

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



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**June 13, 2017 at 5:00 P.M.**

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*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.*

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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.

**1. CALL TO ORDER**

**2. WORK SESSION (BEGINS AT 5:00 P.M.)**

2A. Discuss Ethics Ordinance and receive input from citizens.

**CONVENE INTO REGULAR SESSION (6:30 P.M.)**

**3. PLEDGE OF ALLEGIANCE**

**TEXAS PLEDGE OF ALLEGIANCE**

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

**4. INVOCATION**

**5. PRESENTATIONS**

5A. Presentation of Joint Proclamation between Bastrop County and the City of Bastrop recognizing and celebrating the 30<sup>th</sup> Juneteenth Anniversary on June 17, 2017.

5B. Presentation of Residency Requirements for All Boards & Commissions.

5C. Mayor's Report

5D. Councilmembers' Report

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5E. City Manager's Report

**6. STAFF AND BOARD REPORTS**

6A. Receive report from Bastrop Economic Development Corporation.

6B. Hear presentation from Visit Bastrop Interim Director, Dale Lockett.

**7. 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 consideration of that item.*

*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.*

**8. CONSENT AGENDA**

8A. Consider action to approve minutes from the May 23, 2017 Regular Council Meeting.

8B. Consider action to approve Resolution R-2017-35 of the City Council of the City of Bastrop, Texas approving a Final Plat for Pecan Park 3A, being 12.181 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the 100' wide LCRA easement, within the city limits of Bastrop, Texas; and providing an effective date.

8C. Consider action to approve Resolution R-2017-36 of the City Council of the City of Bastrop, Texas approving a Final Plat for Pecan Park 6A, being 10.913 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the 100' wide LCRA easement, within the city limits of Bastrop, Texas; and providing an effective date.

**9. ITEMS FOR INDIVIDUAL CONSIDERATION**

9A. Hold public hearing and consider action to approve the first reading of Ordinance No. 2017-17 granting a Conditional Use Permit to allow a manufactured home at 1103 Cedar Street, being 0.289 acres of Building Block 20, East of Main Street, setting out conditions;

establishing an effective date and move to include on the June 27, 2017, agenda for a second reading.

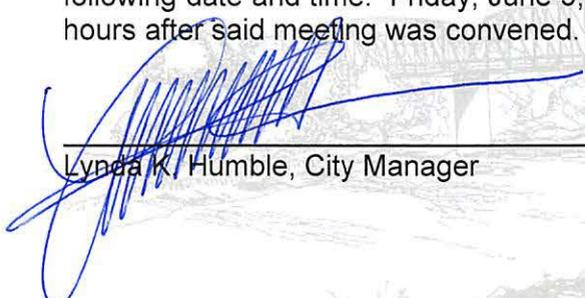
- 9B. Consider action to approve the first reading of Ordinance No. 2017–15 amending the code of ordinances by amending Article 4.03 (taxicabs, shuttles and touring vehicles) providing the requirements of operating a taxicab, shuttles and touring vehicles and designating the city manager or his or her designee to enforce all requirements; approving a repealing clause; establishing an effective date and move to include on the June 27, 2017, agenda for a second reading.

**10. EXECUTIVE SESSION - NONE**

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

**12. 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](http://www.cityofbastrop.org) and said Notice was posted on the following date and time: Friday, June 9, 2017 at 6:00 p.m. and remained posted for at least two hours after said meeting was convened.



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Lynda K. Humble, City Manager



# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 2A

**TITLE:**

Discuss Ethics Ordinance and receive input from citizens.

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager

David Bragg, City Attorney

**BACKGROUND:**

On May 23, 2017, Judge Chris Duggan, Chairman of the Ethics Committee, presented the Committee's recommended changes to the Ethics Ordinance, as discussed during the Ethics Committee's May 1<sup>st</sup> meeting. Council agreed to hold a work session starting at 5:00 p.m. to receive public input as well as discuss the Committee's suggested recommendations.

At the request of Councilmember Debra Jones, Alan Bojorquez, Bojorquez Law Firm, PC, was retained as special counsel to review the Ethics Ordinance since his field of specialty is municipal law. During Tuesday's work session, the City Attorney and City Manager will walk the Council through the items that warrant additional discussion.

**ATTACHMENTS:**

- Red-lined version of Ethics Ordinance with recommended changes.
- Version, with recommended changes accepted, for ease of reading and comprehension.
- Citizen suggested amendments to the Ethics Ordinance

ARTICLE 1.15 - CODE OF ETHICS

DIVISION 1. - GENERALLY

Sec. 1.15.001 - Definitions.

“Board, body, commission, and task force” means and includes ~~Includes~~ any group of individuals assigned, appointed, or serving the city at the Council's or City Manager’s request or direction, or any group otherwise convened by the city to assist with city business.

“Business entity” means either a ~~A~~ sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

“City Council” ~~means the Mayor and elected members of the City Council. All members of the city's governing body, including the mayor.~~

“City official” includes all of the following:-

(1) Every member of the City Council (including the ~~mayor~~ Mayor), the City Manager, the E ~~Executive-~~ D ~~irector~~ of the economic development corporation, the C ~~ity~~ A ~~ttorney~~, the City Secretary, all city department directors, the ~~the~~ police chief, the ~~the~~ fire chief, the ~~the~~ fire marshal, and ~~includes~~ persons acting in the capacity of the aforementioned city officials, whether appointed, or employed, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager.;

(2) Members of all boards, commissions, task forces, and other bodies created by the City Council pursuant to federal or state law or city charter or ordinance, including entities that may be only advisory in nature whose members are appointed by City Council action or whose members are designated in the bylaws or organizational papers of the entity to serve on behalf of the city;

(3) All board members of any entity who are appointed by the City Council to such board membership; and

(4) Any other individual identified by the City Council, local or state law to be a city official, if any.

“Clear and convincing evidence” means that ~~The~~ measure or degree of proof that produces in the mind of the members of the Ethics Commission~~commissioners~~ a firm belief as to the truth of the facts or allegations sought to be established.

“Confidential government information” means ~~includes~~ all information held by the city that is not available to the public under the Texas Public Information Act and any information obtained or acquired from participation in a meeting that was closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is otherwise required or permitted under state law, a ruling by the state attorney general, or an order of a court with jurisdiction over the matter.

“De minimis” means a ~~A~~ value or amount that is so small as to be entirely inconsequential.

“Degree of affinity” means a r ~~Relationship~~ by affinity (marriage) as defined in Texas V.T.C.A. Government Code, §§ 573.024 and 573.025, or as amended. (See attachment A.)

“Degree of consanguinity” means a r ~~Relationship~~ by consanguinity (blood) as defined in V.T.C.A. Government Code, §§ 573.022 and 573.023, or as amended. (See attachment A.)

“Documents” means includes all writings (notes, correspondence, memoranda, reports, computer print-outs, etc.), drawings, drafts, charts, photographs, tape or disc recordings (whether sound or video), and all other data compilations from which information can be obtained or translated, regardless of the medium on which the documents are stored or maintained.

“Economic interest” means a ~~Includes, but is not limited to,~~ legal or equitable property interests in land, chattels, and intangibles, business opportunities~~advantages~~, and/or contractual rights having more than de minimis value. A person has an economic interest in a business entity, if the person is an employee or is a paid contract worker/consultant of the business entity. Unpaid service by a city official or employee as an officer, director, advisor, or otherwise active participant in an nonprofit entity~~educational, religious, charitable, fraternal, or civic organization~~ does not create, for that city official or employee, an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the

employee or city official owns less than 10% of the voting stock or shares of the entity and the fair market value of the stock is less than \$15,000.

“Employee” is a ~~Is any~~ person employed by the city ~~whether under civil service regulation or not~~, including those individuals who work on a part-time basis, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager; and the term does not include but such term shall not be extended to apply to any independent contractor or contractual consultant.

“Intentionally” means the act or omission was done with a ~~A person acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to~~ engage in the conduct or cause the result.

“Knowingly” means an ~~actual awareness of the impropriety of the acts or omissions in question, at the time of the act or practice complained of. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness. A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he/she is aware of the nature of his or her conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct when he/she is aware that his or her conduct is reasonably certain to cause the result.~~

“Official action” i ~~Includes:~~

(1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of ~~an~~ city official's or employee's duties; and

(2) Any unexcused failure to act if the city official or employee is under a duty to act ~~and knows that inaction is likely to substantially affect an economic interest of the city official or employee.~~

“Official information” means ~~Includes~~ information gathered or provided pursuant to the power or authority of city government.

“Recklessly” means ~~A person acts recklessly, or is reckless,~~ with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he or ~~she~~ is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must

be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under the same or similar circumstances.~~all the circumstances as viewed from the actor's standpoint.~~

“Representation” means ~~Encompasses~~ all forms of communication and personal appearances in which a person, not acting in performance of official duties, formally serves as an advocate for private interests, regardless of whether the representation is compensated. Lobbying may be a form of representation. Representation does not include appearance as a fact witness or expert witness in litigation or other official proceedings.

(Ord. No. 2015-20, pt. 1A., 10-13-15)

#### Sec. 1.15.002 – Limitation on Application of Ethics Ordinance

This Ethics Ordinance does not apply to any person that is employed by the City that who reports to the City Manager or is employed in one of the City departments under the direction of the City Manager.

Secs. 1.15.00~~3~~2—1.15.030 - Reserved.

## DIVISION 2. - CURRENT CITY OFFICIALS AND EMPLOYEES

Sec. 1.15.031 - Improper economic benefit.

(a) General rule. A city official or employee shall not take any official action that he or she knows ~~or~~ is likely to affect, or that might reasonably be expected to affect, the economic interests of:

- (1) The city official or city employee;
- (2) His or her parent, child, spouse, or other family member within the third degree of consanguinity or second degree of affinity;
- (3) His or her outside client;
- (4) A member of his or her household;



(5) The outside employer of the city official/employee or the outside employer of the city official's ~~or~~ employee's parent, child or spouse, or such outside employer's family member, within the third degree of consanguinity or second degree of affinity;

(6) A business entity in which the city official or employee knows that any of the persons listed in subsections (a)(1) or (a)(2) or (a)(5) holds an economic interest;

(7) A business entity which the city official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in subsection (a)(1) or (a)(2) holds an economic interest;

(8) A business entity or nonprofit entity for which the city official or employee serves as an officer or director or in any other policy making position; or

(9) A business entity or a person (or someone related to the person within the third degree of consanguinity or second degree of affinity):

(A) From whom, within the past twelve (12) months, the city official or employee, or his or her spouse, child or parent, directly or indirectly has:

(i) Solicited an offer of employment; or

(ii) Received and not rejected an offer of employment; or

(iii) Accepted an offer of employment, whether compensated or not and regardless of the level of compensation; or

(B) With whom the city official or employee, or his or her spouse, directly or indirectly is engaged, or within the past twelve months engaged, in negotiations pertaining to business opportunities.

(Ord. No. 2015-20, pt. 1B., 10-13-15)

~~Sec. 1.15.032—Accountability of city officials.~~

~~All city officials who serve on the City Council, a board, body, commission, or task force shall either cast a vote on motions presented and subject to a vote; or:~~

~~—— (1) Shall file and disclose the nature and extent of a conflict presented which prohibits the city official from voting, as set forth in section 1.15.031(b)(2) above; or~~

~~—— (2) Shall state for the record, with specificity, the reason that the city official declines to vote on the matter.~~

Sec. 1.15.0323 - Unfair advancement of private interests.

(a) General rule. A city official or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official or employee violates this rule if he or /she represents to a person that he or she will or may ~~and/or will~~ attempt to provide any advantage to that person, based on the city official's or employee's position on the governing body or with the entity.

(b) Special rules. The following special rules apply in addition to the general rule noted above:

(1) Acquisition of interest in impending matters. A city official or employee shall not acquire an interest in any contract, transaction, business opportunity, decision, or other matter, if the city official or employee knows, or has reason to know, that the city official's or employee's interest will be directly or indirectly affected by impending official action by the city.

(2) Reciprocal favors. A city official or employee may not enter into an agreement or understanding with any other person that official action by the city official or employee will be rewarded, affected or reciprocated by the other person, directly or indirectly, in any way, or at any time.

(3) Appointment/employment of relatives. A city official or employee shall not appoint or employ, or vote to appoint or employ, any relative of the city official or employee within the second degree affinity and third degree of consanguinity, to any office or in any position within the city, including a position of employment with the city.

(c) Recusal and disclosure. A city official or employee whose conduct would otherwise violate subsection (b)(3) of this rule shall adhere to the recusal and disclosure provisions provided in section 1.15.031(b).

Sec. 1.15.034 - Gifts.

City officials and employees shall adhere to state law regarding giving and ~~for~~ receiving ~~or~~/accepting gifts, as set forth in the V.T.C.A. Penal Code, ch. 36 et seq., and as amended from time to time.

Sec. 1.15.035 - Representation before a member's own commission, board, task force, or before the City Council.

(a) Representation by a currently serving member of a board, body, commission or task force. A city official or employee who is currently a member of a board, body, commission, or task force shall not ~~appear before or~~ represent any person, group, or entity: ~~to communicate views either contrary to or supporting a decision reached or a recommendation made by the member's own board, commission or task force:~~

(1) Before the member's own board, body, commission or task force; or

(2) Before city staff having responsibility for making recommendations to, or taking any action on behalf of, the member's own board, body, commission, or task force; or

(3) Before the City Council, or other board, body, commission, or task force which has appellate jurisdiction ~~and~~/or final decision making authority over decisions and recommendations made by the member's own board, body, commission, or task force.

(4) Exception: The appellate body may, if it desires, seek clarification of an advisory body's recommendation by asking the Chair of the advisory body to attend a meeting held by the appellant body, to present information concerning the advisory body's evaluation, decision making process, recommendation and/or vote. If the Chair of the advisory body voted in the minority on the item in question, then the Chair should appoint another member of the advisory body (who was not in the minority) to present the advisory body's evaluation, decision making process, recommendation and/or vote to the appellant body.

(b) Representation before the City Council, boards, bodies, commissions or task forces.

(1) General rule. A city official or employee shall not represent any person, group, or entity before the City Council, its boards, bodies, commissions, or task

~~forces. A city official or employee may, however, represent himself or herself, other than himself or herself, or his or her spouse or minor children, concerning matters upon which the member has direct standing, before the City Council, its boards, bodies, commissions, or task forces if he or she can demonstrate a. To represent him/herself, his/her spouse or minor children before the City Council, boards, bodies, commissions and task forces, the city official or employee must demonstrate personal, direct standing on the issue at hand. For purposes of this rule, "standing" shall mean that the individual is able to prove personal injury or interest that is directly affected by the relevant action of the City Council, boards, bodies, commissions or task forces.~~

(2) Client representation exception for board members on certain matters. ~~A~~ ~~The general rule stated in subsection (b)(1) does not apply, however, to a city official who is serving only as or employee who is representing others, as clients, before the City Council, boards, bodies, commissions or task forces, when such a person is classified as a 'city official' only because he or she is an appointed member of a board, body, commission, or task force may represent others before the City Council, boards, bodies, commissions or task forces if the matter is not related, directly or indirectly to his or her duties as a city official. Accordingly, currently serving city officials and employees may represent clients before the City Council, boards, bodies, commissions or task forces, on matters that are not related to their own service on such boards.~~

(3) Prestige of office and improper influence. In connection with the representation of private interests before the city board, body, commission or task force, a city official or employee shall not:

(A) Assert the prestige of the city official's or employee's city position for the purpose of advancing private interests; or

(B) State or imply that he or she is able to influence any city action on any basis, other than on the merits of the matter.

(c) Representation in litigation adverse to the city.

(1) City officials and employees, ~~other than board, body, or commission members.~~ A city official or employee, ~~excluding a person who is classified as a city official only because he or she in [is] an appointed member of a city board, body, commission or task force,~~ shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, with the exception of defense of suits

involving misdemeanors, if the interests of that person, group, or entity are adverse to the interests of the city. This provision does not prevent a person who is a city official solely because of his or her service on a city board, body, commission or task force from representing a person or entity in litigation adverse to the City so long as the litigation is not related, directly or indirectly to his or her duties as a city official.

(Ord. No. 2016-10, pt. 1, 5-10-16)

Sec. 1.15.036 - Conflicting outside employment.

A city official or employee shall not solicit, accept, or engage in concurrent outside employment or work activity which could reasonably be expected to impair independence of judgment in, or faithful performance of, ~~his or her~~<sup>their</sup> official duties. A city official or employee shall not engage in outside employment, including self-employment, where such employment would constitute a conflict of interest or would adversely affect the city official's or employee's performance of his or her work responsibilities with the city. For employees, all outside employment shall comply with the city's employment personnel policies or procedures.

Sec. 1.15.037 - Confidential information.

(a) Improper access. A city official or employee shall not use his or her position to obtain official information ~~about any person or entity~~ for any purpose other than the performance of official duties.

(b) Improper disclosure or use. A city official or employee shall not intentionally, knowingly, or recklessly disclose any confidential government information gained by reason of the city official's or employee's position, ~~concerning the property, operations, policies or affairs of the city.~~ This rule does not prohibit:

- (1) Any disclosure of information that is no longer confidential by law; or
- (2) The confidential reporting of illegal or unethical conduct to authorities designated by law.

(c) Executive sessions. A city official or employee may not disclose the content of discussions held in executive sessions except to say which topics were discussed (as shown on the agenda).

(d) Pending litigation. A city official or employee may not discuss pending litigation with any person other than the City Manager and City Attorney without the express authorization of the City Attorney. Any inquiries from any person must be referred immediately, without substantive comment, to the City Attorney.

Sec. 1.15.038 - Public property and resources.

A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

- (1) Pursuant to duly adopted city policies; or
- (2) To the extent and according to the terms that those resources are lawfully available to the public.

Sec. 1.15.039 - Political activity.

(a) Influencing subordinates.

(1) A city official or employee shall not, directly or indirectly, induce or attempt to induce any subordinate of the city official or employee:

(A) To participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue; or

(B) To refrain from engaging in any lawful political activity.

