

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.

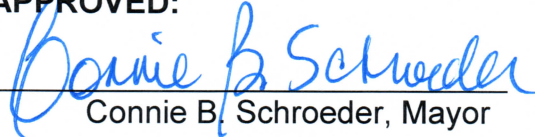
SECTION 9. EFFECTIVE DATE This Ordinance shall be effective immediately upon passage and publication.

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 23rd day of April 2019.


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

APPROVED:



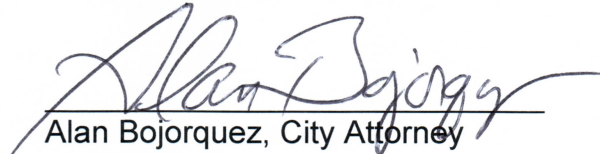
Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

City of Bastrop Code of Ordinances

Chapter 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