision ensuring that drainage easements within the plat boundaries shall be kept clear of fences, buildings, and plantings that would obstruct the flow of water, and other obstructions to the operations and maintenance of the drainage facility.

1. Storm drainage easements of fifteen feet (15') minimum width shall be provided for existing and proposed enclosed drainage systems. Easements shall be centered on the systems. Larger easements, where necessary, shall be provided as directed by the City Engineer.
2. Storm drainage easements along existing or proposed open channels shall be a minimum of twenty-five-feet (25') wide for open drainage channels or sized to accommodate the 100-year flood plain, providing sufficient width for the required channel and such additional width as may be required for ingress and egress of maintenance equipment; to provide clearance from fences and space for utility poles; to allow maintenance of the channel bank; and, to provide necessary slopes along the bank.
3. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements for such drainage facilities shall be provided across property outside

the road right-of-way lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

4. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat or other instrument as approved by the City Attorney. Easements in areas adjoining a proposed subdivision necessary to provide adequate drainage thereof or to serve such subdivision with utilities, shall be obtained by the subdivider prior to final plat approval. In the case of clear public interest, the City may participate in easement acquisition by power of condemnation.
5. The Applicant shall dedicate an appropriate drainage easement either in fee or by drainage easement or by conservation easement of land on both sides of existing watercourses to a distance to be determined by the City Engineer.
6. Easements for storm drainage facilities shall be provided at locations containing proposed or existing drainage ways.
7. Storm drainage easements shall be provided for emergency overflow drainage ways of sufficient width to contain within the easement stormwater resulting from a 100-year frequency storm less the amount of stormwater carried in an enclosed system of a capacity required by the City of Bastrop.
8. The width of the easements shall be substantiated by a drainage study and drainage calculations or other criteria submitted to and approved by the City Engineer.
9. Floodplain Easements. Floodplain easements shall be provided along natural drainage ways and lakes or reservoirs. Floodplain easements shall encompass all areas beneath the water surface elevation resulting from a storm whose design frequency is 100-years (or a one-percent annual probability), plus such additional width as may be required to provide ingress and egress to allow maintenance of the banks and for the protection of adjacent property, as determined and required by the City Engineer.
10. Detention area easements shall be provided that completely encompass the pond and associated improvements. Detention ponds on nonresidential property shall be maintained by the property owner's association, unless otherwise approved by the City.
11. Streambank Buffer Easements – A 100-foot stream buffer easement shall be provided along any of the major stream channels (Colorado River, Piney Creek, Gills Branch, or any other perennial stream) with no grading or vegetation removal to serve as a streambank buffer for erosion and for water quality protection. No buildings may be constructed within the streambank buffer and any fences within the 100-year floodplain shall be designed to not impede flow, including by debris that may be caught in the fence.

SECTION 6 CONSTRUCTION SITE EROSION CONTROL REQUIREMENTS

SECTION 6 - CONSTRUCTION SITE EROSION CONTROL REQUIREMENTS

A. General

Stormwater pollution prevention plans (SWPPPs) shall be submitted for review to the City Engineer prior to release of construction projects. The developer and their engineer shall be responsible for preparation of a SWPPP in accordance with TCEQ and U.S. Environmental Protection Agency (EPA) requirements. TCEQ and EPA permitting shall also be the responsibility of the developer and their engineer.

B. Required Best Management Practices

Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Each site shall provide an access drive and parking area of sufficient dimensions and design, surfaced with a material that will prevent erosion and minimize tracking or washing of soil onto public or private roadways. All non-paved access drives shall be designed so that stormwater runoff from adjacent areas does not flow down the drive surface.
2. Any significant amount of runoff from upslope land area, rooftops, or other surfaces that drain across the proposed land disturbance shall be diverted around the disturbed area, if practical. Any diversion of upslope runoff shall be done in a manner that prevents erosion of the flow path and the outlet.
3. Any cuts and fills shall be planned and constructed to minimize the length and steepness of slope and stabilized in accordance with the approved erosion control plan timelines and standards of this document.
4. Open channels shall be stabilized as required to prevent erosion.
5. Inlets to storm drains, culverts, and other stormwater conveyance systems shall be protected from siltation until final site stabilization.
6. Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate controls designed for the highest dewatering pumping rate. Water may not be discharged in a manner that causes erosion of the site or receiving channels.
7. All waste and unused building materials shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.
8. All off-site sediment deposits occurring as a result of a storm event shall be cleaned up by the end of the next workday. All other off-site sediment deposits occurring as a result of land-disturbing activities shall be cleaned up by the end of the workday. Flushing may not be used unless the sediment will be controlled by a filter fabric barrier, sediment trap, sediment basin, or equivalent.
9. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at one time. Existing vegetation shall be maintained as long as possible.
10. Soil stockpiles shall be located no closer than 25-feet from lakes, streams, wetlands, ditches, drainage ways, or roadway drainage systems. Stockpiles shall be stabilized by mulching, vegetative cover, tarps, or other means if remaining for

20 days or more.

11. For any disturbed area that remains inactive for greater than 7 working days, or where grading work extends beyond annual permanent seeding deadlines, the City of Bastrop may require the site to be treated with temporary stabilization measures.
12. When the disturbed area has been stabilized by permanent vegetation or other means, temporary BMPs such as silt fences, straw bales, and sediment traps shall be removed and these areas stabilized.

CITY OF BASTROP

CONCEPTUAL DRAINAGE PLAN SUBMITTAL CHECKLIST

A. Conceptual Drainage Site Plan

The conceptual drainage site plan shall be submitted at the time of Concept Plan submittal at the same scale as the Concept Plan, preferably one inch is equal to fifty feet (1"=50') and shall include:

1. Project Description.
 - a. Address and legal description of site.
 - b. Vicinity map.
 - c. Land use.
2. Existing Conditions.
 - a. Copy of applicable digital orthophotos showing the proposed project boundaries;
 - b. A topographic map of existing site conditions (no greater than two-foot (2') contour interval) with drainage basin boundaries indicated and project boundaries shown at the same scale as the Sketch Plat;
3. Total area size of development (in acres);
4. Total impervious area as a percentage (%) of total area;
5. Benchmarks used for site control;
6. Perennial and intermittent streams;
7. Map of predominant soils from USDA soil surveys;
8. Boundaries of existing predominant vegetation;
9. Location and boundaries of other natural feature protection and conservation areas, such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.);
10. Location of existing roads, buildings, parking areas and other impervious surfaces;
11. Existing utilities (e.g., water, sewer, gas, electric) and easements;
12. Location of existing drainage conveyance systems such as grass channels, swales, and storm drains;
13. Flow paths;
14. Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainage systems;
15. Location and dimensions of existing channels, bridges or culvert crossings.

B. Conceptual Site Layout

1. Hydrologic analysis to determine conceptual runoff rates, volumes, and velocities to support selection of stormwater controls.
2. Conceptual site design identifying integrated site design practices used.

3. Conceptual estimates of the three-storm design approach requirements (i.e. 2-year, 25-year and 100-year 24-hour storms)
4. Conceptual selection, location and size of proposed structural stormwater controls.
5. Conceptual limits of proposed grading and clearing.
6. Total proposed impervious area, as a percentage of total area.

APPENDIX B
PRELIMINARY DRAINAGE PLAN SUBMITTAL CHECKLIST

CITY OF BASTROP

PRELIMINARY DRAINAGE PLAN SUBMITTAL CHECKLIST

For a standard plat, this sheet shall be submitted with the preliminary plat and shall be at the same scale as the preliminary plat. For a minor plat, this sheet shall be submitted with the final plat. The preliminary drainage site plan should consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The scale of supplementary plans, profiles and cross-sections shall be sufficient to clearly show details, if required to demonstrate the adequacy of existing or proposed facilities. The Preliminary Drainage Plan shall include the following sections:

1. Existing Conditions Hydrologic Analysis. Provide an existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities which includes:
 - a. Existing conditions data developed in the conceptual drainage site plan;
 - b. All existing stormwater conveyances and structural control facilities;
 - c. Direction of flow and exits from the site;
 - d. Analysis of runoff provided by off-site areas upstream of the project site;
 - e. Methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology.
2. Project Description and Design Considerations. Provide an updated description of the project and the considerations and factors affecting the design approach that have changed between the conceptual and preliminary plans, including:
 - a. A description of the overall project and the site plan showing facility locations, roadways, etc.;
 - b. A discussion of the applicable local criteria and how it will be integrated into the design of the project;
 - c. Evaluate the integrated and low impact design site design practices and their applicability to this site;
 - d. A discussion of any credits for integrated site design being requested;
 - g. Identify hotspot land uses, if applicable, and how runoff will be addressed.
3. Post-Development Hydrologic Analysis. Provide a post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which includes:
 - a. A topographic map of developed site conditions (minimum one-foot (1') contour interval recommended) with post development basin boundaries indicated;
 - b. Total area of post development impervious surfaces and other land cover areas for each subbasin affected by the project;
 - c. Runoff calculation for flood control and streambank protection for each subbasin.
 - d. Location and boundaries of proposed natural feature protection and conservation areas;
 - e. Methodologies, assumptions, site parameters and supporting design calculations used in analyzing the post-development conditions site hydrology;

- f. Supporting documentation that there is existing streambank protection/reinforcement or that the planned development will provide streambank protection downstream;
- g. Supporting calculations for a downstream peak flow analysis to show safe passage of post-development design flows downstream. Document point downstream at which analysis ends, and how it was determined.
- h. Where a lot is located adjacent to a major drainage course or overflow channel, such that a part of all of the lot lies within the regulatory 100-year flood boundary, the drainage plan shall show proposed building sites and elevations required to put finish floor a minimum of one foot (2') above the 100-year flood level of drainage course or overflow channel as stipulated in the City of Bastrop's Flood Damage Prevention Regulations, as periodically amended.

In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. Depending on the site characteristics and given local design criteria, upstream lands may need to be modeled as "existing conditions" or "projected buildout/future condition" when sizing and designing on-site conveyances and stormwater controls.