(2) A general statement merely encouraging another person to exercise their right to vote does not violate this rule.

(b) Paid campaigning. A city official or employee shall not accept anything of value, directly or indirectly, for political purposes or activities relating to an item pending on a ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city board, body, commission or task force that contributed to the development of the ballot item. For purposes of this rule, "anything of value" does not include a meal or other item of nominal value the city official or employee received in return for providing information about an

item on the ballot. This rule does not prohibit a city official who is a candidate for public office from accepting campaign contributions for his or her own campaign.

(c) City-owned vehicles. A city official or employee shall not display or fail to remove political campaign materials on any vehicle owned by the city under the city official and/or employee's control.

Sec. 1.15.040 - Supervisory duties.

A city official or employee who has direct supervisory authority over another person providing services relating to the business of the city shall make reasonable efforts to ensure that the conduct of the supervised person is compatible with the obligations imposed on city officials and employees by this article. Reasonable efforts includes notifying and making information regarding this article readily available.

Sec. 1.15.041 - Training.

(a) Employees. The City Manager will make reasonable efforts to ensure that city employees receive training related to this article, at a minimum of every twenty-four (24) months.

(b) City officials. The city attorney will be available and prepared to provide annual training for all city officials on this article, at the request and/or direction of the city. The City Secretary shall coordinate an annual date for training all city officials.

Sec. 1.15.042 - Actions of others.

(a) Violations by other persons. A city official or employee shall not knowingly, intentionally or recklessly assist, induce, or attempt to assist or induce, any person to violate any provision of this Code in this article.

(b) Using others to engage in forbidden conduct. A city official or employee shall not knowingly or intentionally ~~or recklessly~~ violate, or attempt to violate, the provisions of this article through the acts of another.

Secs. 1.15.043—1.15.060 - Reserved.

DIVISION 3. - FORMER CITY OFFICIAL(S) AND EMPLOYEE(S)

Sec. 1.15.061 - Subsequent representation of private interests.

(a) Representation by a former member of the Council, board, body, commission, or task force.

(1) For a minimum period of twelve (12) months after the termination of his or her official or employment duties, a former city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, upon any issue related to his or her former duties:

(A) Before the City Council, board, body, commission or task force;

(B) Before a city staff member having responsibility for making recommendations to, or taking any action on behalf of, that board, body, commission, or task force; or

(C) Before the Council, board, body, commission or task force, which has appellate jurisdiction over the board, body, commission or task force, of which the city official or employee was a member.

(2) This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member of a board, body, commission or task force.

(3) In connection with the representation of private interests before the City Council, board, body, commission or task force, a former city official or employee shall not state or imply that he or she is able to influence any city action on any basis other than on the merits.

(b) Representation in litigation adverse to the city. A former city official or employee shall not, absent consent from the city, represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is one in which the former city official or employee personally and substantially participated prior to termination of his or her official duties or employment. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in the matter was sufficiently "substantial" to trigger this prohibition.

Sec. 1.15.062 - Employment relating to a city contract.



(a) Performance of compensated work. A former city official or employee shall not, within two (2) years of the termination of their official duties, perform work on a compensated basis for any entity other than the city, relating to an existing contract with the city, if he or she personally and substantially participated in the negotiation or awarding of the compensated work. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in a matter was sufficiently "substantial" to trigger this prohibition. The city may waive this provision, after a public hearing on a request by a former city official or employee to do so, if it is in the public's best interest to do so.

(b) Personal interest in city contracts. A city official or employee shall not, either during their service with the city or within twelve (12) months of the termination of the official duties, have an economic interest, direct or indirect, in any contract with the city, nor shall they be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any city official or employee violating this section shall forfeit his/her office or position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the city, shall render the contract involved voidable by the Council. (See also city charter, [sSection 13.01.](#)). [This section does not prohibit the City Council or City Manager from contracting with a former city official to perform consulting services for the benefit of the City.](#)

Sec. 1.15.063 - Continuing confidentiality.

A former city official or employee shall not use or disclose confidential governmental information acquired during their service as a city official or employee. This rule does not prohibit:

- (1) Any disclosure or use that is authorized or required by law; or
- (2) The confidential reporting of illegal or unethical conduct to authorities designated by law.

Secs. 1.15.064—1.15.090 - Reserved.

#### DIVISION 4. - GENERAL ANTI-DISCRIMINATION POLICY

Sec. 1.15.091 - General rule.

City affairs must be conducted without bias or prejudice. A city official or employee shall not, in the performance of official duties, manifest by words or conduct, bias or prejudice toward any person, group, or entity, including bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, sexual identity, or socioeconomic status, and shall not permit others subject to his or her direction and control to do so.

Sec. 1.15.092 - Exceptions.

A city official or employee is not in violation of this section~~liable under this provision~~:

(1) For conduct undertaken in good faith to implement an existing city policy, or to carry out the directions of a superior if the violation is unknown to the city official or employee acting upon a supervisor's direction; or

(2) For ~~conduct involving the legitimate~~ advocacy of issues involving a position relating to race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status in litigation or similar proceedings, or incidental to the formation of city policy.

Sec. 1.15.093 - Definitions.

For purposes of this division:

“Good faith” means t.~~That~~ the city official or employee has a reasonable basis for believing, and does in fact believe, that the conduct in question is lawful and not discriminatory.

“Legitimate advocacy” .Tmeans that the position espoused is not frivolous.

“Manifesting by words or conduct, bias or prejudice” i.~~Includes~~, but is not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, sexual harassment, coercion, assault, stalking, hate speech, and other conduct that threatens or endangers the health or safety of any person.

Secs. 1.15.094-1.15.120 - Reserved.

DIVISION 5. - ENFORCEMENT

Sec. 1.15.121 - Creation of ethics commission.

An ethics commission ~~is hereby shall be~~ created and consists of ~~five three (3)~~ members, all of whom must reside within jurisdiction of the city, which for purposes of this article expressly includes the city's extraterritorial jurisdiction. ~~Within sixty (60) days of its adoption of this article, e~~Each member of the City Council ~~may will~~ submit to the ~~Mayor city attorney~~ names of recommended appointees ~~for vacant positions~~. The ~~city attorney will provide the recommended appointees to the M~~mayor, ~~shall~~ who will ~~make the appointment or appointments, subject to confirmation by the then appoint the three (3) members of the ethics commission, upon concurrence of the members of the~~ City Council. ~~Members of the E~~ethics ~~C~~ommission may not hold or be a candidate for any ~~city~~ elected or appointed ~~city~~ office any time during their service on the ethics commission.

Sec. 1.15.122 - Terms/limits.

Appointees to the ~~E~~ethics ~~C~~ommission shall serve for terms of three (3) years. However, in order to ensure continuity by implementing staggered terms of service, the first three (3) appointees shall draw lots so that one member serves a one-year term, the second serves a two-year term, and the third serves a three-year term. No person may serve more than two (2) consecutive three-year terms. A person may be reappointed after having been off the ~~E~~ethics ~~C~~ommission for twelve (12) consecutive months.

Sec. 1.15.123 - Ethics commission vacancies.

All vacancies on the ethics commission shall be filled ~~by the City Council~~ within sixty (60) days of the vacancy, for the remainder of the unexpired term, ~~as provided in the City Charter by use of the general process noted above. Ethics commission members shall hold office until their successors have been appointed and shall continue to hold office after their successors have been appointed for the limited purpose of disposing of all complaints filed and unresolved during that ethics commission member's term.~~ No member of the Ethics Commission shall participate in the discussion of or vote on a complaint in which any of the evidence was presented to the Commission prior to the member's appointment.

Sec. 1.15.124 - Removal of ~~E~~ethics ~~C~~ommission members.

In addition to the City Council's usual powers of removal, members of the Eethics Commission may be removed by a majority vote of the City Council for cause only.

Sec. 1.15.125 - Conflicts of ~~an~~ interest.

When a complaint is referred to or comes under the purview of the Eethics Commission, it shall be the responsibility of the City Manager and the City Attorney to attempt to identify any potential conflicts of interest that may be present between any of the serving Eethics Commission members and the persons or entities involved in the ethics complaint. The City Manager shall promptly report any identified, potential conflicts, to the City Council and, if the City Council agrees that there is a actual or potential conflict of interest, the City Council shall, within thirty (30) days, take formal action to appoint a special replacement appointee to the Eethics Commission to hear and decide the matter that is subject of the conflict. The special replacement appointee shall retire from service once the matter at hand has been disposed of, and the regularly appointed Eethics Commission member shall resume service for the remainder of the Eethics Commission member's term.

(Ord. No. 2012-1, 1-10-12)

Sec. 1.15.126 - Chair/quorum.

(a) The Eethics Commission shall elect a chairperson, who shall preside over the hearings before the Eethics Commission. The chairperson shall serve a one-year term. The City Secretary shall be the repository of all filings and records of the ~~serve as the administrative recordkeeper for the~~ Eethics Commission.

(b) The Ethics Commission may evaluate and discuss its own policies and procedures as well as ~~Unless otherwise stipulated by the chairperson at his/her discretion, for purposes of convening and conducting the administrative work of the commission, such as evaluating and developing~~ recommendations to the City Council concerning matters related to the standard of conduct for city officials and employees that are unrelated to any pending complaint. The quorum for such a meeting shall be three members, one of whom may, ~~two (2) members of the commission shall constitute a quorum to conduct the business of the commission. In addition, for such administrative meetings, up to one (1) member of the~~ commission may participate in (and be considered to be present at) the commission meeting by use of remote technology, such as telephone or video conferencing. ~~However, all three (3) members of the ethics commission shall be present, in~~

~~person, at any time the ethics commission is convened to review and investigate a complaint related to violation(s) of this code.~~

(c) If all five members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, four of the Commissioners must vote to sustain the complaint or impose the sanctions; otherwise, it must be dismissed. If four members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, three of the Commissioners must vote to sustain the complaint or impose sanctions; otherwise is shall be dismissed. If three members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, all three of the Commissioners must vote to sustain the complaint or impose sanctions; otherwise the complaint must be dismissed.

(Ord. No. 2013-27, 12-10-13)

#### Sec. 1.15.127 - Meetings.

The Eethics Commission shall meet when necessary to carry out its responsibilities, but in any event the Eethics Commission shall hold an annual meeting during the month of February to elect its chairperson. Any Eethics Commission member may call a meeting of the Eethics Commission, provided that a reasonable notice is given to all other Eethics Commission members. All Eethics Commission meetings shall be noticed, posted and conducted in compliance with the Texas Open Meetings Act.

#### Sec. 1.15.128 - Jurisdiction of the commission.

The Eethics Commission shall have jurisdiction over complaints involving the employees as defined in this ordinance, members of- the City Council, city officials and other persons appointed to serve the city by the City Council. The City Manager shall have exclusive jurisdiction and authority to investigate and hear handle ethics complaints involving city employees that report to the City Manager or are employed in one of the City departments under the direction of the City Manager; pursuant to the city's approved personnel policies. ~~employees shall have the right to appeal a decision of the City Manager to the ethics commission.~~

#### Sec. 1.15.129 - Duties of the commission.

(a) The Ethics Commission shall:

(1) Make recommendations to the City Council concerning matters relating to the standard of conduct for city officials and employees.

(2) ~~M~~Preserve and maintain the confidentiality of any documents~~sation~~ properly deemed confidential which are filed with the Ethics Commission. The documents shall be retained consistent with eommissionthe City's records retention policies. for a period of three (3) years after a finding has been rendered, at which time such documents shall be destroyed, unless disclosure is otherwise required by state law, or order of the state attorney general or a court of jurisdiction.

(3) Review and investigate complaints related to violations of this article ~~when presented and issue written ruling(s). a written finding of the ethics commission's determination, when appropriate.~~

(b) The Ethics Commission may:

(1) Prepare reports and make recommendations to the City Council regarding ethical issues affecting the city.

(2) Respond to inquiries from interested persons concerning policies and procedures of the commission.

~~(32)~~ Seek any necessary assistance from the City Council and City Manager regarding financial support needed to carry out the Ethics Commission's duties.

~~(43)~~ Adopt rules of procedures for carrying out this article.

Sec. 1.15.130 - Role of the Ceity Attorney.

(a) The Ceity attorney shall serve as legal counsel and staff liaison to the Ethics Commission. However, when complaints related to violations of this article are filed relating to the Mmayor, City Council Mmembers, City Manager, Ceity Attorney, city prosecutor or municipal court judge, independent legal counsel must may be retained by the Ethics Commision utilized to perform the duties that otherwise would be performed by advise the ethics commission and to take part in the hearings, in the place of the Ceity Attorney.

(b) The Ceity Attorney shall serve as ethics advisor, only, to city employees and city officials, and shall not represent employees or city officials before the Ethics

Commission. As ethics advisor, the Ceity Attorney is available to respond confidentially to inquiries from employees, city officials, and others appointed to serve the city by the City Council, on matters related to the content of this article. However, as legal counsel to the Ethics Commission, the city attorney may not advise or represent any person or party in any proceeding before the Ethics Commission.

(c) Upon receipt of an ethics complaint, tThe Ccity Attorney shall ~~receive all sworn complaints of violations of this article and, upon receipt, shall~~ conduct a preliminary analysis, ~~and~~ review and investigation of the complaint. Upon completion of the preliminary analysis, ~~and~~ review and investigation, the Ceity attorney shall forward a written report detailing the initial legal review and recommendation to the E-ethics Commission for its evaluation and action. If a sworn complainant alleges a violation by the eCity Attorney, the review and analysis will be performed by the independent counsel. complaint must be filed with the chairperson of the ethics commission, with a copy to the mayor, the City Manager, and the city attorney.

#### Sec. 1.15.131 - Complaints.

(a) All complaints alleging a violation of this article and all other documents to be presented to or considered by the Commission shall be filed with the City Secretary with a file stamp showing the date of receipt. Complaints must:

- (1) Be submitted, in writing, on a form prescribed by the City Council;
- (2) Be signed under oath;
- (3) Cshall cite the provision(s) of this article allegedly violated; and
- (4) Pshall provide the facts and evidence, if any, supporting the alleged violation.

Any false statements that are intentionally, knowingly, or recklessly made under oath by a complainant shall subject the complainant to legal redress, including potential prosecution under state law.

(b) All documents submitted to the Ethics Commission shall be supported by affidavit. Complaints and any evidence collected during the investigation of the

alleged violation which are excepted from disclosure under the Public Information Act shall be kept confidential by the Eethics Ceommission, the City Attorney or independent counsel and City Secretary; unless disclosure is otherwise required by state law or order of the state attorney general or a court of competent jurisdiction.

(c) Any complaint alleging a violation of this article is to be filed with the City Secretary ~~city attorney~~ within ~~six-twelve (12)~~ months from the date on which the complainant knew of or should have known of the alleged violation. Complaints filed after that period will not be considered.

(d) No later than ~~three twenty-one (21)~~ business days after receipt of the complaint, the ~~City-Secretaryattorney~~ shall acknowledge receipt of the complaint by certified mail, return receipt requested. At the same time, the City Secretary shall provide a file-stamped copy of the complaint and any supporting affidavits in writing delivered by certified mail, (1) to the complainant and provide a copy of the complaint to the Eethics Ceommission, City Attorney -and any accused party. An accused party shall have twenty-one ~~(21)~~ business days from receipt of the complaint to submit a sworn written response to the complaint to the ~~City Secretaryattorney~~.

(e) All documents filed in connection with an ethics complaint or to be considered by the commission must be served on all other parties to the proceeding and the City Attorney or independent counsel. Any document which is filed but not served on all other parties to the proceeding and City Attorney or independent counsel may not be considered by the Ethics Commission.

(f) Within ten business days after receiving the written response, t-The Ceity Aattorney shall conduct a preliminary analysis, -and review and investigation of the complaint, including a review of any available evidence, to determine whether there appears to be a legal basis for the complaint. The Ceity Aattorney shall submit a preliminary analysis [and submit ]forward-a- his or her written report to the Eethics Ceommission as set forth in section 1.15.130(c) above. Within ten business days after receipt of the City Attorney's written report, No later than sixty (60) business days after receipt of the complaint by the city attorney, the Eethics Ceommission through the City Secretary shall notify the complainant and any accused party in writing delivered by certified mail, return receipt requested if the Ceommission intends to schedule a hearing or take other action concerning the complaint. If the Eethics Ceommission determines not to proceed, it shall, through the City Secretary, -notify the complainant and the Ceity Aattorney or his or her



substitute in writing that the complaint has been dismissed and that no further action will be taken.

(ge) ~~The recovery of any~~Any and all reasonable legal fees incurred by the accused party shall be paid by the complainant, if the Eethics Ceommission finds that there was no violation, and ultimately determines that the complaint ~~was groundless and~~ was brought:

(1) Groundless as a matter of law; or

(2) Filed in ~~in~~ bad faith; or

(3) Filed ~~f~~For the purpose of harassment.

#### Sec. 1.15.132 - Ex parte communications.

After a complaint has been filed with the City Secretary, ethics commission and during the consideration of thea complaint by the City Attorney or the Eethics Ceommission, neither the City Attorney nor a member of the Eethics Ceommission may ~~not~~ communicate directly or indirectly with any party or representative of a party ~~or person about any issue of fact, or law, regarding the complaint,~~ except at a meeting of the Eethics Ceommission. If the Ethics Commission needs assistance in gathering additional information or documents, it shall request the City Attorney (or his or her substitute) to perform that function for it.

