

**ORDINANCE NO. 2019-33**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CITY CODE OF ORDINANCES, CHAPTER 14, "ZONING," EXHIBIT A, "ZONING ORDINANCE," SECTION 10 – "CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS, AND ADMINISTRATIVE PROCEDURES"; AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, ENFORCEMENT, A REPEALER, AND SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.**

**WHEREAS**, House Bill 3167 of the 86th Session of the Texas Legislature requires that a subdivision development plan, subdivision construction plan, site plan, land development application, site development plan, preliminary plat, general plan, final plat, and replat be approved, approved with conditions, or disapproved by staff and/or Planning & Zoning Commission within 30 days of submission or it is deemed approved by inaction; and

**WHEREAS**, Chapter 211 – Municipal Zoning Authority of the Local Government Code is not subject to the 30-day requirement of House Bill 3167; and

**WHEREAS**, In order to ensure compliance with House Bill 3167, portions of Chapter 14, Section 10 - Changes and Amendments to all Zoning Ordinances and Districts, and Administrative Procedures will need to be amended; and

**WHEREAS**, The City's current Code of Ordinances does not clearly specify what is required to be submitted with an application for a zoning change or amendment which creates inconsistencies in Chapter 14 of the City's current Code of Ordinances; and

**WHEREAS**, Application requirements for a zoning change and amendment need to be clearly defined, consistent, and compliant with Chapter 211 of the Local Government Code and House Bill 3167.

**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**

That Chapter 14, "Zoning," of the Code of Ordinances, Exhibit A, "Zoning Ordinance," Section 10 – "Changes and Amendments to all Zoning Ordinances and Districts, and Administrative Procedures," is 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.

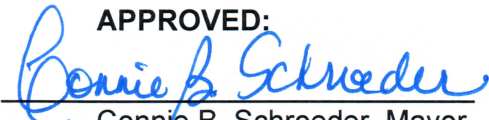
**SECTION 7. OPEN MEETINGS**

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.

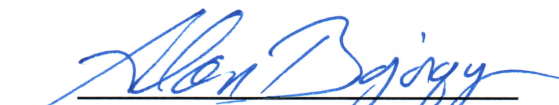
**APPROVED:**

by   
Connie B. Schroeder, Mayor

**ATTEST:**

  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

  
Alan Bojorquez, City Attorney

**City of Bastrop Code of Ordinances**

**Chapter 14 Zoning**

**Exhibit A Zoning Ordinances**

**10.1 - DECLARATION OF POLICY AND REVIEW CRITERIA:**

The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- A. To correct any error in the regulations or map.
- B. To recognize changed or changing conditions or circumstances in a particular locality.
- C. To recognize changes in technology, the style of living, or manner of conducting business.
- D. To change the property to uses in accordance with the approved Comprehensive Plan.

In making a determination regarding a requested zoning change, the Planning and Zoning Commission and City Council shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
- B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.
- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.
- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- E. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved.
- F. Any other factors which will substantially affect the public health, safety, morals, or general welfare.

**10.2 - AUTHORITY TO AMEND ORDINANCE:**

The City Council may from time to time, after receiving a final report thereon by the Planning and Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any Ordinance regulations or Zoning District boundary amendment may be ordered for consideration by the City Council, be initiated by the Planning and Zoning Commission, or be requested by the owner of real property, or the authorized representative of an owner of real property.

Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Planning and Zoning Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof of ownership.

No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City of Bastrop, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that the taxes have been paid.

### 10.3 - APPLICATION:

- A. Prior to the submittal of an application for any zoning change or amendment, the applicant shall schedule a Pre-Development Meeting with the Planning and Development Department. The applicant shall prepare and submit a Sketch Drawing prior to the scheduling of the meeting with the Planning and Development Department. A Sketch Drawing shall mean a preliminary design of a subdivision and/or development that illustrates the layout of rights-of-way, blocks, lots, easements, civic/open spaces, drainage areas, and land uses. A sketch drawing is preliminary in nature but provides enough detail to define the physical form of a subdivision and/or development to allow staff to provide relative feedback to an applicant prior to the submittal of an application for any zoning change or amendment.
- B. Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing on an application form available at the City, filed with the City and shall be accompanied by payment of the appropriate fee as established by the City of Bastrop, Texas in Chapter 12, City Code of Ordinances, subsection (a) [section 14.01.001].
- C. Any application for zoning or for an amendment or change shall require a Zoning Concept Scheme – The concept scheme shall be submitted by the applicant at the time of the zoning request. The scheme shall show the applicant's intent for the use of the land within the proposed area in a graphic manner and as may be required, supported by written documentation of proposals and standards for development. The City may prepare application form(s) which further describe and explain the following requirements:
  1. The Zoning Concept Scheme shall include:
    - a. Boundary of the proposed area
    - b. A scaled drawing showing types and location of proposed uses
    - c. Thoroughfares and preliminary lot arrangements
    - d. A sketch drawing that shows the size, type and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and project scheduling



- e. Physical features of the site including a scaled drawing showing major existing vegetation, natural water courses, creeks or bodies of water and an analysis of planned changes in such natural features as a result of the development. This shall include a delineation of any flood prone areas
- f. Any existing thoroughfares and easements
- g. Location of proposed public open spaces or civic spaces
- h. The points of ingress and egress from existing and proposed streets
- i. A landscape plan showing turf areas, screening walls, ornamental planting, wooded areas to be preserved, and trees to be planted. The landscape plan should provide types of plantings to be used and give a general landscape design scheme for the development
- j. A conceptual infrastructure plan showing the location of any existing or proposed utilities needed to adequately serve the development
- k. Architectural drawings (elevations, etc.) showing elevations and architectural style to be used throughout the development
- l. A parks and trails plan showing any proposed parks, trails, hardscape, playscape, water feature or any other proposed improvements to any civic or open space
- m. A Conceptual Drainage Plan as required by Appendix A of the City of Bastrop Stormwater Drainage Design Manual

#### 10.4 – PUBLIC HEARING AND NOTICE:

Prior to making its report to the City Council, the Planning and Zoning Commission shall hold at least one public hearing on each application as applicable by state law (Texas Local Government Code Chapter 211 as so may be amended). Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings on proposed changes in the text of the Zoning Ordinance shall be accomplished by one publication not less than fifteen (15) days prior thereto in the official newspaper of the City. Changes in the ordinance text which do not change zoning district boundaries do not require written notification to individual property owners.