- 4. Stormwater Management System Design. Provide drawings and design calculations for the proposed stormwater management system, including:
 - a. A drawing or sketch of the stormwater management system including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls. This drawing should show design water surface elevations, storage volumes available from zero to maximum head, location of inlets and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes;
 - b. Narrative describing that appropriate and effective structural stormwater controls have been selected;
 - c. Cross-section and profile drawings and design details for each of the structural stormwater controls in the system. This should include supporting calculations to show that the facility is designed to the applicable design criteria;
 - d. Hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (should include stage-storage or outlet rating curves, and inflow and outflow hydrographs);
 - e. Drawings, design calculations and elevations for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow.
- 5. Plans shall show storm (flood) water routing and all drainage structures with sizes of culverts, retarding and retaining structures, drainage easements with course and distance of centerline and boundaries, lot lines, street layout, proposed inlets, culverts, roadside swales, channel sections and slopes, bridges, channel improvements, levees, or berms, fills necessary to elevate land above flood levels, and remove same from the flood area.
- 6. The limits of the 100-year frequency storm watershed area shall be shown for all water ways, including overflow of structures and related backwater effects. Storm water runoff resulting from a design storm of 100-year frequency shall be contained within the available right-of-way and/or drainage easement. All drainage facilities must be

designed for a capacity to safely contain storm water from a design storm of 25-year frequency and sufficient right-of-way and drainage easements to accommodate the 100-year frequency.

- 7 The drainage plan shall be prepared by a Licensed Professional Engineer of the State of Texas, whose seal and signature shall appear on the plan.
8. Engineering drainage report to support all drainage designs shall be submitted to the City. Computations shall be complete and orderly and shall clearly state all assumptions and design basis.
9. Profiles, cross-sections, or substantiating data may be required at the City's request as necessary to support flood levels and backwater analysis.

CITY OF BASTROP

FINAL DRAINAGE PLAN SUBMITTAL CHECKLIST

1. Final Drainage Plans. Upon approval of the preliminary drainage study, the developer shall submit detailed plans, specifications and cost projections prepared by a registered professional engineer registered in the State of Texas and experienced in municipal drainage work. Existing and proposed flow lines of all improvements shall be shown. Unless otherwise specified herein, drainage requirements shall be based on the City of Bastrop Stormwater Drainage Design Manual. The Hydraulic Manual prepared and compiled by the Texas Department of Transportation Bridge Division, with current revisions, may be used in cases not covered by the City of Bastrop Stormwater Drainage Design Manual. The following shall be included in the Plans:
 - a. Final drainage site plan, which includes all the revised elements included in the preliminary drainage site plan, plus a construction stormwater pollution prevention plan (SWPPP), a landscaping plan, stormwater maintenance plan, maintenance agreement (if needed), financial guarantee, stormwater permit application, evidence of acquisition of applicable federal and state permits, and any waiver requests.
 - (1) Existing and proposed topographic information, with minimum two-foot contour intervals.
 - (2) Location map.
 - (3) Off-site and on-site drainage area maps.
 - (4) Centerline of watercourses.
 - (5) Regulatory flood elevations and boundaries of flood prone areas, including Floodways where designated.
 - (6) Drainage easements.
 - (7) All street widths and grades.
 - (8) Calculations showing the anticipated stormwater flow, including watershed area, runoff coefficient, and time of concentration. When a drainage structure or storm sewer is proposed, calculations shall be submitted showing basis for design.
 - (9) Storm sewer plans and profiles showing size, grade, and pipe or culvert material. Runoff, inlet, conduit hydraulic grade line calculations are required.
 - b. Final grading and drainage construction plans, indicating one-foot contours. All street width and grades shall be indicated on the plan, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers, and at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated. A grading plan shall be prepared for each subdivision and show in sufficient detail grading of all roads, streets, drainage structures, channels, swales, or other drainage related features and provide minimum finished floor elevations, based on an acceptable elevation datum, for proposed structures to assure a minimum of two feet (2') of freeboard to computed flood elevations for the rainfall runoff events for a one hundred (100) year frequency storm.

- c. The location and dimensions of proposed storm drainage easements. The limits of the one hundred-year floodplain shall be shown and encompassed in a dedicated easement (see paragraph gg below). Minimum finished floor elevations at least two feet (2') above the one hundred-year (100-year) water surface elevations shall be shown for any lot within the 100-year and five-hundred-year floodplain, or adjacent to any channel, sump inlets or drainage facilities.

For water courses and easement: Distances to be provided along the side lot lines from the front lot line or the high bank of a stream. Traverse line to be provided along the edge of all large water courses in a convenient location, preferably along a utility easement or drainage if paralleling the easement or stream. The 100-year flood plain easement shall be shown where applicable. A note shall be provided prohibiting construction within the 100-year flood plain except for public streets or roads and utilities.

- d. When a drainage channel or storm sewer is proposed, complete plans, profiles and specifications shall be submitted showing complete construction details. Scales shall be no greater than one inch equals to forty or fifty feet (1" = 40' or 50') horizontally and one inch equal four or five feet (1" = 4' or 5') vertically.
- e. Two (2) copies of detailed cost estimates.
- f. A plan of the development shall be submitted depicting the final grading contours and elevations, earthwork, slopes, retaining walls, minimum finished floor elevations of all affected structures, and any other information considered necessary by the City Engineer at a scale of one inch is equal to one hundred feet (1" = 100') minimum.
- g. Complete detention pond plans and calculations.
- h. All drainage calculations are required to be present on the plans or in an engineering report signed and sealed by an engineer licensed in the State of Texas. Computations shall be complete and orderly and shall clearly state all assumptions and design basis.
- i. The following full statement of restrictions shall be placed in the dedication instrument of any subdivision plat that contains land designated as part of a one hundred-year (100 year) floodplain by FEMA:

"Floodplain Restriction

No construction shall be allowed within a floodplain easement unless specifically approved by the City of Bastrop. Where construction is permitted, all finished floor elevations shall be a minimum of two (2) foot above the base flood elevation (100-year flood or one percent probability flood elevation.)

Any existing creeks, lakes, reservoirs, or drainage channels traversing along or across portions of this addition, will remain as an open channel at all times and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage courses along or across said lots. The City of Bastrop will not be responsible for the maintenance and operation of said drainage ways or for the control of erosion. Each property owner shall keep the natural drainage channels traversing adjacent to their property clean and free of debris, silt, or any substance which would result in unsanitary conditions and the City shall have the right of ingress and egress for inspection

and supervision of maintenance work by the property owner to alleviate any undesirable conditions which may occur. The natural drainage channel, as in the case of all-natural drainage channels, is subject to storm water overflow and natural bank erosion to an extent that cannot be defined definitively. The City of Bastrop shall not be liable for damages of any nature resulting from the occurrence of these natural phenomena, nor resulting from a failure of any structures within the natural drainage channels. The natural drainage channel crossing each lot is shown by the floodplain easement line as shown on the plat."

**GENERAL INFORMATION
STORMWATER MANAGEMENT PERMIT APPLICATION**

Send Application to:

City of Bastrop
1311 Chestnut Street, P.O. Box 427
Bastrop, Texas 78602

This application applies to the any of the following:

1. Any development that results in 10,000 square feet or more of land disturbing activity.
2. Any development that results in the addition of 5,000 square feet or more of impervious area.
3. A subdivision plat.

Official Use Only

Date Received	_____
Number	_____
Fee Received	_____
Reviewer	_____

Instructions: Please type or print. Read all instructions before completing application. Refer to the Fee Schedule adopted by the City Council for applicable fees. Submit 2 hard copies and 1 digital copy on CD or jump drive.

Name of Project: _____

Applicant/Entity Receiving Permit

Name of Applicant: _____

First Name: _____ Last Name: _____

Street (1): _____

Street (2): _____

City: _____ State: _____ Zip Code: _____

Telephone Number: (____) _____

Fax Number: (____) _____

Property Owner

First Name: _____ Last Name: _____

Street (1): _____

Street (2): _____

City: _____ State: _____ Zip Code: _____

Telephone Number: (____) _____

Parcel Identification Number(s): _____

Engineer

Name of Firm: _____

First Name: _____ Last Name: _____

Street (1): _____

Street (2): _____

City: _____ State: _____ Zip Code: _____

Telephone Number: (____) _____

Fax Number: (____) _____

CITY OF BASTROP
STORMWATER MANAGEMENT PERMIT NO. _____

Date of Application _____
Site Address _____
Plat Name _____

I have reviewed and understand Chapter 16 of the City of Bastrop general ordinances regarding stormwater drainage and I shall implement the stormwater management plan for this project as approved by the City.

General Conditions:

- (a) All storm water management measures shall be installed in accordance with the approved storm water management plan and this permit.
- (b) The City shall be notified at least 3 business days before commencing any work in conjunction with the storm water management plan, and within 3 business days upon completion of the storm water management practices.
- (c) Practice installations shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the City or its designee to determine if they are in accordance with the approved storm water management plan and ordinance.
- (d) The City shall be notified of any significant proposed modifications to an approved storm water management plan.
- (e) All storm water management practices shall be maintained in accordance with the storm water management plan until the practices either become the responsibility of the City of Bastrop, or are transferred to subsequent private owners as specified in the approved stormwater maintenance agreement.
- (f) The City of Bastrop is authorized to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consent to a special assessment, or to charging such costs against the financial guarantee posted under Sec. 16.01.008.
- (g) If so directed by the City, all damage to adjoining facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan shall be repaired at the permittee's expense.
- (h) Access is permitted to the City or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

**APPLICANT
MUST FILL
IN BOXED
AREA**

Owner _____
(please print or type full name)

Address _____

Signature or Owner or Authorized Representative _____

Land Disturbing Activity Area (Square Feet) _____
Net Additional Impervious Area (Square Feet) _____

SPECIAL CONDITIONS: _____

CONDITIONAL APPROVAL: _____
Administrative Authority Title Date

Permit VALID for a period of twelve (12) months from date of issuance by City and all work must be completed prior to the expiration unless authorized in writing from the City.

This permit applies to the any of the following:

1. Any development that results in 10,000 square feet or more of land disturbing activity.
2. Any development that results in the addition of 5,000 square feet or more of impervious area.
3. A subdivision plat.

**City of Bastrop
Stormwater Management Plan**

Financial Guarantee

To: [permit holders name]
Date:
Subject: **Financial Guarantee** in the Amount of \$ _____
Check # _____ Received by (staff initials): _____

Project Name: _____

Location: Section [no.], Town of [public land survey township name]

This memo shall serve as a receipt for the above noted Financial Guarantee and as an agreement of the purpose and conditions for release by the City of Bastrop (herein referred to as the "City").

Authority.

The authority of the City to collect and hold this Financial Guarantee is stated in Chapter 16, **Section 16.01.008** of the City of Bastrop Code of Ordinances – Drainage Ordinance (herein referred to as the "Ordinance").

Purpose.

The purpose of this Financial Guarantee is to ensure compliance with Ordinance Section **16.01.008**, and the terms and conditions of a Stormwater Management Permit issued for the above noted project and location.