#### Sec. 1.15.133 - Hearings.

(a) A hearing convened by the Ethics Commission may be open to the public or closed, if the hearing is permitted to be closed under the Open Meetings Act. At any stage of the proceeding, including but not limited to the hearing, any party may be represented by a licensed attorney. The ethics commission may, in its sole discretion, attempt to negotiate or mediate an equitable resolution of any compliant. If the ethics commission and the accused party are unable to negotiate or mediate a final resolution of the matter, the ethics commission will, at its discretion, convene a hearing at which the accused may have legal counsel present. The hearing may be open to the public, or closed, at the discretion of the ethics commission, and as allowed by applicable state law. The Eethics Ceommission hearing shall be held as expeditiously as possible, but in any event no later than ninety one hundred and twenty (120) days from the date the sworn, written complaint was received by the City Secretarycity attorney. A continuance may be granted by the Chair only for good cause shown. -The Eethics Ceommission

hearing shall be ~~attended and~~ transcribed by a court reporter, and the record of the hearing shall be maintained by the Eethics Ceommission as required by the City of Bastrop records retention policies. Witnesses before the Eethics Ceommission shall be placed under oath when providing testimony to ~~the~~ Eethics Ceommission. The Eethics Ceommission shall conduct the hearing under its own procedures. Formal rules of procedure, testimony, and evidence shall not apply.

(b) The issues at the formal hearing before the Eethics Ceommission shall be whether the act or omission that is the subject matter of the complaint (1) actually occurred, (2) whether the act or omission is a violation of the Ethics Ordinance, and (3) whether an award of attorney's fees is appropriate. The Eethics Ceommission may find a violation whether or not there is a financial loss. ~~the violation alleged in the complaint occurred~~. The Eethics Ceommission shall make its decision based on clear and convincing evidence. ~~presented during the ethics commission hearing~~. If the Eethics Ceommission determines that a violation has occurred, it shall state its finding(s) in writing, identify the particular provision(s) of this article that have been violated, and deliver a copy of its findings to the City Secretary, City Attorney, complainant, the accused party and the City Council within twenty-one ~~(21)~~ business days of closing the Eethics Ceommission hearing. Extensions of this time may be necessary and allowed in complex cases, but if an extension is required all interested parties shall be notified of the extension. Evidence that there was no actual financial loss to any party as a result of the violation is not an excuse for a violation.

#### Sec. 1.15.134 - Sanctions.

(a) If the Eethics Ceommission determines that a city official, or employee has violated this article, it shall declare its findings along with any recommended sanctions in a report to the City Council. ~~An affirmative vote of a majority of the members of the ethics commission hearing the matter shall be required for the determination that a violation has occurred and to recommend any sanction under this article.~~

(b) If the Ceommission determines that a current or former city official or employee has violated this article, it may recommend to the City Council a private or public reprimand, temporary suspension, removal from office or employment, ~~bar from future service with the city~~, or any other sanction or corrective action within the power of the City Council.

(c) In arriving at its recommendation, the Eethics Ceommission shall consider the seriousness of the violation, the importance of deterrence, the impact on public confidence in government, city officials and employees, the number of times the violation occurred, the mental state with which the violation was committed and any previous violations committed by the accused party. A written recommendation on the sanction to be imposed shall be forwarded by the Eethics Ceommission to the City Council, with a copy to the complainant and the accused party. In addition, the Ethics Commission's written recommendation on sanctions shall be delivered to the City Secretary, published in a local newspaper of the largest general circulation, and published prominently on the city's website for a minimum of twelve (12) months after the decision is issued by the Ethics Commission.

(d) If the Eethics Ceommission determines that the wrongful act or omission eonduet occurred, but the facts indicate that the violation was unintentional and/or de minimis, the Eethics Ceommission may recommend that the complaint be dismissed and no sanction be imposed by the City Council. The Eethics Ceommission may, in its discretion, issue a clarifying opinion to help guide future cases.

(e) The City Council shall consider the Eethics Ceommission's recommended sanction and exercise its own judgment and discretion in determining what action, if any, shall be taken relating to the alleged violation.

Sec. 1.15.135—Other actions by ethics commission.

~~If the ethics commission determines a member of City Council has violated this article, the ethics commission will, in such cases, have the sole and final authority to impose sanctions under this article. In addition to declaring its findings, the ethics commission may reprimand and/or recommend a public recall of the City Council member in question. An affirmative vote of a majority of the ethics commission members shall be required for the determination that a violation by a member of the City Council has occurred and to approve any sanctions under this article. A letter of reprimand or a recommendation of public recall of an elected city official shall be delivered to the City Secretary, published in a local newspaper of the largest general circulation, and published prominently on the city's website for a minimum of twelve (12) months after the decision is issued by the ethics commission.~~

(Ord. No. 2012-1, 1-10-12)

Secs. 1.15.136—1.15.150 - Reserved.

## ~~DIVISION 6.—ETHICS COMMISSION~~

### ~~Sec. 1.15.151—Creation.~~

~~(a) An ethics commission shall be created and consist of three (3) members, all of whom must reside within jurisdiction of the city, which for purposes of this section expressly includes the city's extraterritorial jurisdiction. Within sixty (60) days of its adoption of this section, each member of the City Council will submit to the City Attorney names of recommended appointees. The City Attorney will provide the recommended appointees to the Mayor, who will then appoint the three (3) members of the ethics commission, upon concurrence of the members of the City Council.~~

~~(b) Notwithstanding any other general prohibition or policy of the city against judges serving on city boards and commissions, due to the specialized nature of the ethics commission, in its sole discretion, the City Council may determine that it is appropriate, in the best interest of the City, and/or the preference of the governing body of the city for the Mayor to appoint, with the City Council's concurrence, a judge to serve on the ethics commission. For purposes of this section, the judge appointed to the ethics commission, if any, may be currently serving or may be retired from the bench of any governmental entity, except the city, and may have been either elected or appointed to his/her judicial position.~~

~~(Ord. No. 2014-10, 7-22-14; Ord. No. 2015-28, pt. 1, 11-24-15; Ord. No. 2015-28R, pt. 1, 11-24-15)~~

### ~~Sec. 1.15.152—Terms/limits.~~

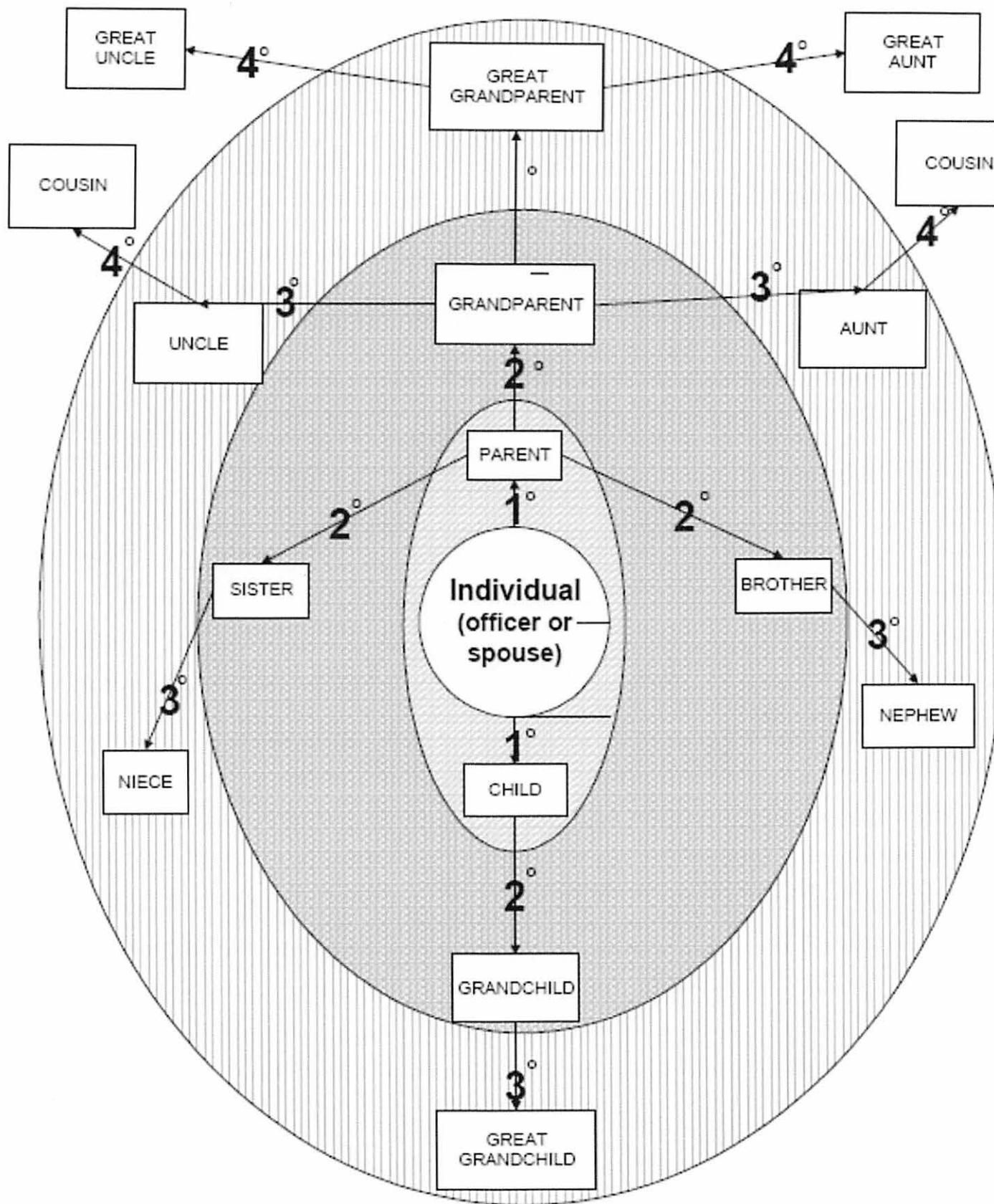
~~Appointees to the ethics commission shall serve for terms of three (3) years, and each position shall be assigned a "place." However, in order to ensure continuity by implementing staggered terms of service, the first three (3) appointees shall draw lots so that one member serves a one-year term, the second serves a two-year term, and the third serves a three-year term. No person may serve more than two (2) consecutive three-year terms. A person may be reappointed after having been off the ethics commission for twelve (12) consecutive months.~~

### ~~Sec. 1.15.153—Vacancies.~~

~~All vacancies on the ethics commission shall be filled by the City Council within sixty (60) days of the vacancy, for the remainder of the unexpired term, by use of the general process noted above. Ethics commission members shall hold office until their successors have been appointed and shall continue to hold office after their successors have been appointed for the limited purpose of disposing of all complaints filed and unresolved during that ethics commission member's term. Attendance requirements for the commission members are set forth in this Code, section 1.02.002(b), et seq.~~

~~(Ord. No. 2012-13, pt. 4(E), 6-26-12)~~

Attachment A



## Degrees of Relationship Chart

When determining the degree of relationship by consanguinity, the individual in the center is the officer. For relationships by affinity, the officer's spouse is the individual in the center.

## ARTICLE 1.15 - CODE OF ETHICS

### DIVISION 1. - GENERALLY

#### Sec. 1.15.001 - Definitions.

“Board, body, commission, and task force” means and includes any group of individuals assigned, appointed, or serving the city at the Council's or City Manager's request or direction, or any group otherwise convened by the city to assist with city business.

“Business entity” means either a sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

“City Council” means the Mayor and elected members of the City Council.

“City official” includes all of the following:

(1) Every member of the City Council (including the Mayor), the City Manager, the Executive Director of the economic development corporation, the City Attorney, the City Secretary, all city department directors, police chief, fire chief, fire marshal, and persons acting in the capacity of the aforementioned city officials, whether appointed, or employed, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager.

(2) Members of all boards, commissions, task forces, and other bodies created by the City Council pursuant to federal or state law or city charter or ordinance, including entities that may be only advisory in nature whose members are appointed by City Council action or whose members are designated in the bylaws or organizational papers of the entity to serve on behalf of the city;

(3) All board members of any entity who are appointed by the City Council to such board membership; and

(4) Any other individual identified by the City Council, local or state law to be a city official, if any.

“Clear and convincing evidence” means that measure or degree of proof that produces in the mind of the members of the Ethics Commission a firm belief as to the truth of the facts or allegations sought to be established.

“Confidential government information” means i all information held by the city that is not available to the public under the Texas Public Information Act and any information obtained or acquired from participation in a meeting that was closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is otherwise required or permitted under state law, a ruling by the state attorney general, or an order of a court with jurisdiction over the matter.

“De minimis” means a value or amount that is so small as to be entirely inconsequential.

“Degree of affinity” means a relationship by affinity (marriage) as defined in Texas Government Code, §§ 573.024 and 573.025, or as amended. (See attachment A.)

“Degree of consanguinity” means a relationship by consanguinity (blood) as defined in V.T.C.A. Government Code, §§ 573.022 and 573.023, or as amended. (See attachment A.)

“Documents” means includes all writings (notes, correspondence, memoranda, reports, computer print-outs, etc.), drawings, drafts, charts, photographs, tape or disc recordings (whether sound or video), and all other data compilations from which information can be obtained or translated, regardless of the medium on which the documents are stored or maintained. “Economic interest” means a legal or equitable property interests in land, chattels, and intangibles, business opportunities, and/or contractual rights having more than de minimis value. A person has an economic interest in a business entity, if the person is an employee or is a paid contract worker/consultant of the business entity. Unpaid service by a city official or employee as an officer, director, advisor, or otherwise active participant in a nonprofit entity does not create, for that city official or employee, an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or city official owns less than 10% of the voting stock or shares of the entity and the fair market value of the stock is less than \$15,000.



“Employee” is a person employed by the city, including those individuals who work on a part-time basis, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager; and the term does not include any independent contractor or contractual consultant.

“Intentionally” means the act or omission was done with a conscious objective or desire to engage in the conduct or cause the result.

“Knowingly” means an actual awareness of the impropriety of the acts or omissions in question, at the time of the act or practice complained of. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness. “Official action” includes:

(1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of a city official's or employee's duties; and

(2) Any unexcused failure to act if the city official or employee is under a duty to act. “Official information” means information gathered or provided pursuant to the power or authority of city government.

“Recklessly” means with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under the same or similar circumstances.

“Representation” means all forms of communication and personal appearances in which a person, not acting in performance of official duties, formally serves as an advocate for private interests, regardless of whether the representation is compensated. Lobbying may be a form of representation. Representation does not include appearance as a fact witness or expert witness in litigation or other official proceedings.

(Ord. No. 2015-20, pt. 1A., 10-13-15)

#### Sec. 1.15.002 – Limitation on Application of Ethics Ordinance

This Ethics Ordinance does not apply to any person that is employed by the City that who reports to the City Manager or is employed in one of the City departments under the direction of the City Manager.

Secs. 1.15.003—1.15.030 - Reserved.

## DIVISION 2. - CURRENT CITY OFFICIALS AND EMPLOYEES

Sec. 1.15.031 - Improper economic benefit.

(a) General rule. A city official or employee shall not take any official action that he or she knows is likely to affect, or that might reasonably be expected to affect, the economic interests of:

- (1) The city official or city employee;
- (2) His or her parent, child, spouse, or other family member within the third degree of consanguinity or second degree of affinity;
- (3) His or her outside client;
- (4) A member of his or her household;
- (5) The outside employer of the city official/employee or the outside employer of the city official's or employee's parent, child or spouse, or such outside employer's family member, within the third degree of consanguinity or second degree of affinity;
- (6) A business entity in which the city official or employee knows that any of the persons listed in subsections (a)(1) or (a)(2) or (a)(5) holds an economic interest;
- (7) A business entity which the city official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in subsection (a)(1) or (a)(2) holds an economic interest;
- (8) A business entity or nonprofit entity for which the city official or employee serves as an officer or director or in any other policy making position; or
- (9) A business entity or a person (or someone related to the person within the third degree of consanguinity or second degree of affinity):

(A) From whom, within the past twelve (12) months, the city official or employee, or his or her spouse, child or parent, directly or indirectly has:

(i) Solicited an offer of employment; or

(ii) Received and not rejected an offer of employment; or

(iii) Accepted an offer of employment, whether compensated or not and regardless of the level of compensation; or

(B) With whom the city official or employee, or his or her spouse, directly or indirectly is engaged, or within the past twelve months engaged, in negotiations pertaining to business opportunities.

(Ord. No. 2015-20, pt. 1B., 10-13-15)

Sec. 1.15.032 - Unfair advancement of private interests.

(a) General rule. A city official or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official or employee violates this rule if he or she represents to a person that he or she will or may attempt to provide any advantage to that person, based on the city official's or employee's position on the governing body or with the entity. (b) Special rules. The following special rules apply in addition to the general rule noted above:

(1) Acquisition of interest in impending matters. A city official or employee shall not acquire an interest in any contract, transaction, business opportunity, decision, or other matter, if the city official or employee knows, or has reason to know, that the city official's or employee's interest will be directly or indirectly affected by impending official action by the city.

(2) Reciprocal favors. A city official or employee may not enter into an agreement or understanding with any other person that official action by the city official or employee will be rewarded, affected or reciprocated by the other person, directly or indirectly, in any way, or at any time.

(3) Appointment/employment of relatives. A city official or employee shall not appoint or employ, or vote to appoint or employ, any relative of the city official

or employee within the second degree affinity and third degree of consanguinity, to any office or in any position within the city, including a position of employment with the city.

(c) Recusal and disclosure. A city official or employee whose conduct would otherwise violate subsection (b)(3) of this rule shall adhere to the recusal and disclosure provisions provided in [section 1.15.031\(b\)](#).

Sec. 1.15.034 - Gifts.

City officials and employees shall adhere to state law regarding giving and receiving or accepting gifts, as set forth in the V.T.C.A. Penal Code, ch. 36 et seq., and as amended from time to time.

Sec. 1.15.035 - Representation before a member's own commission, board, task force, or before the City Council.

(a) Representation by a currently serving member of a board, body, commission or task force. A city official or employee who is currently a member of a board, body, commission, or task force shall not represent any person, group, or entity: (1) Before the member's own board, body, commission or task force; or

(2) Before city staff having responsibility for making recommendations to, or taking any action on behalf of, the member's own board, body, commission, or task force; or

(3) Before the City Council, or other board, body, commission, or task force which has appellate jurisdiction or final decision making authority over decisions and recommendations made by the member's own board, body, commission, or task force.