#### 10.5 – FAILURE TO APPEAR:

Failure of the applicant or his representative to appear before the Planning and Zoning Commission or City Council for more than one hearing without an approved delay by the City Manager shall constitute sufficient grounds for the Planning and Zoning Commission or the City Council to table or deny the application unless the City is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing.

#### 10.6 - PLANNING AND ZONING COMMISSION CONSIDERATION AND REPORT:

The Planning and Zoning Commission shall function in accordance with Section 8 of this ordinance. The Planning and Zoning Commission, after the public hearing is closed, shall prepare its report and recommendations on the proposed change stating its findings, its evaluation of the request and of the relationship of the request to the Comprehensive Plan. The Planning and Zoning Commission may defer its report for not more than forty-five (45) days from the time it is posted on the agenda or until it has had an opportunity to consider other proposed changes which may have a direct bearing thereon unless a postponement is requested by the applicant. If the Planning and Zoning Commission has not acted, the request shall be sent to the City Council as a recommendation to deny.

#### 10.7 – DENIAL:

If the Planning and Zoning Commission recommends denial of the zoning change request, it shall offer reasons to the applicant for the denial, if requested by the applicant.

#### 10.8 – CITY COUNCIL CONSIDERATION:

- A. Applications Recommended for Approval by the Planning and Zoning Commission: Every application or proposal which is recommended for approval by the Planning and Zoning Commission shall be automatically forwarded to the City Council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
- B. Applications Recommended for Denial by the Planning and Zoning Commission: When the Planning and Zoning Commission makes a recommendation that a proposal should be denied, the request, in its original form, will automatically be placed on the City Council agenda unless requested not to by the applicant within ten (10) days of such action (see E.2. below).
- C. Resubmission of Applications - Similar Applications Within One (1) Year Prohibited: No applications for a change of zoning classification, variance or Conditional Use Permit shall be accepted if a similar application for the same property has been denied by the Council or Zoning Board of Adjustment within the preceding twelve (12) month period. However, the City Council or the Zoning Board of Adjustment may, if requested in writing, reconsider an application previously denied within a period of thirty (30) days from such denial if such denial was based upon erroneous or omitted information or if substantial new information is discovered. Such reconsideration shall only be heard if agreed by four or more members of the City Council or the Zoning Board of Adjustment. No previous denial shall be overturned except by a 4/5ths vote of the City Council or the Zoning Board of Adjustment. Written notice of any such reconsideration shall be given to all property owners within two hundred feet (200') of the subject property at least ten (10) days prior to any reconsideration hearing. All costs of such notices shall be paid by the applicant for reconsideration prior to any vote on the matter. (Ordinance 97-26 adopted 7/22/97)
- D. City Council Hearing and Notice for Zoning Changes: Notice of the City Council public hearing shall be given by publication in the official newspaper of the City, stating the time and place of such hearing, which shall be at least fifteen (15) days after the date of publication.
- E. Three-Fourths Vote:

- a. A favorable vote of three-fourths (3/4) of all members of the City Council shall be required to approve any change in zoning when written objections are received from twenty percent (20%) of the area of the adjacent landowners which comply with the provisions of Section 211.006 of the Local Government Code of the State of Texas commonly referred to as the "twenty percent (20%) rule." If a protest against such proposed amendment, supplement or change has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots included in such a proposed change or those immediately adjacent to the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such amendments shall not become effective except by a three-fourths (3/4) vote of the City Council.
  - b. When the Planning and Zoning Commission makes a recommendation(s) that a proposed zoning change or site plan be denied, the request (in its original form) shall require a three-fourths (3/4) majority vote from City Council for it to be approved.
- F. Final Approval and Ordinance Adoption: Upon approval of the zoning request by the City Council, the applicant shall submit all related material with revisions, if necessary, to the City for the preparation of the amending ordinance. A metes and bounds description of all property and appropriate exhibits must be submitted with the zoning change request application. The amending ordinance will not be approved until a correct description has been prepared. The zoning request shall be approved at the time the City Council makes a decision to approve the request as submitted or with certain conditions.

#### 10.9 – JOINT PUBLIC HEARINGS:

As authorized in Section 211.007 of the Texas Local Government Code, the City Council may, by a two-thirds (2/3) vote, prescribe the type of notice to be given of the time and place of a public hearing held jointly by the City Council and Planning and Zoning Commission. If the notice provisions are different than Section 10.4 above, then the provisions of Section 10.4 do not apply.

#### 10.10 – PROCEDURE FOR NEWLY ANNEXED LAND:

As soon as reasonable, after an annexation ordinance is approved by the City Council, the Director of Planning and Development shall prepare an application for zoning the newly annexed land from "AOS" Agricultural Open Space to a more permanent zoning district. The application shall be placed on the Planning and Zoning Commission's agenda. All procedures as set forth in this section shall apply.

#### 10.11 – FEES:

Fees shall be as provided for in the Fee Schedule found in the Appendix A of the Code of Ordinances.