Conditions for Release.

Terms for release of the Financial Guarantee shall include all of the following:

1. Construction Certification. A professional engineer licensed in Texas shall certify that construction of all stormwater management practices comply with the approved plans and the technical standards of the City. "As-built" plans shall be submitted for stormwater management practices showing actual location, elevations, GPS locations, materials, construction methods and other items as deemed necessary by the City to determine compliance.
2. Maintenance Agreement. A copy of an approved maintenance agreement for all stormwater management practices associated with this project must be provided to the City. The agreement shall be stamped by the Register of Deeds, showing that it has been recorded for all applicable properties.
3. Final Inspection. The City shall complete a final inspection of the property and certify compliance with the stormwater management permit and all provisions of the Drainage Ordinance.

If the City should use any portion of the Financial Guarantee to complete permit activities, due to default or improper action by the permit holder, the City shall withhold any amounts owed for this work, in accordance with the Drainage Ordinance.

AGREEMENT TO MAINTAIN STORMWATER FACILITIES
BY AND BETWEEN THE CITY OF BASTROP AND

Whereas, the upkeep and maintenance of stormwater facilities and the implementation of pollution source control best management practices (BMPs) is essential to the protection of water resources in the City of Bastrop; and

Whereas, all property owners are expected to conduct business in a manner that minimizes impacts of stormwater runoff; and

Whereas, this Agreement contains specific provisions with respect to maintenance of stormwater facilities; and

Whereas, the authority to require maintenance and pollution source control is provided in the City of Bastrop Stormwater Drainage Ordinance, Chapter 16 of the City Code of Ordinances; and

Whereas, Owner has constructed improvements, including but not limited to, buildings, pavement, and stormwater facilities on the property described in Attachment A. (Note: Attachment A shall identify the stormwater facilities and designate the drainage area served by those facilities.)

In order to further the stormwater management goals of the City of Bastrop, the City and Owner hereby enter into this Agreement. This Agreement is effective on the date of the last to execute below, (the "Effective Date").

The responsibilities of each party to this Agreement are identified below.

OWNER SHALL:

- (1) Implement the stormwater facility maintenance plan included herein as Attachment B.
- (2) Implement the stormwater management plan included herein as Attachment C.
- (3) Allow the City or designee to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (4) Undertake corrective actions required by the City within a reasonable time frame as set by the City.
- (5) Maintain a record of steps taken to implement the programs referenced in (1) and (2) above. Record shall be available for inspection by City staff at Owners business during normal business hours. The record shall catalog the action taken, who took it, when it was done, how it was done, and any problems encountered, or follow-up actions recommended.
- (6) Notify the City of any changes in ownership or contact information within ten (10) business days of such a change.

City of Bastrop, 05/09/2019

THE CITY OF BASTROP SHALL:

- (1) Provide technical assistance to Owner in support of its operation and maintenance activities conducted pursuant to its maintenance and source control programs. Said assistance shall be provided upon request, and as City time and resources permit.
- (2) Maintain public records of the results of the site inspections, inform the party responsible for maintenance of the inspection results, and specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
- (3) Notify the Owner of maintenance problems that require correction or repair.

REMEDIES:

- (1) If corrective actions required by the City are not completed within the time set by the City, written notice will be sent to Owner stating that the City intends to perform such maintenance and will bill the Owner for all incurred expenses.
- (2) If at any time the City determines that the existing system creates any imminent threat to public health or welfare, the City may take immediate measures to remedy said threat. No notice to the persons listed in (1), above, shall be required under such circumstances.
- (3) The Owner grants unrestricted authority to the City for access to any and all stormwater system features for the purpose of performing maintenance or repair as may become necessary under Remedies (1) and (2).
- (4) The Owner shall assume all responsibility for the cost of any maintenance and for repairs to the stormwater facility. Such responsibility shall include reimbursement to the City within 30 days of the receipt of the invoice for any such work performed. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by the City will be borne by the parties responsible for said reimbursements.
- (5) The City is authorized to take any action allowed by law to enforce this Agreement and Chapter 16 of the City of Bastrop Code of Ordinances, as amended.

This Agreement is intended to protect the value and desirability of the real property described above and to benefit all the citizens of the City. It shall run with the land and be binding on all parties having or acquiring from Owner or their successors or assigns any right, title, or interest in the property or any part thereof, as well as their title, or interest in the property or any part thereof, as well as their heirs, successors, and assigns. They shall inure to the benefit of each present or future successor in interest of said property or any part thereof, or interest therein, and to the benefit of all citizens of the City.

PARTY RESPONSIBLE FOR MAINTENANCE OF THE INSPECTION RESULTS

Name: _____

Company: _____

Address: _____

Electronic Mail Address: _____

Phone: _____

Notices under this agreement shall be sent to:

FOR THE CITY OF BASTROP:

City of Bastrop
P.O. Box 427
Bastrop, Texas 78602
Attn: City Manager

With copy to: Alan Bojorquez
Bojorquez Law Firm
12325 Hymeadow Drive
Suite 2-100
Austin, Texas 78750

FOR THE OWNER:

Name: _____

Company: _____

Address: _____

Electronic Mail Address: _____

Phone: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below.

CITY OF BASTROP

By: _____
Lynda Humble
City Manager

Date: _____

ATTEST

Ann Franklin
City Secretary

OWNER

By: _____
Name: _____
Title: _____

Date: _____

STATE OF TEXAS)
COUNTY OF BASTROP)

On this _____ day of _____, 20____, personally appeared before me, a Notary Public in and for the State of Texas duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____ and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal the day and year first above written.

Notary Public in and for the State of
Texas, residing in _____

My Commission Expires: _____

City of Bastrop, 05/09/2019

Stormwater Drainage Ordinance

SIGNIFICANT Improvements to the City's Drainage Regulations



Stormwater Drainage Ordinance

Building Bastrop Purpose Statement:

“Create a fiscally sustainable community through land-use regulations that are authentic Bastrop and geographically sensitive.”



Stormwater Drainage Ordinance

- Adopted an Emergency Drainage Ordinance on August 23, 2018:
 - Experienced 4 FEMA-declared flooding disasters since 2015;
 - Determined current regulations and review process were inadequate and insufficient to prevent, mitigate, or minimize future flooding events;
 - Required pre-submission meetings with City Staff;
 - Exemption/Exception process with City Council;



Stormwater Drainage Ordinance

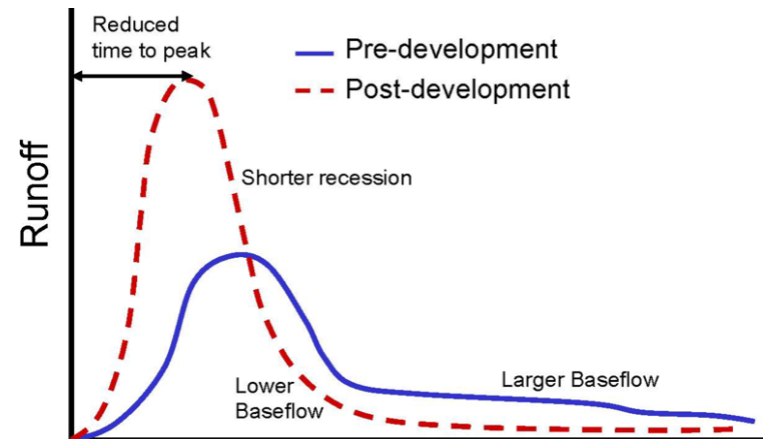
- This Stormwater Drainage Ordinance meets Council's intent to have appropriate drainage regulations that don't create detrimental development.
- Atlas 14 information has been published and its findings have been incorporated into this Ordinance.
- Halff Associates have completed Gills Branch 2-D Model, which has established policy requirements in this Ordinance.
- Incorporates the pre-submission process with Staff because it puts drainage at the "forefront" of the process instead of being an "after thought."



Revised Stormwater Drainage Ordinance and Design Manual Purpose and Goals

1. Minimize flood risks associated with land development.

- Maintains or improves existing pre-development runoff discharges.
- Requires downstream assessments that considers entire tributary watershed – see what the downstream system can handle first.
- Requires stormwater control measures to mimic pre-development hydrology – Promoting LID techniques as an optional alternative (extra tool in the toolbox).



Revised Stormwater Drainage Ordinance and Design Manual Purpose and Goals

2. Facilitates watershed-based planning that promotes fiscally sustainable and geographically sensitive land development.

- Focuses on integrating stormwater management into early concept-level stages of land development process.
- Moves discussion of stormwater to the forefront rather than be an afterthought.
- Identifies and preserves sensitive natural areas (i.e. floodplains, steep slopes), while also minimizing impervious area.
- Encourages innovative approaches to stormwater management.



Revised Stormwater Drainage Ordinance and Design Manual Purpose and Goals

3. Stabilizes and decreases streambank erosion.

- Reinforces/stabilizes downstream conditions.
- Requires control of channel forming 2-year, 24-hour storm event.
- Keeps post-development discharges at or below allowable velocity limits.



Stormwater Drainage Design

What is different?

Old Ordinance	New Ordinance/Design Manual
Allowed the rational method for detention and conveyance.	• Excludes the rational method for detention. • Allows the rational method for conveyance for small site subdivisions and sketch plats/preliminary plans.
2004 & 2008 (24hr) rainfall depths	2018 (24hr) rainfall depths
Water quality - none	Removed – Study at later date.
Velocity for peak runoff downstream is not defined.	Velocity maximums are established for outfall structures, storm sewer, and roadside ditches (Requires surface treatment based on velocity limits).



Stormwater Drainage Design

What is different?

Old Ordinance	New Ordinance
Evaluation of upstream and downstream flow conditions (Trust).	Detailed and defined analysis of upstream and downstream flow conditions (Trust & Verify).
No permit requirement.	Requires a permit & fee and has a checklist.
Defers maintenance to property owner for private infrastructure (such as ponds).	Owner maintains but must provide a maintenance plan and fiscal surety.
Allows the use of corrugated metal pipe (15'' Min).	Only allows concrete reinforced pipe on the publicly maintained areas (18'' Min).



Stormwater Drainage Design

What is different?

Old Ordinance	New Ordinance
Drainage full design was required prior to construction.	Drainage is addressed upfront and often. Complete design is required at the final plat.
No permit.	Permit is required at the addition of 5,000 sq. ft. of impervious cover or land disturbance of 10,000 sq. ft.
Alternative design techniques were at the City Engineer's discretion	Low Impact Development (LID) is an added tool, but not required (Optional).