(4) Exception: The appellate body may, if it desires, seek clarification of an advisory body's recommendation by asking the Chair of the advisory body to attend a meeting held by the appellant body, to present information concerning the advisory body's evaluation, decision making process, recommendation and/or vote. If the Chair of the advisory body voted in the minority on the item in question, then the Chair should appoint another member of the advisory body (who was not in the minority) to present the advisory body's evaluation, decision making process, recommendation and/or vote to the appellant body.

(b) Representation before the City Council, boards, bodies, commissions or task forces.

(1) General rule. A city official or employee shall not represent any person, group, or entity before the City Council, its boards, bodies, commissions, or task forces. A city official or employee may, however, represent himself or herself or his or her spouse or minor children before the City Council, its boards, bodies, commissions, or task forces if he or she can demonstrate a personal injury or interest that is directly affected by the relevant action of the City Council, boards, bodies, commissions or task forces.

(2) Client representation exception for board members on certain matters. A city official who is serving only as an appointed member of a board, body, commission, or task force may represent others before the City Council, boards, bodies, commissions or task forces if the matter is not related, directly or indirectly to his or her duties as a city official (3) Prestige of office and improper influence. In connection with the representation of private interests before the city board, body, commission or task force, a city official or employee shall not:

(A) Assert the prestige of the city official's or employee's city position for the purpose of advancing private interests; or

(B) State or imply that he or she is able to influence any city action on any basis, other than on the merits of the matter.

(c) Representation in litigation adverse to the city.

(1) City officials and employees. A city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, with the exception of defense of suits involving misdemeanors, if the interests of that person, group, or entity are adverse to the interests of the city. This provision does not prevent a person who is a city official solely because of his or her service on a city board, body, commission or task force from representing a person or entity in litigation adverse to the City so long as the litigation is not related, directly or indirectly to his or her duties as a city official.

(Ord. No. 2016-10, pt. 1, 5-10-16)

Sec. 1.15.036 - Conflicting outside employment.

A city official or employee shall not solicit, accept, or engage in concurrent outside employment or work activity which could reasonably be expected to impair independence of judgment in, or faithful performance of, his or her official duties. A city official or employee shall not engage in outside employment, including self-employment, where such employment would constitute a conflict of interest or would adversely affect the city official's or employee's performance of his or her work responsibilities with the city. For employees, all outside employment shall comply with the city's employment personnel policies or procedures.

Sec. 1.15.037 - Confidential information.

(a) Improper access. A city official or employee shall not use his or her position to obtain official information for any purpose other than the performance of official duties.

(b) Improper disclosure or use. A city official or employee shall not intentionally, knowingly, or recklessly disclose any confidential government information gained by reason of the city official's or employee's position. This rule does not prohibit:

(1) Any disclosure of information that is no longer confidential by law; or

(2) The confidential reporting of illegal or unethical conduct to authorities designated by law.

(c) Executive sessions. A city official or employee may not disclose the content of discussions held in executive sessions except to say which topics were discussed (as shown on the agenda).

(d) Pending litigation. A city official or employee may not discuss pending litigation with any person other than the City Manager and City Attorney without the express authorization of the City Attorney. Any inquiries from any person must be referred immediately, without substantive comment, to the City Attorney.

Sec. 1.15.038 - Public property and resources.

A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

(1) Pursuant to duly adopted city policies; or

(2) To the extent and according to the terms that those resources are lawfully available to the public.

Sec. 1.15.039 - Political activity.

(a) Influencing subordinates.

(1) A city official or employee shall not, directly or indirectly, induce or attempt to induce any subordinate of the city official or employee:

(A) To participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue; or

(B) To refrain from engaging in any lawful political activity.

(2) A general statement merely encouraging another person to exercise their right to vote does not violate this rule.

(b) Paid campaigning. A city official or employee shall not accept anything of value, directly or indirectly, for political purposes or activities relating to an item pending on a ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city board, body, commission or task force that contributed to the development of the ballot item. For purposes of this rule, "anything of value" does not include a meal or other item of nominal value the city official or employee received in return for providing information about an item on the ballot. This rule does not prohibit a city official who is a candidate for public office from accepting campaign contributions for his or her own campaign.

(c) City-owned vehicles. A city official or employee shall not display or fail to remove political campaign materials on any vehicle owned by the city under the city official and/or employee's control.

Sec. 1.15.040 - Supervisory duties.

A city official or employee who has direct supervisory authority over another person providing services relating to the business of the city shall make reasonable efforts to ensure that the conduct of the supervised person is compatible with the obligations imposed on city officials and employees by this article. Reasonable

efforts includes notifying and making information regarding this article readily available.

Sec. 1.15.041 - Training.

(a) Employees. The City Manager will make reasonable efforts to ensure that city employees receive training related to this article, at a minimum of every twenty-four (24) months.

(b) City officials. The city attorney will be available and prepared to provide annual training for all city officials on this article, at the request and/or direction of the city. The City Secretary shall coordinate an annual date for training all city officials.

Sec. 1.15.042 - Actions of others.

(a) Violations by other persons. A city official or employee shall not knowingly, intentionally or recklessly assist, induce, or attempt to assist or induce, any person to violate any provision of this Code.

(b) Using others to engage in forbidden conduct. A city official or employee shall not knowingly or intentionally violate, or attempt to violate, the provisions of this article through the acts of another.

Secs. 1.15.043—1.15.060 - Reserved.

DIVISION 3. - FORMER CITY OFFICIAL(S) AND EMPLOYEE(S)

Sec. 1.15.061 - Subsequent representation of private interests.

(a) Representation by a former member of the Council, board, body, commission, or task force.

(1) For a minimum period of twelve (12) months after the termination of his or her official or employment duties, a former city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, upon any issue related to his or her former duties:

(A) Before the City Council, board, body, commission or task force;



(B) Before a city staff member having responsibility for making recommendations to, or taking any action on behalf of, that board, body, commission, or task force; or

(C) Before the Council, board, body, commission or task force, which has appellate jurisdiction over the board, body, commission or task force, of which the city official or employee was a member.

(2) This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member of a board, body, commission or task force.

(3) In connection with the representation of private interests before the City Council, board, body, commission or task force, a former city official or employee shall not state or imply that he or she is able to influence any city action on any basis other than on the merits.

(b) Representation in litigation adverse to the city. A former city official or employee shall not, absent consent from the city, represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is one in which the former city official or employee personally and substantially participated prior to termination of his or her official duties or employment. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in the matter was sufficiently "substantial" to trigger this prohibition.

Sec. 1.15.062 - Employment relating to a city contract.

(a) Performance of compensated work. A former city official or employee shall not, within two (2) years of the termination of their official duties, perform work on a compensated basis for any entity other than the city, relating to an existing contract with the city, if he or she personally and substantially participated in the negotiation or awarding of the compensated work. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in a matter was sufficiently "substantial" to trigger this prohibition. The city may waive this provision, after a public hearing on a request by a former city official or employee to do so, if it is in the public's best interest to do so.

(b) Personal interest in city contracts. A city official or employee shall not, either during their service with the city or within twelve (12) months of the termination of the official duties, have an economic interest, direct or indirect, in any contract with the city, nor shall they be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any city official or employee violating this section shall forfeit his/her office or position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the city, shall render the contract involved voidable by the Council. (See also city charter, [Section 13.01](#)). This section does not prohibit the City Council or City Manager from contracting with a former city official to perform consulting services for the benefit of the City.

Sec. 1.15.063 - Continuing confidentiality.

A former city official or employee shall not use or disclose confidential governmental information acquired during their service as a city official or employee. This rule does not prohibit:

- (1) Any disclosure or use that is authorized or required by law; or
- (2) The confidential reporting of illegal or unethical conduct to authorities designated by law.

Secs. 1.15.064—1.15.090 - Reserved.

#### DIVISION 4. - GENERAL ANTI-DISCRIMINATION POLICY

Sec. 1.15.091 - General rule.

City affairs must be conducted without bias or prejudice. A city official or employee shall not, in the performance of official duties, manifest by words or conduct, bias or prejudice toward any person, group, or entity, including bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, sexual identity, or socioeconomic status, and shall not permit others subject to his or her direction and control to do so.

Sec. 1.15.092 - Exceptions.

A city official or employee is not in violation of this section:

(1) For conduct undertaken in good faith to implement an existing city policy, or to carry out the directions of a superior if the violation is unknown to the city official or employee acting upon a supervisor's direction; or

(2) For advocacy of issues involving race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status in litigation or similar proceedings, or incidental to the formation of city policy.

Sec. 1.15.093 - Definitions.

For purposes of this division:

“Good faith” means that the city official or employee has a reasonable basis for believing, and does in fact believe, that the conduct in question is lawful and not discriminatory.

“Legitimate advocacy” means that the position espoused is not frivolous.

“Manifesting by words or conduct, bias or prejudice” includes, but is not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, sexual harassment, coercion, assault, stalking, hate speech, and other conduct that threatens or endangers the health or safety of any person.

Secs. 1.15.094-1.15.120 - Reserved.

## DIVISION 5. - ENFORCEMENT

Sec. 1.15.121 - Creation of ethics commission.

An ethics commission is hereby created and consists of five members, all of whom must reside within jurisdiction of the city, which for purposes of this article expressly includes the city's extraterritorial jurisdiction. Each member of the City Council may submit to the Mayor names of recommended appointees for vacant positions. The Mayor, shall who will make the appointment or appointments, subject to confirmation by the City Council. Members of the Ethics Commission may not hold or be a candidate for any elected or appointed city office any time during their service on the ethics commission.

Sec. 1.15.122 - Terms/limits.

Appointees to the Ethics Commission shall serve for terms of three (3) years. However, in order to ensure continuity by implementing staggered terms of service, the first three (3) appointees shall draw lots so that one member serves a one-year term, the second serves a two-year term, and the third serves a three-year term. No person may serve more than two (2) consecutive three-year terms. A person may be reappointed after having been off the Ethics Commission for twelve (12) consecutive months.

Sec. 1.15.123 - Ethics commission vacancies.

All vacancies on the ethics commission shall be filled within sixty (60) days of the vacancy, for the remainder of the unexpired term, as provided in the City Charter. No member of the Ethics Commission shall participate in the discussion of or vote on a complaint in which any of the evidence was presented to the Commission prior to the member's appointment.

Sec. 1.15.124 - Removal of Ethics Commission members.

In addition to the City Council's usual powers of removal, members of the Ethics Commission may be removed by a majority vote of the City Council for cause only.

Sec. 1.15.125 - Conflicts of interest.

When a complaint is referred to or comes under the purview of the Ethics Commission, it shall be the responsibility of the City Manager and the City Attorney to attempt to identify any potential conflicts of interest that may be present between any of the serving Ethics Commission members and the persons or entities involved in the ethics complaint. The City Manager shall promptly report any identified, potential conflicts, to the City Council and, if the City Council agrees that there is a actual or potential conflict of interest, the City Council shall, within thirty (30) days, take formal action to appoint a special replacement appointee to the Ethics Commission to hear and decide the matter that is subject of the conflict. The special replacement appointee shall retire from service once the matter at hand has been disposed of, and the regularly appointed Ethics Commission member shall resume service for the remainder of the Ethics Commission member's term.

(Ord. No. 2012-1, 1-10-12)

Sec. 1.15.126 - Chair/quorum.

(a) The Ethics Commission shall elect a chairperson, who shall preside over the hearings before the Ethics Commission. The chairperson shall serve a one-year term. The City Secretary shall be the repository of all filings and records of the Ethics Commission.

(b) The Ethics Commission may evaluate and discuss its own policies and procedures as well as recommendations to the City Council concerning matters related to the standard of conduct for city officials and employees that are unrelated to any pending complaint. The quorum for such a meeting shall be three members, one of whom may participate in (and be considered to be present at) the commission meeting by use of remote technology, such as telephone or video conferencing.

(c) If all five members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, four of the Commissioners must vote to sustain the complaint or impose the sanctions; otherwise, it must be dismissed. If four members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, three of the Commissioners must vote to sustain the complaint or impose sanctions; otherwise it shall be dismissed. If three members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, all three of the Commissioners must vote to sustain the complaint or impose sanctions; otherwise the complaint must be dismissed.

(Ord. No. 2013-27, 12-10-13)

#### Sec. 1.15.127 - Meetings.

The Ethics Commission shall meet when necessary to carry out its responsibilities, but in any event the Ethics Commission shall hold an annual meeting during the month of February to elect its chairperson. Any Ethics Commission member may call a meeting of the Ethics Commission, provided that reasonable notice is given to all other Ethics Commission members. All Ethics Commission meetings shall be noticed, posted and conducted in compliance with the Texas Open Meetings Act.

#### Sec. 1.15.128 - Jurisdiction of the commission.

The Ethics Commission shall have jurisdiction over complaints involving the employees as defined in this ordinance, members of the City Council, city officials and other persons appointed to serve the city by the City Council. The City Manager shall have exclusive jurisdiction and authority to investigate and hear

ethics complaints involving city employees that report to the City Manager or are employed in one of the City departments under the direction of the City Manager pursuant to the city's approved personnel policies.

Sec. 1.15.129 - Duties of the commission.

(a) The Ethics Commission shall:

(1) Make recommendations to the City Council concerning matters relating to the standard of conduct for city officials and employees.

(2) Maintain the confidentiality of any documents properly deemed confidential which are filed with the Ethics Commission. The documents shall be retained consistent with the City's records retention policies. (3) Review and investigate complaints related to violations of this article and issue written ruling(s).

(b) The Eethics Commission may:

(1) Prepare reports and make recommendations to the City Council regarding ethical issues affecting the city.

(2) Respond to inquiries from interested persons concerning policies and procedures of the commission.

(3) Seek any necessary assistance from the City Council and City Manager regarding financial support needed to carry out the Ethics Commission's duties.

(4) Adopt rules of procedures for carrying out this article.

Sec. 1.15.130 - Role of the City Attorney.

(a) The City attorney shall serve as legal counsel and staff liaison to the Ethics Commission. However, when complaints related to violations of this article are filed relating to the Mayor, City Council Members, City Manager, City Attorney, city prosecutor or municipal court judge, independent legal counsel must be retained by the Ethics Commission to perform the duties that otherwise would be performed by the City Attorney.

(b) The City Attorney shall serve as ethics advisor, only, to city employees and city officials, and shall not represent employees or city officials before the Ethics

Commission. As ethics advisor, the City Attorney is available to respond confidentially to inquiries from employees, city officials, and others appointed to serve the city by the City Council, on matters related to the content of this article. However, as legal counsel to the Ethics Commission, the city attorney may not advise or represent any person or party in any proceeding before the Ethics Commission.

(c) Upon receipt of an ethics complaint, the City Attorney shall conduct a preliminary analysis, review and investigation of the complaint. Upon completion of the preliminary analysis, review and investigation, the City Attorney shall forward a written report detailing the initial legal review and recommendation to the Ethics Commission for its evaluation and action. If a sworn complainant alleges a violation by the City Attorney, the review and analysis will be performed by the independent counsel.

#### Sec. 1.15.131 - Complaints.

(a) All complaints alleging a violation of this article and all other documents to be presented to or considered by the Commission shall be filed with the City Secretary with a file stamp showing the date of receipt. Complaints must:

- (1) Be submitted, in writing, on a form prescribed by the City Council;
- (2) Be signed under oath;
- (3) Ccite the provision(s) of this article allegedly violated; and
- (4) Provide the facts and evidence, if any, supporting the alleged violation.

Any false statements that are intentionally, knowingly, or recklessly made under oath by a complainant shall subject the complainant to legal redress, including potential prosecution under state law.

(b) All documents submitted to the Ethics Commission shall be supported by affidavit. Complaints and any evidence collected during the investigation of the alleged violation which are excepted from disclosure under the Public Information Act shall be kept confidential by the Ethics Commission, the City Attorney or independent counsel and City Secretary unless disclosure is otherwise required by state law or order of the state attorney general or a court of competent jurisdiction.

(c) Any complaint alleging a violation of this article is to be filed with the City Secretary within six months from the date on which the complainant knew of or should have known of the alleged violation. Complaints filed after that period will not be considered.

(d) No later than three business days after receipt of the complaint, the City Secretary shall acknowledge receipt of the complaint by certified mail, return receipt requested. At the same time, the City Secretary shall provide a file-stamped copy of the complaint and any supporting affidavits (1) to the Ethics Commission, City Attorney and any accused party. An accused party shall have twenty-one business days from receipt of the complaint to submit a sworn written response to the complaint to the City Secretary.

(e) All documents filed in connection with an ethics complaint or to be considered by the commission must be served on all other parties to the proceeding and the City Attorney or independent counsel. Any document which is filed but not served on all other parties to the proceeding and City Attorney or independent counsel may not be considered by the Ethics Commission.

(f) Within ten business days after receiving the written response, the City Attorney shall conduct a preliminary analysis, review and investigation of the complaint, including a review of any available evidence, to determine whether there appears to be a legal basis for the complaint. The City Attorney shall submit his or her written report to the Ethics Commission as set forth in [section 1.15.130\(c\)](#) above. Within ten business days after receipt of the City Attorney's written report, the Ethics Commission through the City Secretary shall notify the complainant and any accused party in writing delivered by certified mail, return receipt requested if the Commission intends to schedule a hearing or take other action concerning the complaint. If the Ethics Commission determines not to proceed, it shall, through the City Secretary, notify the complainant and the City Attorney or his or her substitute in writing that the complaint has been dismissed and that no further action will be taken.

(g) Any and all reasonable legal fees incurred by the accused party shall be paid by the complainant, if the Ethics Commission finds that there was no violation, and determines that the complaint was :

(1) Groundless as a matter of law; or

(2) Filed in bad faith; or



(3) Filed for the purpose of harassment.

Sec. 1.15.132 - Ex parte communications.

After a complaint has been filed with the City Secretary, and during the consideration of the complaint by the City Attorney or the Ethics Commission, neither the City Attorney nor a member of the Ethics Commission may communicate directly or indirectly with any party or representative of a party except at a meeting of the Ethics Commission. If the Ethics Commission needs assistance in gathering additional information or documents, it shall request the City Attorney (or his or her substitute) to perform that function for it.

