

ORDINANCE NO. 2019-30

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, (“CITY”) AMENDING CHAPTER 16, “STORMWATER DRAINAGE,” SECTIONS 16.01.002, 16.01.007, 16.01.009, 16.01.010, 16.01.013, AND 16.01.015; BY DEFINING STORMWATER POLLUTION PREVENTION PLANS, AND ESTABLISHING REQUIREMENTS FOR MAINTENANCE PLANS, EROSION CONTROL PLANS, AND EASEMENTS AS PART OF CONSTRUCTION PROCESS FOR STORMWATER CONTROL, GIVING THE CITY COUNCIL THE RESPONSIBILITY OF APPROVING OR DISAPPROVING RECOMMENDATIONS FROM THE DEVELOPMENT REVIEW COMMITTEE (DRC) AND THE AUTHORITY TO HEAR APPEALS REGARDING THE ADMINISTRATION OF THIS CHAPTER, AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, ENFORCEMENT, 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, 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, on May 14, 2019, the City Council of the City of Bastrop (“City Council”) adopted Ordinance 2019-17 establishing new Chapter 16 regarding Stormwater Drainage into the City’s Code of Ordinances; and

WHEREAS, Ordinance 2019-17 codified the review process for stormwater drainage to prevent, mitigate, and minimize future flooding events; and

WHEREAS, the City Council finds that it is necessary to amend Ordinance 2019-17 by adding definitions and requirements for stormwater maintenance plans, erosion control plans and easements for stormwater drainage; 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 is necessary or proper for carrying out a power granted by law to the City; and

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

Sections 16.01.002, 16.01.007, 16.01.009, 16.01.010, 16.01.013, 16.01.015 of Chapter 16, which is titled "Stormwater Drainage," of the Code of Ordinances of the City of Bastrop are amended to read as described and attached hereto as Exhibit "A."

SECTION 3. REPEALER

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 4. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance 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. 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 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

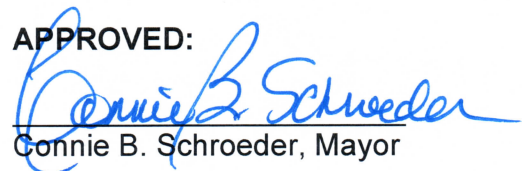
SECTION 7. OPEN MEETINGS

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.

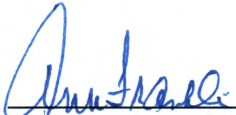
READ & ACKNOWLEDGED on First Reading on the 14th day of August 2019.

READ & APPROVED on the Second Reading on the 27th day of August 2019.

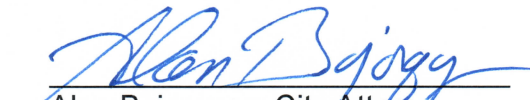
APPROVED:


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. 16.01.002 - 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 that shall consist of City staff including, but not limited to representatives from Planning & Development/building inspections, engineering, public works/parks/water/wastewater, electric, fire, and the City Manager’s office 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.

Stormwater pollution prevention plan ("SWPPP") 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.

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. 16.01.007 - MAINTENANCE PLAN.

(Reserved).

An Operations and Maintenance Plan shall be prepared to meet the requirements outlined in the City of Bastrop Stormwater Drainage Design Manual. The Operations and Maintenance Plan shall be submitted to the City along with the Final Drainage Plans and shall clearly state which entity has responsibility for the operation and maintenance of the temporary and permanent stormwater controls and drainage facilities to ensure that they

will function in the future.

Sec. 16.01.009 – EROSION CONTROL PLAN.

(Reserved).

(a) Stormwater pollution prevention plans (SWPPPs) shall be submitted for review to the City Engineer prior to release of construction projects. The Responsible Party and their engineer shall be responsible for preparation of an SWPPP in accordance with the Texas Commission on Environmental Quality (TCEQ) and U.S. Environmental Protection Agency (EPA) requirements.

(b) TCEQ and EPA permitting shall also be the responsibility of the Responsible Party and their engineer.

Sec. 16.01.010 – EASEMENTS.

(Reserved).

(a) The Responsible Party shall dedicate or grant all necessary easements for construction of all stormwater drainage facilities required in the City of Bastrop Stormwater Drainage Design Manual.

(b) The Responsible Party shall record all easements in the deed records of Bastrop County.

The easements shall conform to the requirements in the City of Bastrop Stormwater Drainage Design Manual.

Sec. 16.01.013 - EXCEPTIONS AND WAIVERS.

(a) *Generally.* The Development Review Committee may recommend, and the ~~Zoning Board of Adjustment~~ City Council 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.

Sec. 16.01.015 – APPEALS.

(a) *Role of the ~~Zoning Board of Adjustment~~ City Council.* The ~~zoning board of adjustment~~ City Council 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~~ City Council 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.