Stormwater Drainage Ordinance

Public Input – Transportation & Drainage Rodeo

Comments received from Engineering Firms during Rodeo have been reviewed and City's response are included in Agenda Packet as separate attachment.



Stormwater Drainage Ordinance

- This Stormwater Drainage Ordinance meets Council's intent to have appropriate drainage regulations that prevent, mitigate, or minimize future flooding events.
- Incorporates the pre-submission process with Staff because it puts drainage at the “**forefront**” of the process instead of being an “after thought.”
- Represents **SIGNIFICANT** improvements in City's drainage regulations!!!







Proposed Stormwater Drainage Manual Engineering Firms' Comments/City Response

HALFF COMMENTS	
Comment	Response
TxDOT Hydraulic Design Manual (HDM) is a good reference specifying standard procedures and methods used in Texas. The TxDOT HDM manual is well used by engineers and references the FHWA and HEC documents referenced in the manual. Consider referencing the TxDOT HDM.	Reference to TxDOT HDM has been included.
All tables should reference any source data.	Source data for each table (where applicable) has been included.
The format of the report needs to be revised to improve readability and reduce circular references. There are several inconsistencies within this report that will generate more questions than provide guidance.	Noted inconsistencies in the document have been identified and addressed.
The drainage manual should be about drainage and should work in conjunction with other City requirements. Easement, comprehensive plan, and submission sections should be removed or only included by reference.	Inclusion of references for drainage easement and stormwater drainage plan submittal requirements is appropriate and customary within a stormwater drainage design manual.
Stormwater management volumes and stormwater management rates are separate design parameters and cannot be used interchangeably.	We are not aware of any instances where this is the case.
Consider using multiple appendices to separate the checklists.	This has been done.
Consider reducing the number of methodologies and input parameters. Consider reducing the number of methodologies and input parameters.	This has been done.
Vague and redundant statements should be removed to prevent confusion, such as using the word "typically".	In our opinion, instances where the word "typically" is used in the document is appropriate.
How is LID going to be implemented? The document says strongly encouraged but incentives are not identified.	This topic was discussed at the February 26, 2019 Council Meeting and also came up during several of the code and design rodeos. It was discussed that LID should not be specifically incentivized by City policy. It

	was discussed that the economic and practical benefits realized will be the incentive to implement LID practices. LID practices will be justified and able to stand on their own merits without incentivizing policies.
How does LID work with the development code? Street widths, number of parking spaces? Will variances/waivers be granted?	The City is currently working on updating various components of the zoning and development code to address street widths and parking regulations such that more flexibility is afforded developers to implement LID practices without the need to grant code variances and waivers.
Section 1.A.3 – LID is spelled out as “light imprint development (LID)”, but the definition has “low impact development (LID)”. Consider using “low impact development (LID)” through-out.	The term “low impact development” is now used throughout the document.
Section 1.B.1, 2nd sentence – Consider adding “or best available data”. This would include the better data provided as part of the Bastrop County Flood Protection Planning studies or any newer data prepared.	This has been done.
Section 1.B.4 – Gills Branch watershed post-development 100-yr detention discharge not to exceed pre-development 25-year peak discharge. This will increase detention volume and limit development on small sites.	It is understood that this more stringent design standard will result in the need to provide additional stormwater detention volume. But given the existing sensitivity to flooding in these areas, this policy is warranted in our opinion.
Between Gills Branch and the RR, there is no way the site can control the overflow and detain it as it flows through their property. The only way to reduce peak flow would be to store it underground or infiltrate into the soil. If infiltration is acceptable, then certain soil infiltration rates need to be established or allowed.	In our opinion, surface stormwater detention measures can still be designed in these areas so as not to block or obstruct overflow that passes through these flood prone areas (such as detention basins that are excavated below existing grade that do not introduce placement of berms or embankment above existing grade). If infiltration measures are to be implemented, it will need to be supported with site specific soils investigations that indicate anticipated soil infiltration rates and whether soil infiltration measures are conducive for the site.
Section 1.B.5 – It’s not clear if the property owner is responsible for existing flow conditions or fully-developed conditions.	As stated, the property owner is responsible for conveyance of storm drainage for both existing flow conditions and fully-developed conditions.

Section 1.B.12.b – Consider adding “or best available data” in addition to FEMA.	This has been done.
Section 1.C – On the Floodplain definition, consider adding “or best available data”.	This has been done.
Section 2.A.2 – Reference should be Section 1.B.4 for the Gills Branch watershed.	Corrected.
Section 2.B.2.h - Consider adding “or best available data”.	This has been done.
Section 2.C.1 – The iSWM web link pointing to the Hydrology Technical Manual does not work. It’s missing a hyphen.	Corrected.
Section 2.C.2.b – Both TR-20 and HEC-1 are outdated software programs as they are no longer approved models. Consider specifying HEC-HMS or other software program that can route hydrographs.	This comment has been addressed.
Section 2.C.3 – The variables table reference should reference Table 2-3.	Corrected.
Section 2, Table 2-3 – The IDF coefficients are based on USGS rainfall data and not NOAA Atlas 14. TxDOT anticipates releasing Atlas 14 IDF coefficients in October.	The IDF coefficients will be updated upon their release in October 2019.
Section 2, Table 2-7 – Consider using the City of Austin Rational Method runoff coefficients based on storm event. Using a frequency factor as shown in the table can add confusion when the runoff coefficient is greater than 1.00.	Current methodology has been left in place. Note that a statement is included that reads: “The product of Cf times C shall not exceed 1.0”.
Section 2.C.5 – Specifies that NRCS Unit Hydrograph method for areas greater than 100 acres while Table 2-2 state this method can be used for any size.	This comment has been addressed.
Section 2.C.5 – It’s confusing this item starts with discussing UH methods and then jumps into detention using NRCS (SCS) method to determine detention. Halff recommends using a hydrograph routing software that allows the engineer to input a developed stage-volume discharge rating curve.	This comment has been addressed.
Section 2.C.5 – The table listing the NOAA Atlas 14 rainfall design storm events should have a table number and we recommend	Table number has been indicated and a data point coordinate has been included.

referencing the coordinates for the point the data was determined.	
Section 4.A.6 – Why is a detailed cost estimate needed?	Cost estimate is needed for establishing the stormwater financial guarantee amount.
Section 4.C.2.a – The previous item 1 specifies the storm drain system be designed following TxDOT HDM which does not allow for pressure flow. This item states that HGL below the inlet throat is allowed which is pressure flow. Clarification of what is allowed is needed.	Clarifying language has been included that allows the HGL for the design storm event to operate under pressure flow conditions.
Section 4.C.3.b – Text specifies a pipe velocity of 15 fps while Table 4-2 shows a max pipe velocity of 12fps. Needs clarification. Also, surrounding jurisdictions allow a max pipe velocity of 20 fps.	Maximum pipe velocity of 15 fps has been specified throughout.
Section 4.D.4.a – Specifies a bridge requiring a 2 foot freeboard. This will be difficult to achieve for residential road bridge crossing such as those over Gills Branch. Consider specifying requirement based on roadway type and potential overtopping velocities.	The bridge clearance two-foot freeboard requirement has been removed and a reference for meeting freeboard requirements stated within the TxDOT HDM, which includes requirements based on roadway type, has been added instead.
Section 4.D.9.a – Suggest concrete structures for longevity.	This has been done.
Section 4.D.9.d – Section 2.1.4 in the iSWM manual references developing a rating curve for a detention pond outlet. Suggest using Manning's equation to develop the rating curve for an open channel.	This has been addressed.
Section 4.D.9.e.(3).(c) - Suggest concrete structures for longevity. Driveway CMP culverts to single residence could be allowed.	This has been done.
Section 4.E.2 – Are these natural channel parameters appropriate/typical for the Bastrop area?	Yes, these natural channel design parameters are appropriate for a stable low flow channel in this region.
Section 4.E.2.d, 2nd sentence – What allowable value is being referenced for bare soil. It seems that all bare soil should be stabilized with vegetation.	The values at the bottom of Table 4-5 listed for unlined non-vegetated channels. This statement is not allowing bare soil to be implemented, it is establishing thresholds when seed and mulch can be used. If the threshold is exceeded, seed and mulch stabilization is not adequate and more robust stabilization measures are required.

Should City Council say City Engineer?	Yes. This has been changed.
Section 4.E.2.l – Consider road side ditches to be 4:1 on the front side and 3:1 on the back side. This allow for traffic safety on the road side and reduces area needed on the backside. Also, geotechnical engineers consider 3:1 slopes stable and may not need a stability analysis to justify.	These suggested changes have been made.
What do the Class D and C mean?	These are classifications of vegetal covers as to degrees of retarders (outlined in Table 4-7). A statement has been included to reference Table 4-7 for clarity.
Section 4.E.2.r – Not sure how to utilize Table 4.7 for vegetative design as part of the drainage channel design.	A reference to design examples within the iSWM Technical Manual outlining the steps of the design stability calculations is provided.
Section 4.F.1.b – Specifies the 50-year storm event but the follow items do not include consideration for the 50-yr storm event.	Reference for 50-year event has been removed.
Section 4.F.1.m – Suggest specifying detention must be determined using unit hydrograph methods rather than TR-55 which does not route volume through detention.	This has been addressed.
Section 4.F.5.b.(6) – Don't recall any discussion of iSWM Construction Plan in the document.	Reference to iSWM Construction Plan has been removed.
CBD COMMENTS	
When development is close to a river or creek will detention be required? Where is this addressed in the Manual?	Refer to Section 4.F.1.b, where it states: "b. Stormwater detention facilities shall be required where deemed appropriate by the City when it is determined that adverse downstream flooding would occur due to a proposed development. Stormwater detention shall be used to reduce the net increase in stormwater runoff due to development of the property at the 2-, 25-, and 100-year events, unless a downstream assessment shows that none is required."
Easements: Will there be a developer requirement to acquire easements on the adjacent property. Will it be in conflict with state law?	Yes. Section 5.B.4 addresses this, as follows: "When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat or other instrument as approved by the City Attorney. Easements in areas adjoining a proposed subdivision necessary to provide adequate

	drainage thereof or to serve such subdivision with utilities, shall be obtained by the subdivider prior to final plat approval. In the case of clear public interest, the City may participate in easement acquisition by power of condemnation.”
Will there be Cut & Fill Limits?	The only reference to cut and fills is within Section 6 - Construction Site Erosion Control Requirements, which reads: “Any cuts and fills shall be planned and constructed to minimize the length and steepness of slope and stabilized in accordance with the approved erosion control plan timelines and standards of this document.” Note that no rigid restrictions or limits are placed on cut and fills.
How much information is required for the Concept plan?	We do request a conceptual site layout that includes a determination of “conceptual runoff rates, volumes, and velocities to support selection of stormwater controls”, but this can be a very simplistic engineering exercise at this early phase of the development process (i.e. this is not final design). On a typical site development project, let’s say a 50-acre subdivision, putting together a Concept Drainage Plan would likely cost anywhere between \$2,000 to \$5,000, depending on the complexity of the site. This is money well spent because oftentimes, this process will identify potential issues early on and will reduce “down the road” planning and engineering costs related to redesign.
Manholes: Could there be an exception added for grade breaks and alignment changes if the bends are precast? I understand the concern, but this can add a lot of money to a job real fast. Utilizing precast joints and bends should alleviate the concern that is common with this issue.	Added an exception that allows precast joints and bends.
Inlets: Just want to verify that this will not apply to sump inlets. I want to avoid having a planning technician tell me that a sump inlet can’t handle 11 cfs of flow. I know the throat height is greater in a sump inlet, but I think some clarification for a sump inlet may help out staff later on.	Clarified this statement to only apply to on-grade inlets and not sump inlets.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 13E