Sec. 1.15.133 - Hearings.

(a) A hearing convened by the Ethics Commission may be open to the public or closed, if the hearing is permitted to be closed under the Open Meetings Act. At any stage of the proceeding, including but not limited to the hearing, any party may be represented by a licensed attorney. The Ethics Commission hearing shall be held as expeditiously as possible, but in any event no later than ninety days from the date the sworn, written complaint was received by the City Secretary. A continuance may be granted by the Chair only for good cause shown. The Ethics Commission hearing shall be transcribed by a court reporter, and the record of the hearing shall be maintained by the Ethics Commission as required by the City of Bastrop records retention policies. Witnesses before the Ethics Commission shall be placed under oath when providing testimony to the Ethics Commission. The Ethics Commission shall conduct the hearing under its own procedures. Formal rules of procedure, testimony, and evidence shall not apply.

(b) The issues at the formal hearing before the Ethics Commission shall be whether the act or omission that is the subject matter of the complaint (1) actually occurred, (2) whether the act or omission is a violation of the Ethics Ordinance, and (3) whether an award of attorney's fees is appropriate. The Ethics Commission may find a violation whether or not there is a financial loss. The Ethics Commission shall make its decision based on clear and convincing evidence. If the Ethics Commission determines that a violation has occurred, it shall state its finding(s) in writing, identify the particular provision(s) of this article that have been violated, and deliver a copy of its findings to the City Secretary, City Attorney, complainant, the accused party within twenty-one business days of closing the Ethics Commission hearing. Extensions of this time may be necessary and allowed in complex cases, but if an extension is required all interested parties

shall be notified of the extension. Evidence that there was no actual financial loss to any party as a result of the violation is not an excuse for a violation.

Sec. 1.15.134 - Sanctions.

(a) If the Ethics Commission determines that a city official, or employee has violated this article, it shall declare its findings along with any recommended sanctions in a report to the City Council. (b) If the Commission determines that a current or former city official or employee has violated this article, it may recommend to the City Council a private or public reprimand, temporary suspension, removal from office or employment, or any other sanction or corrective action within the power of the City Council.

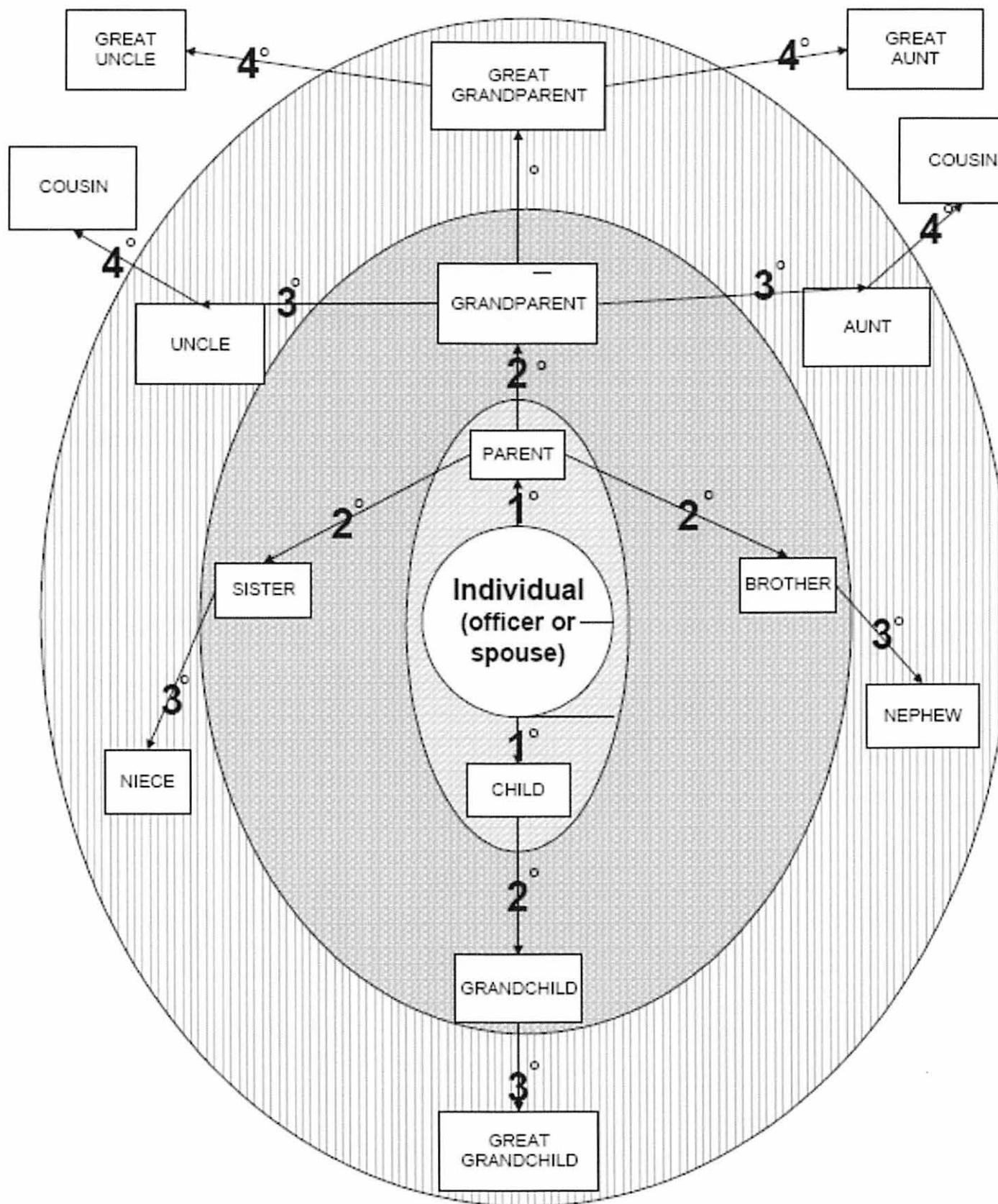
(c) In arriving at its recommendation, the Ethics Commission shall consider the seriousness of the violation, the importance of deterrence, the impact on public confidence in government, city officials and employees, the number of times the violation occurred, the mental state with which the violation was committed and any previous violations committed by the accused party. A written recommendation on the sanction to be imposed shall be forwarded by the Ethics Commission to the City Council, with a copy to the complainant and the accused party. In addition, the Ethics Commission's written recommendation on sanctions shall be delivered to the City Secretary, published in a local newspaper of the largest general circulation, and published prominently on the city's website for a minimum of twelve (12) months after the decision is issued by the Ethics Commission. (d) If the Ethics Commission determines that the wrongful act or omission occurred, but the facts indicate that the violation was unintentional and/or de minimis, the Ethics Commission may recommend that the complaint be dismissed and no sanction be imposed by the City Council. The Ethics Commission may, in its discretion, issue a clarifying opinion to help guide future cases.

(e) The City Council shall consider the Ethics Commission's recommended sanction and exercise its own judgment and discretion in determining what action, if any, shall be taken relating to the alleged violation.

(Ord. No. 2012-1, 1-10-12)

Secs. 1.15.136—1.15.150 - Reserved.

Attachment A



## Degrees of Relationship Chart

When determining the degree of relationship by consanguinity, the individual in the center is the officer. For relationships by affinity, the officer's spouse is the individual in the center.

ARTICLE 1.15 - CODE OF ETHICS

DIVISION 1. - GENERALLY

Sec. 1.15.001 - Definitions.

“Board, body, commission, and task force” means and includes any group of individuals assigned, appointed, or serving the city at the Council's or City Manager’s request or direction, or any group otherwise convened by the city to assist with city business.

“Business entity” means either a sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

“City Council” means the Mayor and elected members of the City Council.

“City official” includes all of the following:

(1) Every member of the City Council (including the Mayor), the City Manager, the Executive Director of the economic development corporation, the City Attorney, the City Secretary, all city department directors, police chief, fire chief, fire marshal, and persons acting in the capacity of the aforementioned city officials, whether appointed, or employed, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager.

(2) Members of all boards, commissions, task forces, and other bodies created by the City Council pursuant to federal or state law or city charter or ordinance, including entities that may be only advisory in nature whose members are appointed by City Council action or whose members are designated in the bylaws or organizational papers of the entity to serve on behalf of the city;

(3) All board members of any entity who are appointed by the City Council to such board membership; and

(4) Any other individual identified by the City Council, local or state law to be a city official, if any.

“Clear and convincing evidence” means that measure or degree of proof that produces in the mind of the members of the Ethics Commission a firm belief as to the truth of the facts or allegations sought to be established.

“Confidential government information” means i all information held by the city that is not available to the public under the Texas Public Information Act and any information obtained or acquired from participation in a meeting that was closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is otherwise required or permitted under state law, a ruling by the state attorney general, or an order of a court with jurisdiction over the matter.

“De minimis” means a value or amount that is so small as to be entirely inconsequential.

“Degree of affinity” means a relationship by affinity (marriage) as defined in Texas Government Code, §§ 573.024 and 573.025, or as amended. (See attachment A.)

“Degree of consanguinity” means a relationship by consanguinity (blood) as defined in V.T.C.A. Government Code, §§ 573.022 and 573.023, or as amended. (See attachment A.)

“Documents” means includes all writings (notes, correspondence, memoranda, reports, computer print-outs, etc.), drawings, drafts, charts, photographs, tape or disc recordings (whether sound or video), and all other data compilations from which information can be obtained or translated, regardless of the medium on which the documents are stored or maintained. “Economic interest” means a legal or equitable property interests in land, chattels, and intangibles, business opportunities, and/or contractual rights having more than de minimis value. A person has an economic interest in a business entity, if the person is an employee or is a paid contract worker/consultant of the business entity. Unpaid service by a city official or employee as an officer, director, advisor, or otherwise active participant in a nonprofit entity does not create, for that city official or employee, an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or city official owns less than 10% of the voting stock or shares of the entity and the fair market value of the stock is less than \$15,000.

“Employee” is a person employed by the city, including those individuals who work on a part-time basis, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager; and the term does not include any independent contractor or contractual consultant.

“Intentionally” means the act or omission was done with a conscious objective or desire to engage in the conduct or cause the result.

“Knowingly” means an actual awareness of the impropriety of the acts or omissions in question, at the time of the act or practice complained of. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness. “Official action” includes:

(1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of a city official's or employee's duties; and

(2) Any unexcused failure to act if the city official or employee is under a duty to act. “Official information” means information gathered or provided pursuant to the power or authority of city government.

“Recklessly” means with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under the same or similar circumstances.

“Representation” means all forms of communication and personal appearances in which a person, not acting in performance of official duties, formally serves as an advocate for private interests, regardless of whether the representation is compensated. Lobbying may be a form of representation. Representation does not include appearance as a fact witness or expert witness in litigation or other official proceedings.

(Ord. No. 2015-20, pt. 1A., 10-13-15)

#### Sec. 1.15.002 – Limitation on Application of Ethics Ordinance

This Ethics Ordinance does not apply to any person that is employed by the City that who reports to the City Manager or is employed in one of the City departments under the direction of the City Manager.

Secs. 1.15.003—1.15.030 - Reserved.

## DIVISION 2. - CURRENT CITY OFFICIALS AND EMPLOYEES

Sec. 1.15.031 - Improper economic benefit.

(a) General rule. A city official or employee shall not take any official action that he or she knows is likely to affect, or that might reasonably be expected to affect, the economic interests of:

- (1) The city official or city employee;
- (2) His or her parent, child, spouse, or other family member within the third degree of consanguinity or second degree of affinity;
- (3) His or her outside client;
- (4) A member of his or her household;
- (5) The outside employer of the city official/employee or the outside employer of the city official's or employee's parent, child or spouse, or such outside employer's family member, within the third degree of consanguinity or second degree of affinity;
- (6) A business entity in which the city official or employee knows that any of the persons listed in subsections (a)(1) or (a)(2) or (a)(5) holds an economic interest;
- (7) A business entity which the city official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in subsection (a)(1) or (a)(2) holds an economic interest;
- (8) A business entity or nonprofit entity for which the city official or employee serves as an officer or director or in any other policy making position; or
- (9) A business entity or a person (or someone related to the person within the third degree of consanguinity or second degree of affinity):

(A) From whom, within the past twelve (12) months, the city official or employee, or his or her spouse, child or parent, directly or indirectly has:

(i) Solicited an offer of employment; or

(ii) Received and not rejected an offer of employment; or

(iii) Accepted an offer of employment, whether compensated or not and regardless of the level of compensation; or

(B) With whom the city official or employee, or his or her spouse, directly or indirectly is engaged, or within the past twelve months engaged, in negotiations pertaining to business opportunities.

(Ord. No. 2015-20, pt. 1B., 10-13-15)

Sec. 1.15.032 - Unfair advancement of private interests.

(a) General rule. A city official or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official or employee violates this rule if he or she represents to a person that he or she will or may attempt to provide any advantage to that person, based on the city official's or employee's position on the governing body or with the entity. (b) Special rules. The following special rules apply in addition to the general rule noted above:

(1) Acquisition of interest in impending matters. A city official or employee shall not acquire an interest in any contract, transaction, business opportunity, decision, or other matter, if the city official or employee knows, or has reason to know, that the city official's or employee's interest will be directly or indirectly affected by impending official action by the city.

(2) Reciprocal favors. A city official or employee may not enter into an agreement or understanding with any other person that official action by the city official or employee will be rewarded, affected or reciprocated by the other person, directly or indirectly, in any way, or at any time.

(3) Appointment/employment of relatives. A city official or employee shall not appoint or employ, or vote to appoint or employ, any relative of the city official



or employee within the second degree affinity and third degree of consanguinity, to any office or in any position within the city, including a position of employment with the city.

(c) Recusal and disclosure. A city official or employee whose conduct would otherwise violate subsection (b)(3) of this rule shall adhere to the recusal and disclosure provisions provided in [section 1.15.031\(b\)](#).

#### Sec. 1.15.034 - Gifts.

City officials and employees shall adhere to state law regarding giving and receiving or accepting gifts, as set forth in the V.T.C.A. Penal Code, ch. 36 et seq., and as amended from time to time.

#### Sec. 1.15.035 - Representation before a member's own commission, board, task force, or before the City Council.

(a) Representation by a currently serving member of a board, body, commission or task force. A city official or employee who is currently a member of a board, body, commission, or task force shall not represent any person, group, or entity: (1) Before the member's own board, body, commission or task force; or

(2) Before city staff having responsibility for making recommendations to, or taking any action on behalf of, the member's own board, body, commission, or task force; or

(3) Before the City Council, or other board, body, commission, or task force which has appellate jurisdiction or final decision making authority over decisions and recommendations made by the member's own board, body, commission, or task force.

(4) Exception: The appellate body may, if it desires, seek clarification of an advisory body's recommendation by asking the Chair of the advisory body to attend a meeting held by the appellant body, to present information concerning the advisory body's evaluation, decision making process, recommendation and/or vote. If the Chair of the advisory body voted in the minority on the item in question, then the Chair should appoint another member of the advisory body (who was not in the minority) to present the advisory body's evaluation, decision making process, recommendation and/or vote to the appellant body.

(b) Representation before the City Council, boards, bodies, commissions or task forces.

(1) General rule. A city official or employee shall not represent any person, group, or entity before the City Council, its boards, bodies, commissions, or task forces. A city official or employee may, however, represent himself or herself or his or her spouse or minor children before the City Council, its boards, bodies, commissions, or task forces if he or she can demonstrate a personal injury or interest that is directly affected by the relevant action of the City Council, boards, bodies, commissions or task forces.

(2) Client representation exception for board members on certain matters. A city official who is serving only as an appointed member of a board, body, commission, or task force may represent others before the City Council, boards, bodies, commissions or task forces if the matter is not related, directly or indirectly to his or her duties as a city official (3) Prestige of office and improper influence. In connection with the representation of private interests before the city board, body, commission or task force, a city official or employee shall not:

(A) Assert the prestige of the city official's or employee's city position for the purpose of advancing private interests; or

(B) State or imply that he or she is able to influence any city action on any basis, other than on the merits of the matter.

(c) Representation in litigation adverse to the city.

(1) City officials and employees. A city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, with the exception of defense of suits involving misdemeanors, if the interests of that person, group, or entity are adverse to the interests of the city. This provision does not prevent a person who is a city official solely because of his or her service on a city board, body, commission or task force from representing a person or entity in litigation adverse to the City so long as the litigation is not related, directly or indirectly to his or her duties as a city official.

(Ord. No. 2016-10, pt. 1, 5-10-16)

Sec. 1.15.036 - Conflicting outside employment.

A city official or employee shall not solicit, accept, or engage in concurrent outside employment or work activity which could reasonably be expected to impair independence of judgment in, or faithful performance of, his or her official duties. A city official or employee shall not engage in outside employment, including self-employment, where such employment would constitute a conflict of interest or would adversely affect the city official's or employee's performance of his or her work responsibilities with the city. For employees, all outside employment shall comply with the city's employment personnel policies or procedures.

Sec. 1.15.037 - Confidential information.

(a) Improper access. A city official or employee shall not use his or her position to obtain official information for any purpose other than the performance of official duties.

(b) Improper disclosure or use. A city official or employee shall not intentionally, knowingly, or recklessly disclose any confidential government information gained by reason of the city official's or employee's position. This rule does not prohibit:

(1) Any disclosure of information that is no longer confidential by law; or

(2) The confidential reporting of illegal or unethical conduct to authorities designated by law.

(c) Executive sessions. A city official or employee may not disclose the content of discussions held in executive sessions except to say which topics were discussed (as shown on the agenda).

(d) Pending litigation. A city official or employee may not discuss pending litigation with any person other than the City Manager and City Attorney without the express authorization of the City Attorney. Any inquiries from any person must be referred immediately, without substantive comment, to the City Attorney.

Sec. 1.15.038 - Public property and resources.

A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

(1) Pursuant to duly adopted city policies; or

(2) To the extent and according to the terms that those resources are lawfully available to the public.

Sec. 1.15.039 - Political activity.

(a) Influencing subordinates.

(1) A city official or employee shall not, directly or indirectly, induce or attempt to induce any subordinate of the city official or employee:

(A) To participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue; or

(B) To refrain from engaging in any lawful political activity.

(2) A general statement merely encouraging another person to exercise their right to vote does not violate this rule.

(b) Paid campaigning. A city official or employee shall not accept anything of value, directly or indirectly, for political purposes or activities relating to an item pending on a ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city board, body, commission or task force that contributed to the development of the ballot item. For purposes of this rule, "anything of value" does not include a meal or other item of nominal value the city official or employee received in return for providing information about an item on the ballot. This rule does not prohibit a city official who is a candidate for public office from accepting campaign contributions for his or her own campaign.

(c) City-owned vehicles. A city official or employee shall not display or fail to remove political campaign materials on any vehicle owned by the city under the city official and/or employee's control.

Sec. 1.15.040 - Supervisory duties.

A city official or employee who has direct supervisory authority over another person providing services relating to the business of the city shall make reasonable efforts to ensure that the conduct of the supervised person is compatible with the obligations imposed on city officials and employees by this article. Reasonable

efforts includes notifying and making information regarding this article readily available.

Sec. 1.15.041 - Training.

(a) Employees. The City Manager will make reasonable efforts to ensure that city employees receive training related to this article, at a minimum of every twenty-four (24) months.

(b) City officials. The city attorney will be available and prepared to provide annual training for all city officials on this article, at the request and/or direction of the city. The City Secretary shall coordinate an annual date for training all city officials.

Sec. 1.15.042 - Actions of others.

(a) Violations by other persons. A city official or employee shall not knowingly, intentionally or recklessly assist, induce, or attempt to assist or induce, any person to violate any provision of this Code.

(b) Using others to engage in forbidden conduct. A city official or employee shall not knowingly or intentionally violate, or attempt to violate, the provisions of this article through the acts of another.

Secs. 1.15.043—1.15.060 - Reserved.

DIVISION 3. - FORMER CITY OFFICIAL(S) AND EMPLOYEE(S)

Sec. 1.15.061 - Subsequent representation of private interests.

(a) Representation by a former member of the Council, board, body, commission, or task force.

(1) For a minimum period of twelve (12) months after the termination of his or her official or employment duties, a former city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, upon any issue related to his or her former duties:

(A) Before the City Council, board, body, commission or task force;

(B) Before a city staff member having responsibility for making recommendations to, or taking any action on behalf of, that board, body, commission, or task force; or

(C) Before the Council, board, body, commission or task force, which has appellate jurisdiction over the board, body, commission or task force, of which the city official or employee was a member.

(2) This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member of a board, body, commission or task force.

(3) In connection with the representation of private interests before the City Council, board, body, commission or task force, a former city official or employee shall not state or imply that he or she is able to influence any city action on any basis other than on the merits.

(b) Representation in litigation adverse to the city. A former city official or employee shall not, absent consent from the city, represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is one in which the former city official or employee personally and substantially participated prior to termination of his or her official duties or employment. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in the matter was sufficiently "substantial" to trigger this prohibition.

#### Sec. 1.15.062 - Employment relating to a city contract.

(a) Performance of compensated work. A former city official or employee shall not, within two (2) years of the termination of their official duties, perform work on a compensated basis for any entity other than the city, relating to an existing contract with the city, if he or she personally and substantially participated in the negotiation or awarding of the compensated work. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in a matter was sufficiently "substantial" to trigger this prohibition. The city may waive this provision, after a public hearing on a request by a former city official or employee to do so, if it is in the public's best interest to do so.

(b) Personal interest in city contracts. A city official or employee shall not, either during their service with the city or within twelve (12) months of the termination of the official duties, have an economic interest, direct or indirect, in any contract with the city, nor shall they be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any city official or employee violating this section shall forfeit his/her office or position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the city, shall render the contract involved voidable by the Council. (See also city charter, [Section 13.01](#)). This section does not prohibit the City Council or City Manager from contracting with a former city official to perform consulting services for the benefit of the City.

Sec. 1.15.063 - Continuing confidentiality.

A former city official or employee shall not use or disclose confidential governmental information acquired during their service as a city official or employee. This rule does not prohibit:

- (1) Any disclosure or use that is authorized or required by law; or
- (2) The confidential reporting of illegal or unethical conduct to authorities designated by law.

Secs. 1.15.064—1.15.090 - Reserved.

#### DIVISION 4. - GENERAL ANTI-DISCRIMINATION POLICY

Sec. 1.15.091 - General rule.

City affairs must be conducted without bias or prejudice. A city official or employee shall not, in the performance of official duties, manifest by words or conduct, bias or prejudice toward any person, group, or entity, including bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, sexual identity, or socioeconomic status, and shall not permit others subject to his or her direction and control to do so.

Sec. 1.15.092 - Exceptions.

A city official or employee is not in violation of this section:

(1) For conduct undertaken in good faith to implement an existing city policy, or to carry out the directions of a superior if the violation is unknown to the city official or employee acting upon a supervisor's direction; or

(2) For advocacy of issues involving race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status in litigation or similar proceedings, or incidental to the formation of city policy.

Sec. 1.15.093 - Definitions.

For purposes of this division:

“Good faith” means that the city official or employee has a reasonable basis for believing, and does in fact believe, that the conduct in question is lawful and not discriminatory.

“Legitimate advocacy” means that the position espoused is not frivolous.

“Manifesting by words or conduct, bias or prejudice” includes, but is not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, sexual harassment, coercion, assault, stalking, hate speech, and other conduct that threatens or endangers the health or safety of any person.

Secs. 1.15.094-1.15.120 - Reserved.

## DIVISION 5. - ENFORCEMENT

Sec. 1.15.121 - Creation of ethics commission.

An ethics commission is hereby created and consists of five members, all of whom must reside within jurisdiction of the city, which for purposes of this article expressly includes the city's extraterritorial jurisdiction. Each member of the City Council may submit to the Mayor names of recommended appointees for vacant positions. The Mayor, shall who will make the appointment or appointments, subject to confirmation by the City Council. Members of the Ethics Commission may not hold or be a candidate for any elected or appointed city office any time during their service on the ethics commission.

Sec. 1.15.122 - Terms/limits.



Appointees to the Ethics Commission shall serve for terms of three (3) years. However, in order to ensure continuity by implementing staggered terms of service, the first three (3) appointees shall draw lots so that one member serves a one-year term, the second serves a two-year term, and the third serves a three-year term. No person may serve more than two (2) consecutive three-year terms. A person may be reappointed after having been off the Ethics Commission for twelve (12) consecutive months.

Sec. 1.15.123 - Ethics commission vacancies.

All vacancies on the ethics commission shall be filled within sixty (60) days of the vacancy, for the remainder of the unexpired term, as provided in the City Charter. No member of the Ethics Commission shall participate in the discussion of or vote on a complaint in which any of the evidence was presented to the Commission prior to the member's appointment.

Sec. 1.15.124 - Removal of Ethics Commission members.

In addition to the City Council's usual powers of removal, members of the Ethics Commission may be removed by a majority vote of the City Council for cause only.

Sec. 1.15.125 - Conflicts of interest.

When a complaint is referred to or comes under the purview of the Ethics Commission, it shall be the responsibility of the City Manager and the City Attorney to attempt to identify any potential conflicts of interest that may be present between any of the serving Ethics Commission members and the persons or entities involved in the ethics complaint. The City Manager shall promptly report any identified, potential conflicts, to the City Council and, if the City Council agrees that there is a actual or potential conflict of interest, the City Council shall, within thirty (30) days, take formal action to appoint a special replacement appointee to the Ethics Commission to hear and decide the matter that is subject of the conflict. The special replacement appointee shall retire from service once the matter at hand has been disposed of, and the regularly appointed Ethics Commission member shall resume service for the remainder of the Ethics Commission member's term.

(Ord. No. 2012-1, 1-10-12)

Sec. 1.15.126 - Chair/quorum.

(a) The Ethics Commission shall elect a chairperson, who shall preside over the hearings before the Ethics Commission. The chairperson shall serve a one-year term. The City Secretary shall be the repository of all filings and records of the Ethics Commission.

(b) The Ethics Commission may evaluate and discuss its own policies and procedures as well as recommendations to the City Council concerning matters related to the standard of conduct for city officials and employees that are unrelated to any pending complaint. The quorum for such a meeting shall be three members, one of whom may participate in (and be considered to be present at) the commission meeting by use of remote technology, such as telephone or video conferencing. (c) If all five members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, four of the Commissioners must vote to sustain the complaint or impose the sanctions; otherwise, it must be dismissed. If four members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, three of the Commissioners must vote to sustain the complaint or impose sanctions; otherwise is shall be dismissed. If three members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, all three of the Commissioners must vote to sustain the complaint or impose sanctions; otherwise the complaint must be dismissed.

(Ord. No. 2013-27, 12-10-13)

#### Sec. 1.15.127 - Meetings.

The Ethics Commission shall meet when necessary to carry out its responsibilities, but in any event the Ethics Commission shall hold an annual meeting during the month of February to elect its chairperson. Any Ethics Commission member may call a meeting of the Ethics Commission, provided that reasonable notice is given to all other Ethics Commission members. All Ethics Commission meetings shall be noticed, posted and conducted in compliance with the Texas Open Meetings Act.

#### Sec. 1.15.128 - Jurisdiction of the commission.

The Ethics Commission shall have jurisdiction over complaints involving the employees as defined in this ordinance, members of the City Council, city officials and other persons appointed to serve the city by the City Council. The City Manager shall have exclusive jurisdiction and authority to investigate and hear

ethics complaints involving city employees that report to the City Manager or are employed in one of the City departments under the direction of the City Manager pursuant to the city's approved personnel policies.

Sec. 1.15.129 - Duties of the commission.

(a) The Ethics Commission shall:

(1) Make recommendations to the City Council concerning matters relating to the standard of conduct for city officials and employees.

(2) Maintain the confidentiality of any documents properly deemed confidential which are filed with the Ethics Commission. The documents shall be retained consistent with the City's records retention policies. (3) Review and investigate complaints related to violations of this article and issue written ruling(s).

(b) The Eethics Commission may:

(1) Prepare reports and make recommendations to the City Council regarding ethical issues affecting the city.

(2) Respond to inquiries from interested persons concerning policies and procedures of the commission.

(3) Seek any necessary assistance from the City Council and City Manager regarding financial support needed to carry out the Ethics Commission's duties.

(4) Adopt rules of procedures for carrying out this article.

Sec. 1.15.130 - Role of the City Attorney.

(a) The City attorney shall serve as legal counsel and staff liaison to the Ethics Commission. However, when complaints related to violations of this article are filed relating to the Mayor, City Council Members, City Manager, City Attorney, city prosecutor or municipal court judge, independent legal counsel must be retained by the Ethics Commission to perform the duties that otherwise would be performed by the City Attorney.

(b) The City Attorney shall serve as ethics advisor, only, to city employees and city officials, and shall not represent employees or city officials before the Ethics

Commission. As ethics advisor, the City Attorney is available to respond confidentially to inquiries from employees, city officials, and others appointed to serve the city by the City Council, on matters related to the content of this article. However, as legal counsel to the Ethics Commission, the city attorney may not advise or represent any person or party in any proceeding before the Ethics Commission.

(c) Upon receipt of an ethics complaint, the City Attorney shall conduct a preliminary analysis, review and investigation of the complaint. Upon completion of the preliminary analysis, review and investigation, the City Attorney shall forward a written report detailing the initial legal review and recommendation to the Ethics Commission for its evaluation and action. If a sworn complainant alleges a violation by the City Attorney, the review and analysis will be performed by the independent counsel.

#### Sec. 1.15.131 - Complaints.

(a) All complaints alleging a violation of this article and all other documents to be presented to or considered by the Commission shall be filed with the City Secretary with a file stamp showing the date of receipt. Complaints must:

- (1) Be submitted, in writing, on a form prescribed by the City Council;
- (2) Be signed under oath;
- (3) Ccite the provision(s) of this article allegedly violated; and
- (4) Provide the facts and evidence, if any, supporting the alleged violation.

Any false statements that are intentionally, knowingly, or recklessly made under oath by a complainant shall subject the complainant to legal redress, including potential prosecution under state law.

(b) All documents submitted to the Ethics Commission shall be supported by affidavit. Complaints and any evidence collected during the investigation of the alleged violation which are excepted from disclosure under the Public Information Act shall be kept confidential by the Ethics Commission, the City Attorney or independent counsel and City Secretary unless disclosure is otherwise required by state law or order of the state attorney general or a court of competent jurisdiction.

(c) Any complaint alleging a violation of this article is to be filed with the City Secretary within six months from the date on which the complainant knew of or should have known of the alleged violation. Complaints filed after that period will not be considered.

(d) No later than three business days after receipt of the complaint, the City Secretary shall acknowledge receipt of the complaint by certified mail, return receipt requested. At the same time, the City Secretary shall provide a file-stamped copy of the complaint and any supporting affidavits (1) to the Ethics Commission, City Attorney and any accused party. An accused party shall have twenty-one business days from receipt of the complaint to submit a sworn written response to the complaint to the City Secretary.

(e) All documents filed in connection with an ethics complaint or to be considered by the commission must be served on all other parties to the proceeding and the City Attorney or independent counsel. Any document which is filed but not served on all other parties to the proceeding and City Attorney or independent counsel may not be considered by the Ethics Commission.

(f) Within ten business days after receiving the written response, the City Attorney shall conduct a preliminary analysis, review and investigation of the complaint, including a review of any available evidence, to determine whether there appears to be a legal basis for the complaint. The City Attorney shall submit his or her written report to the Ethics Commission as set forth in [section 1.15.130\(c\)](#) above. Within ten business days after receipt of the City Attorney's written report, the Ethics Commission through the City Secretary shall notify the complainant and any accused party in writing delivered by certified mail, return receipt requested if the Commission intends to schedule a hearing or take other action concerning the complaint. If the Ethics Commission determines not to proceed, it shall, through the City Secretary, notify the complainant and the City Attorney or his or her substitute in writing that the complaint has been dismissed and that no further action will be taken.

(g) Any and all reasonable legal fees incurred by the accused party shall be paid by the complainant, if the Ethics Commission finds that there was no violation, and determines that the complaint was :

- (1) Groundless as a matter of law; or
- (2) Filed in bad faith; or

(3) Filed for the purpose of harassment.

Sec. 1.15.132 - Ex parte communications.

After a complaint has been filed with the City Secretary, and during the consideration of the complaint by the City Attorney or the Ethics Commission, neither the City Attorney nor a member of the Ethics Commission may communicate directly or indirectly with any party or representative of a party except at a meeting of the Ethics Commission. If the Ethics Commission needs assistance in gathering additional information or documents, it shall request the City Attorney (or his or her substitute) to perform that function for it.

Sec. 1.15.133 - Hearings.

(a) A hearing convened by the Ethics Commission may be open to the public or closed, if the hearing is permitted to be closed under the Open Meetings Act. At any stage of the proceeding, including but not limited to the hearing, any party may be represented by a licensed attorney. The Ethics Commission hearing shall be held as expeditiously as possible, but in any event no later than ninety days from the date the sworn, written complaint was received by the City Secretary. A continuance may be granted by the Chair only for good cause shown. The Ethics Commission hearing shall be transcribed by a court reporter, and the record of the hearing shall be maintained by the Ethics Commission as required by the City of Bastrop records retention policies. Witnesses before the Ethics Commission shall be placed under oath when providing testimony to the Ethics Commission. The Ethics Commission shall conduct the hearing under its own procedures. Formal rules of procedure, testimony, and evidence shall not apply.

(b) The issues at the formal hearing before the Ethics Commission shall be whether the act or omission that is the subject matter of the complaint (1) actually occurred, (2) whether the act or omission is a violation of the Ethics Ordinance, and (3) whether an award of attorney's fees is appropriate. The Ethics Commission may find a violation whether or not there is a financial loss. The Ethics Commission shall make its decision based on clear and convincing evidence. If the Ethics Commission determines that a violation has occurred, it shall state its finding(s) in writing, identify the particular provision(s) of this article that have been violated, and deliver a copy of its findings to the City Secretary, City Attorney, complainant, the accused party within twenty-one business days of closing the Ethics Commission hearing. Extensions of this time may be necessary and allowed in complex cases, but if an extension is required all interested parties

shall be notified of the extension. Evidence that there was no actual financial loss to any party as a result of the violation is not an excuse for a violation.

Sec. 1.15.134 - Sanctions.

(a) If the Ethics Commission determines that a city official, or employee has violated this article, it shall declare its findings along with any recommended sanctions in a report to the City Council. (b) If the Commission determines that a current or former city official or employee has violated this article, it may recommend to the City Council a private or public reprimand, temporary suspension, removal from office or employment, or any other sanction or corrective action within the power of the City Council.