TITLE:

Consider action to approve the first reading of Ordinance Number 2019-19 of the City Council of the City of Bastrop, Texas Hands Free Devices An Ordinance of the City of Bastrop Amending Chapter 12, "Traffic and Vehicles," of the City of Bastrop City Code of Ordinances to add Article 12.13, "Use of Portable Electronic Devices While Operating a Motor Vehicle in the City of Bastrop; providing for: findings of fact, enactment, repealer, severability, criminal fines not to exceed \$300 per offense, effective date, codification, and proper notice and meeting, and place on the May 28, 2019 Consent Agenda for a second reading.

STAFF REPRESENTATIVE:

James K. Altgelt, Director of Public Safety/Chief of Police

BACKGROUND/HISTORY:

According to the National Highway Traffic Safety Administration (NHTSA), the act of distracted driving claimed the lives of 3,166 people in 2017. NHTSA defines distracted driving as, *"any activity that diverts attention from driving, including talking or texting on your phone, eating and drinking, talking to people in your vehicle, fiddling with the stereo, entertainment or navigation system – anything that takes your attention away from the task of safe driving."*

"History of reported accidents within the City of Bastrop"

	2014	2015	2016	2017	2018	2019*
Total Accidents Reported	793	974	1,056	1,003	811	259
"Blue Form" Accidents	353	435	529	483	413	123
Formal Accident Investigations	440	539	527	520	398	136
Accidents with Reported Injuries	52	73	81	162	82	35
Fatality Accidents	2	1	3	5	2	3

* 2019 Information is from January 1st through April 30th, 2019.

While there is not a specific quantifiable number, I am very confident that distracted driving is a significant contributing factor in many of the accidents investigated by the Bastrop Police Department.

“Texas Legislature Efforts to Combat Distracted Driving”

In 2017, the Texas Legislature passed a statewide ban on using a wireless communication device for electronic messaging while operating a motor vehicle. This law makes texting, as well as reading or writing email, prohibited while driving in Texas.

“NHTSA Strategies to Combat Distracted Drivers”

NHTSA promulgates that some of the most important steps a parent can take to help eliminate distracted driving are:

- Lead by example – never drive distracted
- Talk with your young drivers about distraction and all the responsibilities that come with driving
- Have everyone in your family sign a pledge to commit to distraction-free driving

NHTSA also promotes that teens can be the best messengers with their peers. Teens can take the following steps to help eliminate distracted driving:

- Speak up when they see a friend driving while distracted
- Share messages on social media that remind their friends, family, and neighbors not to make the deadly choice to drive distracted
- Become involved in their local Students Against Destructive Decisions Chapter

Bastrop Independent School District (BISD) Students are leading the charge locally to make our community safer and fight against distracted driving. The Youth Advisory Council has discussed the problem of distracted driving and have submitted Resolution Number R-2019-47 in support of the City Council passing an ordinance that prohibits a driver from using a portable electronic device while operating a motor vehicle within the City of Bastrop, Texas.

BISD Student Alexandra Rubio-Mata also reached out to Mayor Connie Schroeder and expressed her concerns about distracted driving and how dangerous it is for drivers to use their cell phones without a hands-free device and/or sending and reading text messages while operating a motor vehicle.

POLICY EXPLANATION:

The passing of this ordinance will make it illegal for an operator of a motor vehicle to use a portable electronic device while the vehicle is in motion. This ordinance would not apply to authorized emergency personnel using a portable electronic device while acting in an official capacity. Pursuant to State law, the ordinance would not apply to an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable electronic device or an operator using a two-way radio communication device in a commercial vehicle.

FUNDING SOURCE:

Pursuant to Texas Transportation Code §545.425, a municipality that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle shall post signs that are located at each point at which a state highway, U.S. highway, or interstate highway enters the political subdivision. There are seven (7) locations in the City where these signs would need to be erected. The cost for each sign and base is approximately four hundred dollars and 00/100 (\$400.00). The cost for a spare sign is forty dollars and 00/100 (\$40.00). The economic impact for seven (7) signs with bases and two (2) spare signs is two thousand eight hundred

eighty dollars and 00/100 (\$2,880.00). Director of Public Works and Leisure Services Trey Job stated there are currently funds available in the FY 2019 Budget to fund this project.

RECOMMENDATION:

Consider action to approve the first reading of Ordinance Number 2019-19 of the City Council of the City of Bastrop, Texas Hands Free Devices An Ordinance of the City of Bastrop Amending Chapter 12, "Traffic and Vehicles," of the City of Bastrop City Code of Ordinances to add Article 12.13, "Use of Portable Electronic Devices While Operating a Motor Vehicle in the City of Bastrop; providing for: findings of fact, enactment, repealer, severability, criminal fines not to exceed \$300 per offense, effective date, codification, and proper notice and meeting, and place on the May 28, 2019 Consent Agenda for a second reading.

ATTACHMENTS:

- PowerPoint Presentation
- Youth Advisory Council Resolution Number R-2019-1
- Ordinance 2019-19
- Attachment "A"



Hands-Free Ordinance



Distracted Driving Defined

“Any activity that diverts attention from driving, including talking or texting on your phone, eating and drinking, talking to people in your vehicle, fiddling with the stereo, entertainment or navigation system – anything that takes your attention away from the task of safe driving.”



Distracted Driving – The Danger is Real



In 2017,
3,166
people were killed as a result
of
distracted driving.

Distracted Driving – The Danger is Real

In 2017,
1,003 Reported Accidents
With
5 Fatalities
In the City of Bastrop



Distracted Driving – Time to Take Action



Youth Advisory Council &
BISD Student call for a safe
community and request a
hands-free ordinance!

Hands-Free Ordinance

An operator of a motor vehicle may not use a portable electronic device while the vehicle is in motion!



QUESTIONS ?



RESOLUTION NO. R-2019-01

A RESOLUTION OF THE YOUTH ADVISORY COUNCIL OF THE CITY OF BASTROP, TEXAS IN SUPPORT OF AN ORDINANCE PROHIBITING THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE WITHIN THE CITY LIMITS OF BASTROP, TEXAS; PROVIDING FOR A REPEALING CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The Youth Advisory Council of the City of Bastrop, Texas has an interest in improving public safety; and

WHEREAS, The Youth Advisory Council of the City of Bastrop, Texas seeks to promote orderly and safe use of motor vehicles within the City limits and the extraterritorial jurisdiction of the City; and

WHEREAS, The Youth Advisory Council of the City of Bastrop, Texas desires to increase safety by endorsing the amendment of regulations of the use of portable electronic devices while operating a motor vehicle; and

WHEREAS, The Youth Advisory Council of the City of Bastrop, Texas finds that incorporating a distracted driving regulation is reasonable and necessary for the good government, peace, and order of the City; and

WHEREAS, Texas Local Government Code Section 51.001 provides that the City has general authority to adopt ordinances or regulations that are for the good government, peace, or order of the City and that are necessary or proper for carrying out a power granted by law, and

WHEREAS, the Youth Advisory Council finds that a very significant public interest is served by the completion of an application for the designation of Bastrop, Texas as a Bird City.

NOW, THEREFORE, BE IT RESOLVED BY THE YOUTH ADVISORY COUNCIL OF THE CITY OF BASTROP, TEXAS:

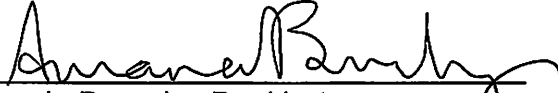
Section 1: The passage of an Ordinance prohibiting the use of electronic devices while operating a motor vehicle will greatly enhance the safety the orderly and safe use of motor vehicles within the Bastrop, Texas City limits and its extraterritorial jurisdiction.

Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

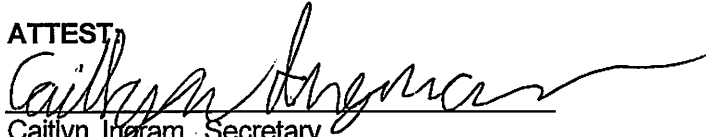
Section 3: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

PASSED AND APPROVED this 7th day of May, 2019.

YOUTH ADVISORY COUNCIL OF BASTROP,
TEXAS


Amanda Branecky, President

ATTEST,


Caitlyn Ingram, Secretary

CITY OF BASTROP, TX.

ORDINANCE NO. 2019-19

HANDS FREE DEVICES AN ORDINANCE OF THE CITY OF BASTROP AMENDING CHAPTER 12, "TRAFFIC AND VEHICLES," OF THE BASTROP CITY CODE OF ORDINANCES TO ADD ARTICLE 12.13, "USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE," SECTIONS 12.13.001, 12.13.002, 12.13.003, AND 12.13.004;; RESTRICTING THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE IN THE CITY OF BASTROP; PROVIDING FOR: FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, CRIMINAL FINES NOT TO EXCEED \$300 PER OFFENSE; EFFECTIVE DATE, CODIFICATION, AND PROPER NOTICE AND MEETING.