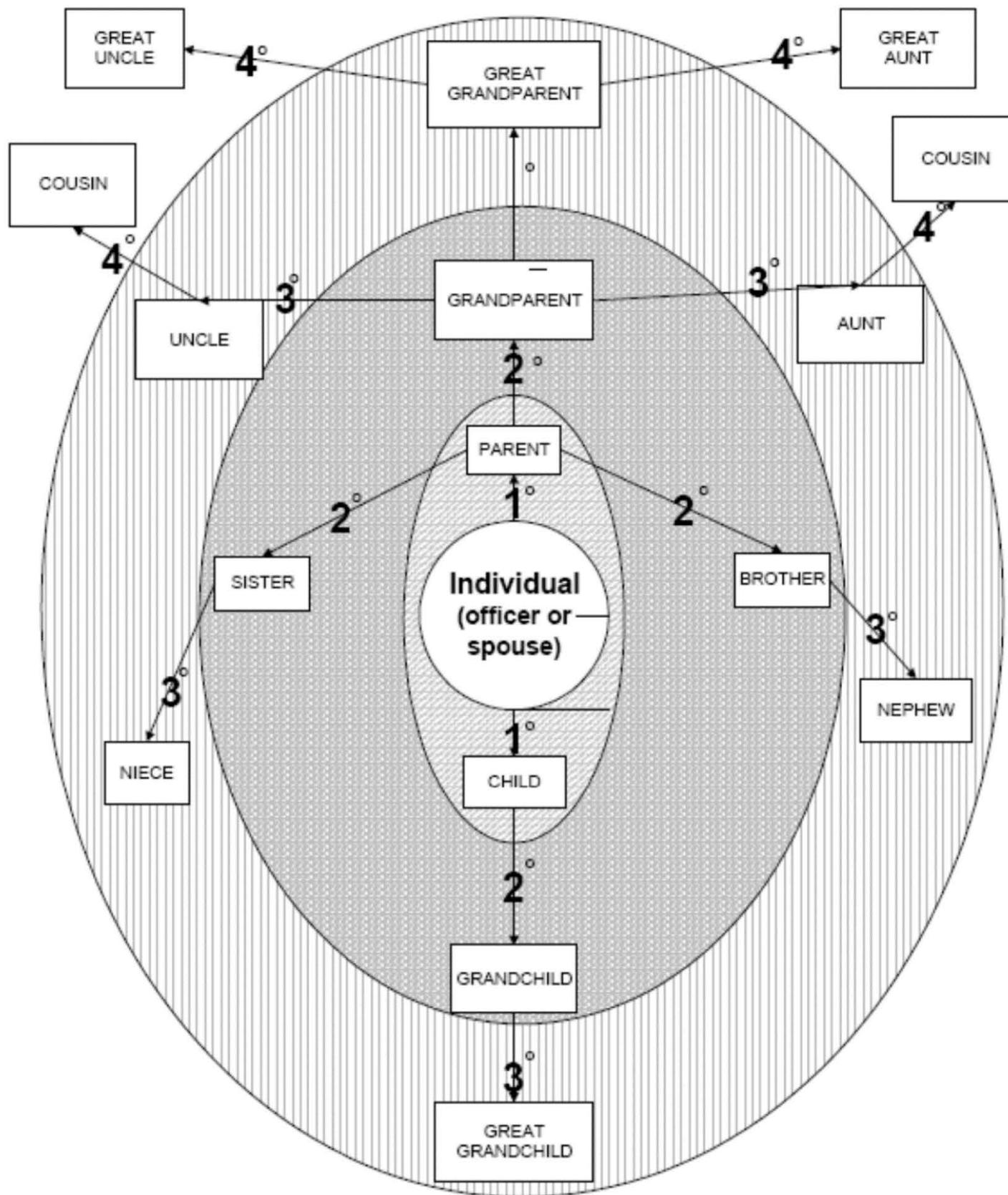
(c) In arriving at its recommendation, the Ethics Commission shall consider the seriousness of the violation, the importance of deterrence, the impact on public confidence in government, city officials and employees, the number of times the violation occurred, the mental state with which the violation was committed and any previous violations committed by the accused party. A written recommendation on the sanction to be imposed shall be forwarded by the Ethics Commission to the City Council, with a copy to the complainant and the accused party. In addition, the Ethics Commission's written recommendation on sanctions shall be delivered to the City Secretary, published in a local newspaper of the largest general circulation, and published prominently on the city's website for a minimum of twelve (12) months after the decision is issued by the Ethics Commission. (d) If the Ethics Commission determines that the wrongful act or omission occurred, but the facts indicate that the violation was unintentional and/or de minimis, the Ethics Commission may recommend that the complaint be dismissed and no sanction be imposed by the City Council. The Ethics Commission may, in its discretion, issue a clarifying opinion to help guide future cases.

(e) The City Council shall consider the Ethics Commission's recommended sanction and exercise its own judgment and discretion in determining what action, if any, shall be taken relating to the alleged violation.

(Ord. No. 2012-1, 1-10-12)

Secs. 1.15.136—1.15.150 - Reserved.

Attachment A



## Degrees of Relationship Chart

When determining the degree of relationship by consanguinity, the individual in the center is the officer. For relationships by affinity,<sup>72</sup> the officer's spouse is the individual in the center.





Dear Manager, City Attorney, Judge, Mayor and Council,

I will not be in the country for the workshop considering the Ethics Ordinance revisions. As requested I am sending my notes to you for consideration. I am using as reference the redline that was attached to tonight's packet and will reference page and paragraph.

Page 1 under definitions. (1) City official - "...or employed, unless that person reports to the City Manager, or is employed in one of the City departments under the direction of the City Manager." If I understood Judge Duggan correctly this evening, the ethics ordinance does not apply to City employees who report to the City Manager. Does the City have employees, either full or part time, who do not report to the City Manager? If so who are they? I think the public need to be aware of exactly who is and who is not covered by the Ethics Ordinance.

Page 2, paragraph 2. While I am glad that the specific issue of the confidentiality of Executive Sessions and Pending litigation have been addressed I would suggest the removal of the words "or permitted" in the second last line of the paragraph. Disclosure that is required by State law is very clear as is a ruling by the state attorney general, or an order of a court with jurisdiction over the matter. "Or permitted" is open to many interpretations by the general public but has, I understand, very specific legal definitions. Unless there is some bona fide legal or constitutional reason for the inclusion of the phrase I believe the ordinance will be clearer without it.

Page 2 "Documents" - I am glad to see this included and presume it includes both emails, texts, snap chat, twitter etc.

Page 2 "Economic Interest" - as I stated this evening, "unpaid service by a city official or employee as an officer, director, advisor, or otherwise active participant in a non profit entity does not create for that city official or employee, an economic interest in the property of the organization." I believe this is a potentially difficult area for the unfair use of influence. For example - a City Council member may be in charge of fundraising for a particular non profit. The non profit, at the City Council member's direction, makes an approach to the City Council for funding as part of it's fundraising strategy. That City Council member should have to disclose his/her relationship with the non-profit and recuse themselves from voting. I'm not sure that the paragraph as written would force that to happen.

Page 3 Paragraph 3 "Knowingly means an actual awareness of the impropriety of the acts or omissions in question at the time of the act or practice complained of." As phrased this definition would simply require an accused person to say they were not aware what they did was improper at the time they did it and the Commission would be forced to dismiss. Given that there have been, at times, lengthy periods between Council Members taking office and receiving Ethics training, the opportunity for impropriety has been large. If awareness of impropriety is the standard then it should be mandatory that City officials receive their Ethics training prior to officially being in office in order that their awareness of potential impropriety is clear from the beginning of their terms.

Page 3 section (2) "Any unexcused failure to act etc". I am concerned at two things here. First the removal of the second part of the sentence stating that the inaction would affect the economic interest of the City Official. I don't see why that has been removed. Secondly the insertion of the word "unexcused". What does this mean? How would an inaction be excused? And by whom? We don't want hidden "get out of jail free" cards in the ordinance and without explanation this word seems strange.

Page 3/4 Definition of Recklessly. "The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under the same or similar circumstances." What constitutes gross? If undefined the word leaves a huge amount of latitude for various interpretations. I believe the word gross needs to be defined or, failing a definition, removed.

Page 4 - Section 1.15.002 - see notes earlier about defining or outlining what type of employee could be referred to that would be subject to the ordinance because they do not report to the City Manager or work in one of the Departments under the direction of the City Manager.

Page 5 - Accountability of City Officials

Mr. Bragg said the deletion of this entire section was done because it is unconstitutional. I would like to know how and why it is unconstitutional. He said that this section was covered elsewhere - I would like to know where in the Ethics ordinance, or the City Charter it is covered. To simply remove an entire section about Accountability of City Officials without a fuller explanation leaves many unanswered questions. The whole point of an Ethics Ordinance is so that the public can hold their City Officials accountable.

Page 9 - The addition of "This provision does not prevent a person who is a city official solely because of his or her service on a city board, body, commission or task force from representing a person or entity in litigation adverse to the City so long as the litigation is not related, directly or indirectly to is or her duties as a city official." This addition seems to be designed to free up lawyers. It flies in the face of reason. People who are City Officials should not represent clients who are suing the city. They have an inside track on the city, they have relationships with the city staff and council beyond that of the public. I don't understand the need to include this paragraph at all.

Page 9 - Executive Sessions - I was glad to see this addition but a little concerned at Mr. Bragg's comments about Council Members maintaining contact with litigants. That is a very thin and tricky line to walk and I think Council Members would do it at their peril.

Page 10 - Pending Litigation - Again I was glad to see this addition. Can one presume that "pending litigation" includes ongoing cases?

Page 13 2nd paragraph - the addition of "This section does not prohibit the City Council or City Manager from contracting with a former city official to perform consulting services for the Benefit of the City." I would like to know the reason for including this sentence. On it's face it seems open to abuse. Under this a Mayor could leave office on a Tuesday and be employed by the City as a consultant on a Wednesday. It does not seem right.

Page 14 - I am glad to see the inclusion of "gender identity".

Page 15 - Regarding membership of the Ethics Commission, I was glad to hear Council Member Ennis's comments on the inclusion of a clause that would prevent members of the Ethics Commission publicly backing political candidates or particular political positions that could be decided by public vote.

Page 17 - While I understand the thinking behind the super majority idea it makes the selection of the five candidates very, very important, so that the process cannot be politicized.

Page 17 - Jurisdiction of the Commission - "shall have jurisdiction over complaints involving the employees as defined in this ordinance" - as previously stated employees are not clearly defined.

Page 19 - Role of the City Attorney. - In a case where the Ethics Commission must retain independent legal counsel because the City Attorney would have a conflict of interest, is the independent legal counsel responsible for conducting the preliminary analysis, review and investigation and forwarding a written report detailing the initial legal review and recommendation to the Ethics Commission for its evaluation and action? It would seem counter intuitive for the City Attorney to have a conflict but still submit a report.

Page 19 - 1.15.131 (4) b. All documents submitted to the Ethics Commission shall be supported by affidavit. What exactly does this mean? For example, if documents are submitted that were the result of an Open Records Request what form of affidavit is required and from whom? If a photograph is submitted what does the affidavit have to say and who should swear to it?

Page 20 Paragraph (c) - Reducing the amount of time from 6 to 12 months after they knew is fair enough but how do you decided whether they "should have known"? That seems extremely vague. Who decides when a person "should have known"?

Page 20 Section (e) - Who is responsible for ensuring that all documents filed must be served on all parties? I suggest it should be the city secretary, not the complainant since the complainant past a certain point would not necessarily be aware if the accused party had retained counsel for example. Also a failure by the City Secretary, or whomever is responsible for distributing the documents, should not automatically mean such documents would not be considered. A complainant and an accused should have fulfilled their responsibility to the Commission and it's process by submitting the paperwork to the City Secretary. A failure by the city staff to follow through should not adversely affect the proper handling of the complaint.

Page 21(g) - the addition of "Groundless as a matter of law" is a big problem. As we have recently discovered, disclosure of the contents of an executive session was not unlawful although the intent of the Ethics Ordinance was to prevent such disclosure - hence the revisions to the Ordinance. No violation occurred as a matter of law. The inclusion of this provision places an undue burden on any complainant. They could bring a complaint in good faith, not for the purposes of harassment, because they truly believe a violation has occurred and swear to that in an affidavit and still be held liable for any legal expenses of the accused party if the case was found to be groundless as a matter of law. Essentially this means that anyone bringing a complaint against an official will have to have their complaint reviewed by an attorney familiar with municipal law, prior to submission with no hope of recovering those legal fees. Given that the City Council has, as a specific matter of precedent, voted to recompense any city official's legal fees in such cases this provision is unnecessary and seems designed to prevent any normal person from registering what they believe is a valid complaint. Furthermore the initial review by the City Attorney or the special counsel should determine the legal status prior the commission handling the complaint. It is really important to note that the dismissal of something as a matter of law does not mean that the event complained of did not happen or that damage was not done. It does not necessarily mean the accused is innocent - it can mean, in criminal parlance, that they are getting off on a technicality. A person who has brought a complaint in good faith should not be penalized financially because the accused gets off on a technicality.

Page 21 Hearings - Nothing I have read in the ordinance or the revisions seems to cover the potential for the contents of the complaint being available to the press and the public via an ORR prior to an adjudication by the Commission. I think this is a serious issue. No un-adjudicated

complaint should be made public prior to it being heard by the commission. I am anxious to hear how the Commission and the City intends to deal with this difficulty.

Page 22 - "The Ethics Commission may find a violation whether or not there is a financial loss." - What does this mean and why has it been included? A financial loss to whom? The City? The Accused? The Complainant?

"Evidence that there was no actual financial loss to any party as a result of the violation is not an excuse for a violation". Again what does this mean? I do not recollect any references to financial loss in the previous version of the ordinance and would like to know why this has been included and what it is intended to cover.

Page 23 (d) - If a violation occurs that was unintentional the complaint should not be dismissed. The action recommended should, at the very least, include some education of the accused so that further violations would not happen. Dismissing a case on that basis suggests that nothing happened. The complainant and the public should be made aware that something did happen but that it was not serious and therefore no action was being taken. Dismissal of a complaint should mean innocence and will certainly be interpreted that way by the accused and by the public. A dismissal when there was wrongdoing, however unintentional, sends the wrong signal to everyone concerned.

Page 23 (e) - This is tricky. Theoretically if you have a council where the majority of members do not have much respect for ethics - then the good work of the Ethics Commission can result in absolutely no action by the council, which would undermine the whole point of the exercise.

Someone with a more erudite and legal mind than mine may have other comments but these are mine. There is nothing more important than open and ethical government. No one wants to see unsubstantiated, frivolous or bad faith accusations and the ordinance should certainly protect city officials from that - however the ordinance should not be pitched in such a way that it is financially onerous for a regular citizen to report what they sincerely believe to have been wrongdoing, or make the bar for proving wrongdoing so high as to be unattainable.

It should also be remembered that laws, codes and ordinances are constantly improved by being challenged and tested. The recent testing of the Ordinance has resulted in much-needed, substantial revisions which will serve the citizens of Bastrop better in holding their representatives and officials to the high standards of behavior they deserve.

Sincerely

Conor McAnally



# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 5A

**TITLE:**

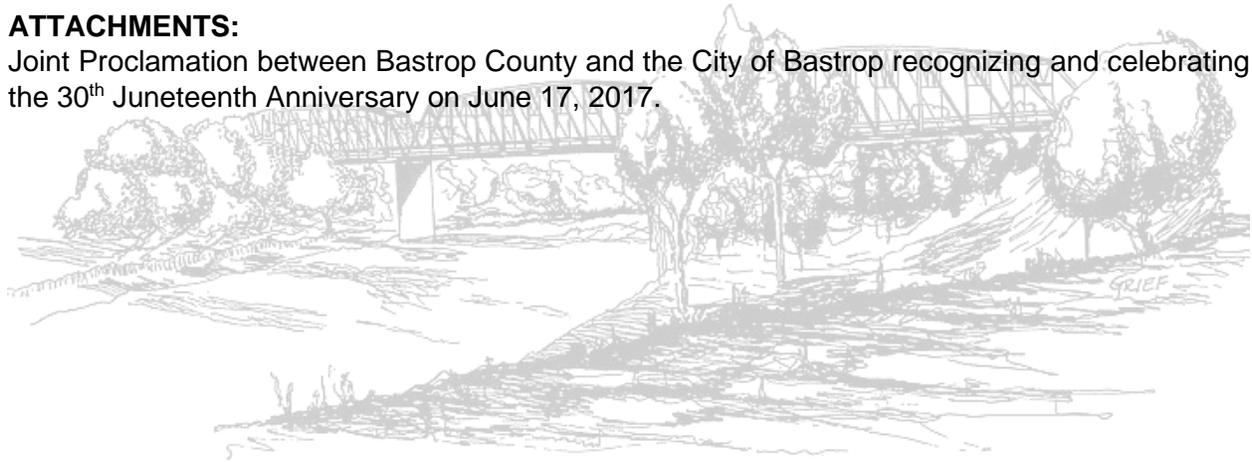
Presentation of Joint Proclamation between Bastrop County and the City of Bastrop recognizing and celebrating the 30<sup>th</sup> Juneteenth Anniversary on June 17, 2017.

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager  
Ann Franklin, City Secretary

**ATTACHMENTS:**

Joint Proclamation between Bastrop County and the City of Bastrop recognizing and celebrating the 30<sup>th</sup> Juneteenth Anniversary on June 17, 2017.





# PROCLAMATION



**BASTROPTX**  
Heart of the Lost Pines / Est. 1832

**WHEREAS,** *The Emancipation Proclamation was signed into law by President Abraham Lincoln on January 1, 1863; and*

**WHEREAS,** *Texans did not receive word of this proclamation until June 19, 1865, when Major General Gordon Granger sailed into Galveston Island and issued a general order declaring that "in accordance with a proclamation from the Executive of the United States, all slaves are free"; and*

**WHEREAS,** *This year marks the 154th anniversary of the law; and*

**WHEREAS,** *Juneteenth, also known as Freedom Day or Emancipation Day, is an annual holiday originating in Texas but celebrated in over 35 states, the District of Columbia, and internationally; and*

**WHEREAS,** *In 1979 Texas State Representative Al Edwards sponsored HB 1016 in the Legislature, which was signed by Texas Governor Bill Clements, making Juneteenth an official state holiday in Texas; and*

**WHEREAS,** *The Bastrop Juneteenth Committee is celebrating its 30th anniversary as an organization officially celebrating the event; and*

**WHEREAS,** *On Saturday, June 17th, 2017 the celebration continues with a grand parade with Former City Council Member Dock Jackson serving as Parade Marshal, The Blue Flame Cruisers Car and Motorcycle Show at Bastrop City Hall parking lot, a variety of family and school reunions that will be held throughout the city, and the ever-popular "free" street dance in downtown Bastrop; and*

**WHEREAS,** *The Bastrop Juneteenth Committee has partnerships with the City of Bastrop Kerr Community Center Board, the Blue Flame Cruisers, and numerous other sponsors, organizations and individuals who make this event an annual success.*

**NOW THEREFORE BE IT RESOLVED THAT,** *the Bastrop City Council joins the Bastrop County Commissioners Court in recognition and celebration of the 30th Juneteenth Anniversary on the **17th day of June 2017** in the City of Bastrop, Texas.*

**IN WITNESS WHEREOF,** *we hereunto set our hand and caused the seal of the City and County of Bastrop to be affixed, this **17th day of June 2017.***

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*Connie Schroeder, Mayor City of Bastrop*

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*Gary Schiff, Mayor Pro-Tem Place 2*

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*Willie "Bill" Peterson, Council Member Place 1*

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*Kay Garcia McAnally, Council Member Place 3*

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*Bill Ennis, Council Member Place 4*

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*Debra Jones, Council Member Place 5*



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*Paul Pape, Bastrop County Judge*

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*Mel Hamner, Commissioner Pct 1*

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*Clara Beckett, Commissioner Pct 2*

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*Mark Meuth, Commissioner Pct 3*

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*Bubba Snowden, Commissioner Pct 4*







# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 5B

**TITLE:**

Presentation of Residency Requirements for All Boards & Commissions.