WHEREAS, the Bastrop City Council (the "City Council") of the City of Bastrop (the "City") seeks to promote orderly and safe use of property within its city limits and its extraterritorial jurisdiction ("ETJ"); and

WHEREAS, Texas Local Government Code Section 51.001 provides that the City has general authority to adopt ordinances or regulations that are for the good government, peace, or order of the City and that are necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, Chapter 311 of the Texas Transportation Code gives the City exclusive control over public rights-of-way within its corporate boundaries; and

WHEREAS, the City Council desires to increase safety by amending the regulations of the use of portable electronic devices while operating a motor vehicle; and

WHEREAS, the City Council finds that incorporating a distracted driving regulation is reasonable and necessary for the good government, peace, and order of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, 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

Chapter 12 of the City of Bastrop Code of Ordinances is hereby amended by adding after and below Section 12.12.008 the following: Article 12.13, Sections 12.13.001, 12.13.002, and 12.13.003, 12.13.004, to read in accordance with *Attachment A*, which is attached hereto and incorporated into this ordinance for all intents and purposes.

3. REPEALER

All ordinances, resolutions, 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. EFFECTIVE DATE

This ordinance shall be effective immediately upon passage and publication.

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, 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 provided as required by Chapter 52 of the Texas Local Government Code.

READ & ACKNOWLEDGED on First Reading on the ____ day of May 2019.

READ & APPROVED on the Second Reading on the ____ day of May 2019.

APPROVED:

by: _____
Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

Attachment "A"

CITY OF BASTROP, TX

CODE OF ORDINANCES

CHAPTER 12: TRAFFIC AND VEHICLES

**ARTICLE 12.13 USE OF PORTABLE ELECTRONIC DEVICES WHILE
OPERATING A MOTOR VEHICLE.**

Sec. 12.13.001 Definitions

(a) In this article:

1. *Authorized emergency personnel*: means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or a member of a governmental emergency management function.
2. *Hands-free device*: means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a portable electronic device or in a motor vehicle, that allows use of the portable electronic device without use of either of the operator's hands, except to activate or deactivate a function of the portable electronic device or hands-free device. The term includes voice-operated technology and a push-to-talk function.
3. *Portable electronic device*: means a handheld mobile telephone, personal digital assistant, MP3 or other hand-held music player, electronic reading device, laptop computer, pager, broadband personal communication device, global positioning or navigation system, electronic game device, or portable computing device.
4. *Use*: means employing a portable electronic device for any reason including, without limitation, the following activities while holding or touching the device:
 - A) dialing or deactivating a phone call;
 - B) speaking in or listening to a conversation;
 - C) viewing, taking, or transmitting electronic images;
 - D) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
 - E) accessing or viewing an internet website or computer application; or
 - F) playing a game.

Sec. 12.13.002 Restriction

An operator of a motor vehicle may not use a portable electronic device while the vehicle is in motion.

Sec. 12.13.003 Enforcement

- (a) An offense under this article shall be punishable as a class C misdemeanor, for which the maximum fine per violation shall be \$300.00.
- (b) It is an affirmative defense to prosecution of an offense under this article if:
 - 1. the motor vehicle is at a complete stop;
 - 2. the portable electronic device is used with a hands-free device to engage in telephone communication or to listen to audio transmissions;
 - 3. the portable electronic device is a global positioning or navigation device, or global positioning or navigation software on a device, and the device is affixed to the motor vehicle;
 - 4. use of the portable electronic device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed; or
 - 5. use of the portable electronic device is in the reasonable belief that a person's life or safety is in immediate danger.
- (c) This article does not apply to authorized emergency personnel using a portable electronic device while acting in an official capacity.
- (d) This article does not apply to an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable electronic device or an operator using a two-way radio communication device in a commercial vehicle.
- (e) To the extent that this article conflicts with the Texas Transportation Code Chapter 545, this article does not apply.

Sec. 12.13.004 Signage

After consulting with the chief of police, the city manager is authorized to have traffic safety signs erected warning motorists of restrictions imposed by this article, state law, or both.



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 13F

TITLE:

Consider action to approve Resolution No. R-2019-46 of the City Council of the City of Bastrop, Texas awarding a contract to relocate a sewer line near the SH71 Feeder Road Expansion to Herschap Backhoe & Ditching in the amount of One Hundred Thirty-Six Thousand One Hundred Ninety-Five Dollars and zero cents (\$136,195.00) attached as Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services

BACKGROUND/HISTORY:

The Texas Department of Transportation's expansion of SH71 came in conflict with a gravity-fed sewer line in the highway right-of-way. After exploring various resolutions, it became necessary to move this line outside of the existing right-of-way to a new Public Utility Easement. City Staff secured the necessary PUE and contracted with BEFCO Engineering to bid the SH 71 Utility Conflict Project.

Bid Opening was held on Friday, April 12, 2019. The City received seven (7) bids for the project ranging from \$118,208.00 to \$278,965.00 for the base bid. The lowest submitted base bid price was from Jimmy Evans Company. However, Jimmy Evans Company failed to include the Conflict of Interest Questionnaire with their bid package, which is required by State Law and was included in the bid specifications. Since this form was completed via email after the bid opening, Jimmy Evans Company is considered non-responsive and not eligible for consideration.

Therefore, the responsive low bid is from Herschap Backhoe & Ditching, Inc. in the amount of \$136,195.00. BEFCO's review of Herschap's documentation indicates they are a qualified contractor and would not require any bid conditions to be waived. Therefore, BEFCO recommends the contract be awarded to Herschap Backhoe & Ditching

POLICY EXPLANATION:

The City Charter gives the City Council the authority in Section 3.01 Power and Duties (13), and (15)

FUNDING SOURCE:

FY19 Water/Wastewater Budget

RECOMMENDATION:

Consider action to approve Resolution No. R-2019-46 of the City Council of the City of Bastrop, Texas awarding a contract to relocate a sewer line near the SH71 Feeder Road Expansion to Herschap Backhoe & Ditching in the amount of One Hundred Thirty-Six Thousand One Hundred Ninety-Five Dollars and zero cents (\$136,195.00) attached as Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Resolution
- Recommendation to Award
- Bid Tabulation



RESOLUTION NO. R-2019-46

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TX
AWARDING A CONTRACT TO RELOCATE A SEWER LINE NEAR THE SH71
FEEDER ROAD EXPANSION TO HERSCHAP BACKHOE & DITCHING IN THE
AMOUNT OF ONE HUNDRED THIRTY-SIX THOUSAND ONE HUNDRED
NINETY-FIVE DOLLARS AND ZERO CENTS (\$136,195.00), ATTACHED AS
EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL
NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, The City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

WHEREAS, The City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, The City of Bastrop has received all proposals, and found the lowest responsible bidder to be qualified.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1: That the City Manager is hereby authorized to execute a contract for the relocation of a sewer line near the SH71 Feeder Expansion with Herschap Backhoe & Ditching in the amount of \$118,208.00, attached as Exhibit A.

Section 2: That the City Council of the City of Bastrop has found Herschap Backhoe & Ditching, to be a subject matter expert in the field of emergency generator installation.

Section 3: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of May 2019.

APPROVED:

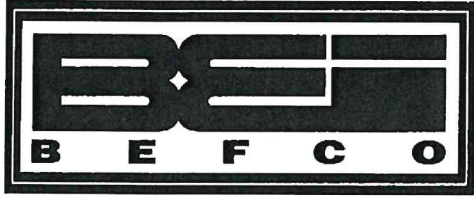
Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



BEFCO ENGINEERING, INC.
Consulting Engineering/Land Surveying
P. O. BOX 615 485 NORTH JEFFERSON
LA GRANGE, TEXAS 78945-0615
979 / 968-6474 FAX 979 / 968-3056
www.befcoengineering.com E-mail: office@befcoengineering.com
Texas Registered Engineering Firm F-2011 Texas Licensed Surveying Firm #10001700

April 12, 2019

Trey Job
Managing Director
Public Works & Leisure Services
City of Bastrop
1209 Linden Street
P.O. Box 427
Bastrop, Texas 78602

RE: Bid Award Recommendation
SH 71 Utility Conflict Project
BEFCO Job No. 18-7266

Dear Mr. Job:

The bid opening for the SH 71 Utility Conflict Project was held on Friday, April 12, 2019. The City received seven (7) bids for the project (see attached bid tally) ranging from \$118,208.00 to \$278,965.00 for the total base bid (Items 1-11). The lowest submitted base bid price was from Jimmy Evans Company. Their bid submittal package was complete with the exception of the requested Conflict of Interest Questionnaire. This form was considered a condition of the bid. A representative of Jimmy Evans Company provided the completed form via email after the bid opening. Based on our review of Jimmy Evans Company bid documentation, they appear to be qualified for the proposed work. However, City Council would need to waive the Conflict of Interest Questionnaire being a condition of the bid package and accept the form submitted after the fact if Council were to award the contract to Jimmy Evans Company. If Council chooses not to waive the requirement, then the second low bidder is Herschap Backhoe & Ditching, Inc. in the amount of \$136,195.00. Based on our review of their documentation, Herschap does have a complete bid submittal, is a qualified contractor, and would not require any bid conditions to be waived.

Should you have any questions or require more information, please let me know. Thank you for the opportunity to provide engineering and surveying services for this project.

Very truly yours,

BEFCO Engineering, Inc.


Chad Emmel, PE, Project Manager



Attachment: Bid Tabulation dated 4/12/19

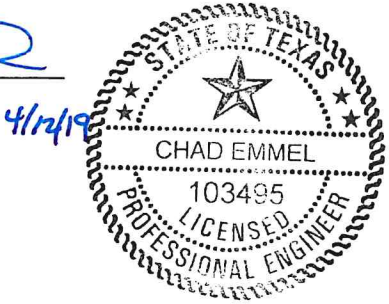
CE:cae

Item No.	Est. Qty.	Units	Description in Words	Jimmy Evans Co. 2222 West N Loop Austin, TX 78766		Herschap Backhoe & Ditching PO Drawer 489 Bastrop, TX 78602		JBS Underground, LLC 14202 Fort Smith Trl Austin, TX 78734		Austin Engineering Co. PO Box 342349 Austin, TX 78734		South Central TX Excavating 1669 Smith-Rau Road Columbus, TX 78934		QA Construction Services 5811 Blue Bluff Road Austin, TX 78724		Aaron Concrete Contractors 4108 Nixon Ln Austin, TX 78725	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	1	LS	BARRICADE, SIGN & TRAFFIC HANDLING		\$2,333.00		\$1,000.00		\$1,537.50		\$5,000.00		\$20,175.00		\$5,110.00		\$3,000.00
2	1	LS	EASEMENT PREPARATION		\$12,965.00		\$6,000.00		\$19,216.26		\$6,000.00		\$40,350.00		\$35,050.00		\$50,000.00
3	403	LF	10" SDR-26 PVC (CLASS 160) (ALL DEPTHS) INCLUDING ALL TRENCHING EXCAVATION, EMBEDMENT, BACKFILL, AND REVEGETATION	\$67.00	\$27,001.00	\$70.00	\$28,210.00	\$56.47	\$22,757.41	\$75.00	\$30,225.00	\$80.28	\$32,352.84	\$165.00	\$66,495.00	\$155.00	\$62,465.00
4	252	LF	10" SDR-26 PVC (CLASS 160) (ALL DEPTHS) INCLUDING ALL TRENCHING EXCAVATION, EMBEDMENT, 6" CONCRETE ENCASEMENT, BACKFILL AND REVEGETATION	\$86.00	\$21,672.00	\$115.00	\$28,980.00	\$107.49	\$27,087.48	\$98.50	\$24,822.00	\$96.42	\$24,297.84	\$180.00	\$45,360.00	\$180.00	\$45,360.00
5	1	EA	4' DIA. PRECAST DROP MANHOLE INCLUDING CONNECTION TO EXISTING 10" SEWER MAIN	\$5,853.00	\$5,853.00	\$8,000.00	\$8,000.00	\$17,625.24	\$17,625.24	\$11,500.00	\$11,500.00	\$3,200.00	\$3,200.00	\$8,000.00	\$8,000.00	\$9,000.00	\$9,000.00
6	4	EA	4' DIA. PRECAST CONCRETE MANHOLE (ALL DEPTHS)	\$3,805.00	\$15,220.00	\$6,000.00	\$24,000.00	\$7,675.73	\$30,702.92	\$4,650.00	\$18,600.00	\$2,900.00	\$11,600.00	\$6,000.00	\$24,000.00	\$5,500.00	\$22,000.00
7	2	EA	REMOVE AND DISPOSE OF EXISTING MANHOLE INCLUDES BACKFILL AS REQUIRED	\$2,025.00	\$4,050.00	\$2,500.00	\$5,000.00	\$1,652.19	\$3,304.38	\$800.00	\$1,600.00	\$1,500.00	\$3,000.00	\$3,500.00	\$7,000.00	\$2,100.00	\$4,200.00
8	613	LF	GROUT FILL AND ABANDON EXISTING 10" PVC SANITARY SEWER MAIN	\$16.50	\$10,114.50	\$15.00	\$9,195.00	\$11.31	\$6,933.03	\$4.00	\$2,452.00	\$12.00	\$7,356.00	\$20.00	\$12,260.00	\$30.00	\$18,390.00
9	2	EA	CONNECT TO EXISTING MANHOLE	\$3,349.00	\$6,698.00	\$6,000.00	\$12,000.00	\$949.09	\$1,898.18	\$19,100.00	\$38,200.00	\$500.00	\$1,000.00	\$3,000.00	\$6,000.00	\$4,000.00	\$8,000.00
10	250	CY	EMBANKMENT INCLUDING GRADING AND IMPORT AS REQUIRED AND REVEGETATION	\$39.25	\$9,812.50	\$50.00	\$12,500.00	\$41.20	\$10,300.00	\$50.00	\$12,500.00	\$75.00	\$18,750.00	\$58.00	\$14,500.00	\$200.00	\$50,000.00
11	655	LF	TRENCH EXCAVATION SAFETY SYSTEM FOR FOR WASTEWATER IMPROVEMENTS	\$3.80	\$2,489.00	\$2.00	\$1,310.00	\$2.25	\$1,473.75	\$1.00	\$655.00	\$1.50	\$982.50	\$5.00	\$3,275.00	\$10.00	\$6,550.00
TOTAL BASE BID (Items Nos. 1-11)					\$118,208.00		\$136,195.00		\$142,836.15		\$151,554.00		\$163,064.18		\$227,050.00		\$278,965.00

I certify that this is correct and true to the best of my knowledge and belief

BEFCO Engineering, Inc. (F-2011)


Chad Emmel, P.E.
Registration No. 103495
April 12, 2019



AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between City of Bastrop ("Owner") and _____ ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: *SH 71 Utility Conflict*

ARTICLE 2—THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: *SH 71 Utility Conflict*

ARTICLE 3—ENGINEER

- 3.01 The Owner has retained BEFCO Engineering, Inc. ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by BEFCO Engineering, Inc.

ARTICLE 4—CONTRACT TIMES

- 4.01 *Time is of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.03 *Contract Times: Days*
- A. The Work will be substantially complete within forty-five (45) consecutive days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within forty-five (45) consecutive days after the date when the Contract Times commence to run.
- 4.05 *Liquidated Damages*
- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time.

Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion:* Contractor shall pay Owner **Two Hundred Ten & No/100 (\$210.00)** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **Two Hundred Ten & No/100 (\$210.00)** for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.06 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For all Work other than Unit Price Work, a lump sum of **(See Bid Schedule)**.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

- B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					See Bid Schedule

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

- C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment)
See Bid Schedule
- D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.
See Bid Schedule

ARTICLE 6—PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the twenty-eighth (28th) day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. Ninety (90) percent of the value of the Work completed (with the balance being retainage).
 - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work

remain satisfactory to Owner and Engineer, there will be no additional retainage; and

- b. **Ninety (90)** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **One Hundred (100)** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **Two Hundred (200)** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of **Zero (0.00)** percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 - 3. General Conditions.
 - 4. Supplementary Conditions.
 - 5. Specifications as listed in the table of contents of the project manual (copy of list attached).
 - 6. Drawings (not attached but incorporated by reference) consisting of _____ sheets with each sheet bearing the following general title: _____.
 - 7. Addenda (numbers ____ to ___, inclusive).
 - 8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid.

- b. Documentation submitted by Contractor prior to Notice of Award.
 - c. Affidavit of Site Visit.
 - d. Anti-Collusion Affidavit.
 - e. Conflict of Interest Questionnaire.
 - f. House Bill 89 Verification.
 - g. Chapter 2252 Certification.
 - h. Form 1295
 - i. Special Conditions.
9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
- a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 - 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in

the Supplementary Conditions, with respect to Technical Data in such reports and drawings.

6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

Owner:

City of Bastrop

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: Ms. Lynda Humble

(typed or printed)

Title: City Manager

(typed or printed)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

1311 Chestnut St.

PO Box 427

Bastrop, TX 78602

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

License No.:

(where applicable)

State:



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 13G

TITLE:

Consider action to approve Resolution R-2019-49 of the City Council of the City of Bastrop, Texas authorizing the City to resolve an enforcement action from the Texas Commission on Environmental Quality (TCEQ) at a cost of Sixty-Six Thousand Four Hundred Twenty Dollars and 00 Cents (\$66,420.00); as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:

Curtis Hancock, Assistant Director of Public Works & Utilities

BACKGROUND/HISTORY:

The Texas Commission on Environmental Quality (TCEQ) sent a letter on April 16, 2019, regarding violations of the Texas Water Code and Commission Rules that were discovered during an investigation conducted October 3 and 4, 2019. The allegations and our findings are as follows:

a) Failed to submit accurate monthly Discharge Monitoring Report

After conducting an internal investigation, it was determined that employees logged the incorrect reading on the daily report. Appropriate discipline and re-education have occurred with all employees involved. The Discharge Monitoring Reports' were resubmitted on January 3, 2019, with the correct reading.

In addition, Joe Jenkins, Walker Partners, will conduct a three (3) day Quality Assurance review. Joe will shadow all wastewater employees on Day 1 to ensure that all TCEQ and Internal Protocols are being followed. Joe will spend Day 2 shadowing all employees involved in quality control/assurance testing to ensure that all TCEQ and Internal Protocols are being followed. On Day 3, Joe will rewrite and/or hold training for any identified non-compliant processes and/or TCEQ regulations.

b) Failed to maintain the stormwater permit TXR05CD38, expired November 14, 2016.

An application of Notice of Intent was submitted on June 26, 2014, and the Final Action date was June 26, 2014, with an authorization number TXR05CD38. There was never a stormwater permit issued to the City of Bastrop. The employee responsible for this permit renewal no longer works in Bastrop. Current employees were told it was being handled and moved on to other projects, assuming that this was the case.

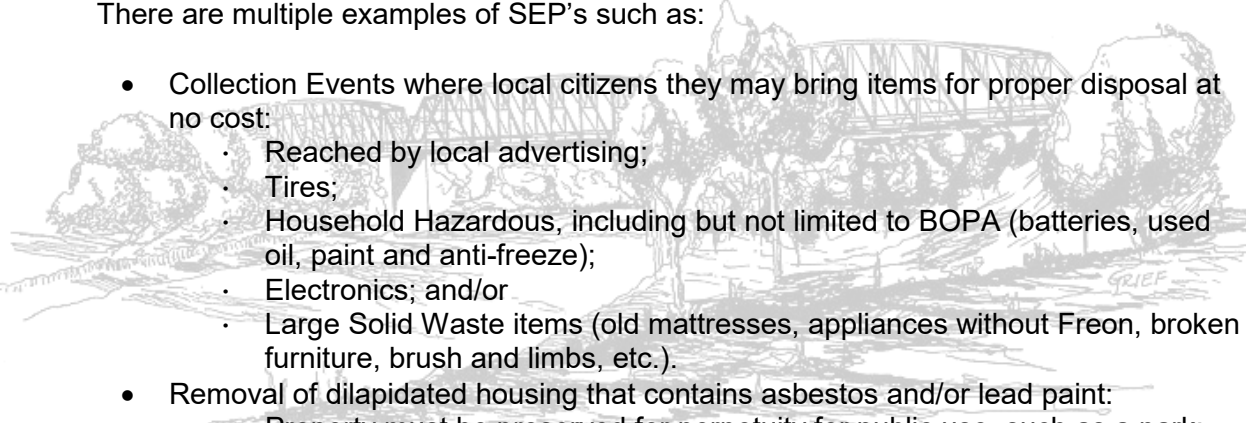
Walker Partners was hired to complete the permit and has since submitted the stormwater permit to TCEQ as of April, 2019. The permit has been approved, and will be valid until August 14, 2021. This item has now been brought into compliance. All expiration dates of all TCEQ permits have been placed on multiple calendars with a six (6) month window to ensure ability to maintain compliance.

c) **Failed to properly operate and maintain the Facility and all its systems of collection, treatment and disposal. Specifically, the RPBA's located in the chlorination room and the facility's front gate were leaking.**

All backflow prevention assemblies are tested by a third-party inspector annually. The assembly located in the wastewater treatment plant chemical room was tested last on July 7, 2019, and the assembly located at the gate was inspected on January 15, 2018. Both were passed. Water Utility Personnel started their internal preparations two weeks prior to the TCEQ inspections, and the backflows were not leaking at that time. Both backflows have been replaced since the inspection and were retested upon installation on October 6, 2018. Proof was sent to TCEQ on October 11, 2018. This item is now in compliance.

The TCEQ has assessed an administrative penalty of \$83,025 and is proposing a one-time offer to defer \$16,605 of the penalty, if the City complies with all ordering provisions within a specific time frame. This deferral will reduce the penalty to \$66,420. The department will submit to TCEQ an application to pay the fine into a Supplemental Environmental Program (SEP). TCEQ gives preference to projects that benefit the community in which the alleged violation occurred.

There are multiple examples of SEP's such as:

- 
- Collection Events where local citizens they may bring items for proper disposal at no cost:
 - Reached by local advertising;
 - Tires;
 - Household Hazardous, including but not limited to BOPA (batteries, used oil, paint and anti-freeze);
 - Electronics; and/or
 - Large Solid Waste items (old mattresses, appliances without Freon, broken furniture, brush and limbs, etc.).
 - Removal of dilapidated housing that contains asbestos and/or lead paint:
 - Property must be preserved for perpetuity for public use, such as a park; and
 - Extensive material testing for asbestos and/or lead paint will be required for this project.
 - Cleanup of illegal dump sites, including tires:
 - Eligible sites will be those where a responsible party cannot be found; or
 - is unable to clean the site; and
 - where reasonable efforts have been made to prevent dumping.
 - **Erosion Control Project on a natural shoreline around a creek, river or lake:**
 - **Vegetation removal for flood control does not qualify as a SEP;**
 - **Man-made drainage ditches do not qualify as a SEP; and**
 - **Photos and map of eroded area will be required with the SEP application.**
 - Extend first-time sewer service to low-income* residents who are utilizing failing septic systems:
 - Wastewater violations (MWD) do not qualify for this SEP; and
 - According to HUD standards.
 - Extend first-time water service to low-income* residents who are utilizing shallow or contaminated well water.

There are areas along the Riverwalk Trail in Fisherman Park where significant erosion is occurring along the Colorado River that Staff believes meets the intent of this program. Therefore, Staff plans to submit an application asking the TCEQ to consider this project for eligibility under this requirement. While it is unacceptable that we have to pay a fine, the SEP makes it possible for the fine to be put to good use in our community.

POLICY EXPLANATION:

Because the amount of the fine is greater than \$50,000, Council approval is required. The City's response will be submitted on May 15th along with a check in the amount of the fine.

FUNDING SOURCE:

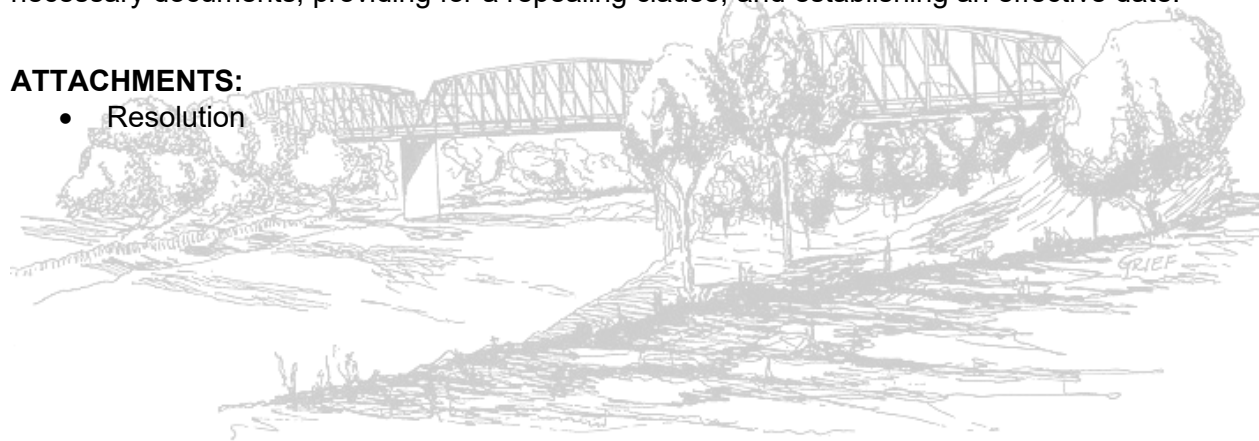
Fines will be reallocated from salary saving in the Water & Wastewater FY 19 Budget.

RECOMMENDATION:

Consider action to approve Resolution R-2019-49 of the City Council of the City of Bastrop, Texas authorizing the City to resolve an enforcement action from the Texas Commission on Environmental Quality (TCEQ) at a cost of Sixty-Six Thousand Four Hundred Twenty Dollars and 00 Cents (\$66,420.00); as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Resolution



RESOLUTION NO. R-2019-49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AUTHORIZING THE CITY TO RESOLVE AN ENFORCEMENT ACTION FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) AT A COST OF \$66,420.00 (SIXTY-SIX THOUSAND FOUR HUNDRED TWENTY DOLLARS AND 00/100 CENTS); AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Bastrop, Texas has appointed the City Manager as the Chief Administrative Officer of the City; and

WHEREAS, The City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, The City Council of the City of Bastrop, Texas has the steadfastness to ensure the quality of our City water supply; and

WHEREAS, The Texas Commission on Environmental Quality (TCEQ) investigated the Bastrop Wastewater Facility on October 3 and 4, 2019; and

WHEREAS, The TCEQ discovered violations and have assessed a penalty of \$83,025.00; and

WHEREAS, The TCEQ is proposing a one-time offer to defer \$16,605.00 of the penalty if the City complies with all ordering provisions with a specific time frame, which will reduce the penalty to \$66,420.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1: That the City Manager or her designee is hereby authorized to execute an enforcement action to the Texas Commission on Environmental Quality for violations discovered during an investigation conducted October 3 and 4, 2019 in the amount of \$66,420.00.

Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of May, 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 13H

TITLE:

Consider action to approve Resolution R-2019-50 of the City Council of the City of Bastrop, Texas supporting the co-application by the City of Bastrop and Bastrop County for an Economic Development Administration (EDA) Assistance Grant to build Bastrop Community Center and Shelter Facility at Mayfest Park; ratifying the signature of the City Manager on the co-application and authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

BACKGROUND/HISTORY:

The Economic Development Administration (EDA) has allocated \$90 million in FY 2018 supplemental appropriations for disaster recovery grants to support recovery activities in areas receiving a major disaster designation due to Hurricane Harvey and other 2017 natural disasters. Qualifying projects include a wide range of construction and non-construction activities such as studies to assist communities on diversifying economies to mitigate disasters, purchasing buildings, etc. All grants will fund 80% of the project cost and require a 20% match. The EDA will be accepting applications on a rolling basis until all funds are obligated.

POLICY EXPLANATION:

Bastrop County submitted a \$3,323,678 application to the EDA for funding for the Bastrop Community Center and Shelter Facility. The City of Bastrop has executed a 75-year lease to the County in order to build this facility in Mayfest Park. The EDA reviewed the County's initial application and determined that the City of Bastrop must be a co-applicant to the grant request since the property is owned by the City. Verification was obtained that the City's co-application on the Bastrop Community Center and Shelter Facility will not impact the City's application for funding of Agnes Drive. Because a lease has already been authorized by the City Council, the City Manager executed all grant documentation in order to meet the short timeframe for a co-application submittal.

Approval of this Resolution will ratify the City Manager's signature on all necessary documentation related to the grant submittal and any subsequent paperwork should the grant be awarded. It will also authorize the City Manager to execute all necessary documentation, should the grant be awarded.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider action to approve Resolution R-2019-50 of the City Council of the City of Bastrop, Texas supporting the co-application by the City of Bastrop and Bastrop County for an Economic Development Administration (EDA) Assistance Grant to build Bastrop Community Center and Shelter Facility at Mayfest Park; ratifying the signature of the City Manager on the co-application and authorizing the City Manager to execute all necessary documentation; and establishing an effective date.

ATTACHMENT:

- Resolution



RESOLUTION R-2019-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS SUPPORTING THE CO-APPLICATION BY THE CITY OF BASTROP AND BASTROP COUNTY FOR AN ECONOMIC DEVELOPMENT ADMINISTRATION (EDA) ASSISTANCE GRANT TO BUILD BASTROP COMMUNITY CENTER AND SHELTER FACILITY AT MAYFEST PARK; RATIFYING THE SIGNATURE OF THE CITY MANAGER ON THE CO-APPLICATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Economic Development Administration (EDA) has allocated \$90 million in FY 2018 supplemental appropriations for disaster recovery grants to support recovery activities in areas receiving a major disaster designation due to Hurricane Harvey and other 2017 natural disasters; and

WHEREAS, the Bastrop County submitted an application for \$3,323,678 grant to build Bastrop Community Center and Shelter Facility; and

WHEREAS, the City of Bastrop has executed a 75-year lease to Bastrop County to build the Bastrop Community Center and Shelter Facility at Mayfest Park; and

WHEREAS, EDA requires the City of Bastrop to be a co-applicant on this grant request since the City owns the property; and

WHEREAS, verification has been provided by EDA representatives that the City's co-application with Bastrop County will not impact the City's grant application for Agnes Drive; and

WHEREAS, the City Manager executed the co-application grant application to meet the short timeframe established by the EDA; and

WHEREAS, the City Council ratifies the City Manager's signature on the co-application and authorizes the City Manager to execute all future documentation associated with this project, should the project be approved by the EDA.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1. The City Council of the City of Bastrop supports the Bastrop County's application for \$3,323,678 in grant funding for the Bastrop Community Center and Shelter Facility.

Section 2. The City Council of the City of Bastrop ratifies the City Manager's signature on the co-application grant submission and authorizes the City Manager to execute all necessary documentation regarding this grant.

Section 3: This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of May, 2019.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney



STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 14A

TITLE:

City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss and deliberate litigation matters with the City Attorney regarding possible litigation regarding Davenport/Dayton drainage.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 14B

TITLE:

City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss and deliberate litigation matters with the City Attorney regarding Bastrop Estates, LLC v. City of Bastrop, Texas and Lynda Humble.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager





STAFF REPORT

MEETING DATE: May 14, 2019

AGENDA ITEM: 15

TITLE:

Take any necessary or appropriate action on matters posted for consideration in closed/executive session

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