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager





# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 5C

**TITLE:**  
Mayor's Report

**STAFF REPRESENTATIVE:**  
Lynda Humble, City Manager





# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 5D

**TITLE:**  
Councilmembers' Report

**STAFF REPRESENTATIVE:**  
Lynda Humble, City Manager





# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 5E

**TITLE:**

City Manager's Report

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager





# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 6A

**TITLE:**

Receive report from Bastrop Economic Development Corporation.

**STAFF REPRESENTATIVE:**

Shawn Kirkpatrick, Executive Director  
Bastrop Economic Development Corporation





# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 6B

**TITLE:**

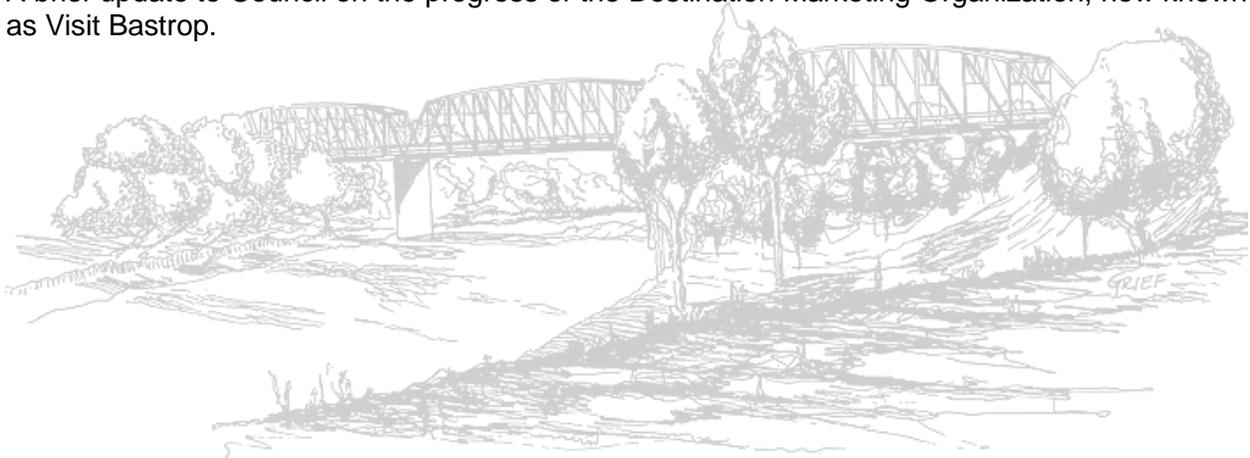
Hear presentation from Visit Bastrop interim Director, Dale Lockett.

**STAFF REPRESENTATIVE:**

Sarah O'Brien, Main Street Program Director

**BACKGROUND/HISTORY:**

A brief update to Council on the progress of the Destination Marketing Organization, now known as Visit Bastrop.





# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 8A

**TITLE:**

Consider action to approve minutes from the May 23, 2017 Regular Council Meeting.

**STAFF REPRESENTATIVE:**

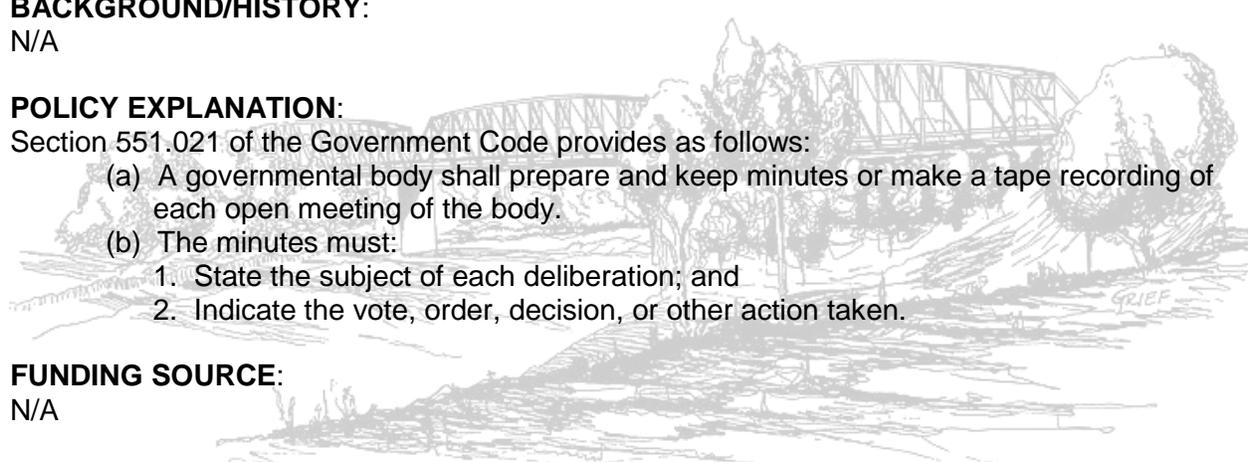
Lynda Humble, City Manager  
Ann Franklin, City Secretary

**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 minutes from the May 23, 2017 Regular Council Meeting.

**ATTACHMENTS:**

- May 23, 2017 DRAFT Regular Council Meeting Minutes

**MINUTES OF REGULAR COUNCIL MEETING  
BASTROP CITY COUNCIL  
May 23, 2017**

The Bastrop City Council met in a Regular Meeting on Tuesday, May 23, 2017 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 Schiff and Council Members Peterson, Ennis, Jones and McAnally. Officers present were City Manager Lynda Humble, City Secretary Ann Franklin and City Attorney David Bragg.

**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

Bastrop High School JROTC led the Pledge of Allegiance to the American Flag.

**TEXAS PLEDGE OF ALLEGIANCE**

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

Bastrop High School JROTC led the Pledge of Allegiance to the Texas Flag.

**INVOCATION**

Reverend Bernie Jackson, Trinity Zion Ministries, gave the Invocation.

**PRESENTATIONS**

**4A.** Presentation of Joint Proclamation between Bastrop County and the City of Bastrop recognizing Memorial Day.

**4B.** Mayor's Report

- May 17, 2017 Mayor, Council and the two candidates for Place 3 attended Council Orientation Part I.
- Mayor attended: DMO meeting; Main Street Imagine the Possibilities event; Chambers Countywide Mixer; and the Law Enforcement Banquet.
- May 22, 2017 Mayor, Council and the two candidates for Place 3 attended Council Orientation Part II.
- The Mayor will be attending:
  - Wednesday, May 24, 2017, Bastrop County Cares Leadership meeting;
  - Thursday, May 25, 2017, Best Leadership Class and the Tribute Lunch to the Seniors and First Responders regarding the Biloxi Mississippi bus crash;
  - Friday, May 26, 2017, Best Breakfast;
  - Monday, May 29, 2017, Memorial Service at Fairview Cemetery;
  - Thursday, June 1, 2017, Farm Street Opry;
  - Friday, June 2, 2017, First Friday Art Walk;
  - Saturday, June 3, 2017, Firefighters Banquet;
  - Monday, June 5, 2017, Early Voting;
  - Wednesday, June 7, 2017, Monthly Chamber Luncheon; and
  - Thursday, June 8, 2017, Regional Mayor's Panel held by "Opportunity Austin" and CAPCOG Training for New Council Members;



Saturday, June 10, 2017, Casa Organization's fund raiser "Casino Night" at the Convention Center;

Tuesday, June 13, 2017, Chamber's Government Affairs meeting.

**4C. Councilmembers' Report**

**Mayor Pro Tem Schiff**

- **Saturday, June 10, 2017, at 7:30 p.m., Performing Arts Center, Eric Johnson in a benefit concert for the Boys and Girls Club of Bastrop County.**

**Council Member McAnally**

- **The North side community is very excited about the naming of the "Delgado Park". The Honoree is very excited as well and is looking forward to being in Bastrop in September for the dedication.**

**4D. City Manager's Report**

- **The Bastrop Art in Public Places has eighteen (18) pieces of art and sculpture throughout the community and City facilities.**

**5. WORK SESSION/BRIEFINGS**

5A. Presentation from Bastrop Central Appraisal District Interim Chief Appraiser, Richard Petree, on the 2017 Appraisal Process.

5B. Discuss changes to the Ethics Ordinance as proposed by the Ethics Committee and City Attorney David Bragg.

**This item will be discussed in "Work Session" on June 13, 2017, beginning at 5:00 p.m. and ending at 6:30 p.m.**

5C. Receive briefing regarding the issuance of a Public Notice about the Corrosion Control Study.

5D. Receive briefing on progress of Rodeo Ground Improvements located at Mayfest Park.

**6. STAFF AND BOARD REPORTS**

6A. Receive presentation on the unaudited monthly Financial Report for the period ending April 30, 2017.

6B. Receive report from Bastrop Economic Development Corporation.

**This item was postponed to the June 13, 2017 meeting.**

**7. CITIZEN COMMENTS**

**Alonzo Wood** – Presentation to Mayor Schroeder from Representative John Cyrier.

**CONSENT AGENDA**

**A motion was made by Mayor Pro Tem Schiff to approve items 8A and 8B, listed on the consent agenda after being read into the record by City Secretary Ann Franklin. Seconded by Council Member Jones, motion was approved on a 5-0 vote.**

- 8A. 1. Consider action to approve minutes from the May 16, 2017 meeting.
- 8B. Consider action to approve the second reading of Ordinance 2017-16 of the City Council of the City of Bastrop, Texas granting a Conditional Use Permit to allow a one-story church administration building, for 0.44 acres of Farm Lot 1, East of Main Street, located at 1208 Water Street, within the city limits of Bastrop, Texas; setting out conditions; establishing an effective date.

#### CONSENT DISCUSSION ITEMS

- 8A. Consider action to approve minutes from the May 9, 2017 meeting.  
**A motion was made by Mayor Pro Tem Schiff to approve minutes from the May 9, 2017 meeting, seconded by Council Member Jones. Motion was approved on a 4-0 vote. Council Member Ennis abstained.**
- 8C. Consider action to approve the second reading of Ordinance 2017-14 of the City Council of the City of Bastrop, Texas granting an amendment to the Pecan Park Residential Planned Development (Ordinance #2015-15) for approximately 204.576 acres within the Mozea Rousseau survey, abstract number 56 located at the terminus of Childers Drive within the city limits of Bastrop, Texas as part of the overall Pecan Park Conceptual Plan; setting out conditions; establishing an effective date.  
**A motion was made by Council Member Ennis to approve Ordinance No. 2017-14 with the following amendment, seconded by Council Member Jones. Motion was approved on a 4-0 vote. Council Member McAnally abstained.**  
**The amendment was to have Section 1, (c) read, "Allow the following minor amendment process: The City Manager shall have the authority to administratively approve a minor amendment to the standards and requirements of the Planned Development..."**

#### ITEMS FOR INDIVIDUAL CONSIDERATION CONTINUED

- 9A. Consider action to approve Resolution R-2017-29 of the City Council of the City of Bastrop, Texas awarding a contract for the construction of an emergency shelter in the amount of \$1,067,000 to North Star Construction and Consulting, LLC; and Authorizing the City Manager to execute all necessary documents for the construction of the emergency shelter to be located at 1209 Linden Street, Bastrop, Texas; and establishing an effective date.  
**Presentation was made by Public Works and Parks Director Trey Job.**  
**A motion was made by Council Member McAnally to approve Resolution No. R-2017-29, seconded by Mayor Pro Tem Schiff. Motion was approved on a 5-0 vote.**
- 9B. Consider action to approve Resolution R-2017-30 of the City Council of the City of Bastrop, Texas awarding a contract for the construction of drainage infrastructure and bank stabilization on Riverwood Drive in the amount of \$251,170 to D&S Concrete Contractors; authorizing the City Manager to execute all necessary documents for the installation of drainage improvements associated with the project; and establishing an effective date.  
**This item was postponed to June 13, 2017.**

9C. Consider action to approve Resolution R-2017-31 of the City Council of the City of Bastrop, Texas awarding a contract for the construction of a new monitoring well and a 1,500 gallon per minute production well in the amount of \$668,539 to Brien Water Wells; authorizing the City Manager to execute all necessary documents for the installation of the monitoring and production well henceforward know as well site (J); and establishing an effective date.

**Presentation was made by Public Works and Parks Director Trey Job.**

**A motion was made by Mayor Pro Tem Schiff to approve Resolution No. R-2017-31, seconded by Council Member Peterson. Motion was approved on a 5-0 vote.**

9D. Hold public hearing and consider action to approve a Replat of Tahitian Village, Unit 4, Block 9, Lots 4-1257, 4-1258, 4-1259 with subdivision variance from Chapter 10, Section 7.10.1 and Section 7.10.2 F Suburban standards for lot size and lot depth.

**City Attorney David Bragg informed the Council that he represents Tahitian Village and therefore he will not be able to answer any questions regarding this item.**

**Presentation was made by Planning and Engineering Director Wesley Brandon.**

**The public hearing was closed.**

**A motion was made by Mayor Pro Tem Schiff to approve a replat of Tahitian Village, Unit 4, seconded by Council Member Peterson. Motion was approved on a 5-0 vote.**

9E. Consider action to approve Resolution R-2017-33 of the City Council of the City of Bastrop, Texas approving a Contract for Election Services between Bastrop County Elections Administrator and the City of Bastrop, Texas; and establishing an effective date.

**Presentation was made by City Manager Lynda Humble.**

**A motion was made by Mayor Pro Tem Schiff to approve Resolution No. R-2017-33, seconded by Council Member McAnally. Motion was approved on a 5-0 vote.**

10. **EXECUTIVE SESSION - NONE**

11. **TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION.**  
**Not Applicable.**

12. **ADJOURNMENT**

**Mayor Pro Tem Schiff made the motion to adjourn the meeting at 8:05 p.m., seconded by Council Member Peterson. The motion was approved on a 5-0 vote.**

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor Connie Schroeder

\_\_\_\_\_  
City Secretary Ann Franklin

Minutes \_\_\_\_\_ were approved on (Mon/Date/Year) by Council Member motion, Council Member second. The motion was approved on a \_\_\_\_\_ vote.



# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 8B

**TITLE:**

Consider action to approve Resolution R-2017-35 of the City Council of the City of Bastrop, Texas approving a Final Plat for Pecan Park 3A, being 12.181 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the 100' wide LCRA easement, within the city limits of Bastrop, Texas; and providing an effective date.

**STAFF REPRESENTATIVE:**

Wesley Brandon, P.E., Director of Planning and Engineering

**BACKGROUND/HISTORY:**

This is the Final Plat of Pecan Park Residential, Section 3A. City Council previously approved a Final Plat for this section at their October 11, 2016 meeting (see previous staff report and minutes). The Pecan Park Planned Development (Ord. #2015-15), was amended by Ord. #2017-14, which was approved by City Council on May 23, 2017. Two of these amendments affect the previously approved Final Plat:

1. With the removal of the off-street guest-parking requirement, the applicant has remaining space that will be included as one additional new residential lot.
2. The rear setbacks have been amended from 15 feet to 10 feet, which is reflected on the plat.

The original Final Plat Section 3A included 68 residential lots and five (5) open space lots. The revised Final Plat increase to **69** residential lots. The property has a zoning classification of "PD-PH", and the following lot standards apply:

<u>District</u>	<u>Min. Lot Area</u>	<u>Min. Dwelling Unit Size</u>	<u>Min. Lot Width</u>	<u>Min. Lot Depth</u>	<u>Min. Front Yard</u>	<u>Min. Interior Side Yard</u>	<u>Min. Ext. Yard (See Sec.43.3)</u>	<u>Min. Rear Yard</u>	<u>Max. Height of Build</u>	<u>Max. Lot Coverage</u>
PD PH	4,600 sq. ft.	1000 sq. ft.	40'	115'	20' -25'	5.0'	10'	<b>10'</b>	35'	75%

**POLICY EXPLANATION:**

Chapter 212 of the Texas Local Government Code (LGC) gives municipalities the ability to regulate the subdivision of land. The Bastrop Code of Ordinances, Chapter 10 includes the process and standards for subdivisions within the city limits and extra-territorial jurisdiction.

A Preliminary Plat must be reviewed by staff, and then reviewed by the Planning & Zoning Commission for a recommendation to City Council. The City Council will then approve or deny the Preliminary Plat. Per the LGC, Chapter 212, if a plat meets all of the rules within the subdivision regulations the governing body must approve the plat.

- The Pecan Park Subdivision Section 3A Preliminary Plat was recommended for approval by P&Z on August 25, 2016 and approved by City Council on September 13, 2016.

After the Preliminary Plat is approved, the applicant must submit construction plans detailing the installation of the public infrastructure. Minor changes can be made to Final Plat. Once these are complete, the Final Plat is forwarded to City Council for approval.

- A Final Plat for Pecan Park Section 3A was approved by City Council on October 11, 2016.
- This Final Plat has come back to City Council for approval to reflect the amendments to the Pecan Park Planned Development approved by City Council on May 23, 2017, including increasing the number of residential lots by one (1) and reducing the minimum rear building setback.

**PUBLIC COMMENTS:**

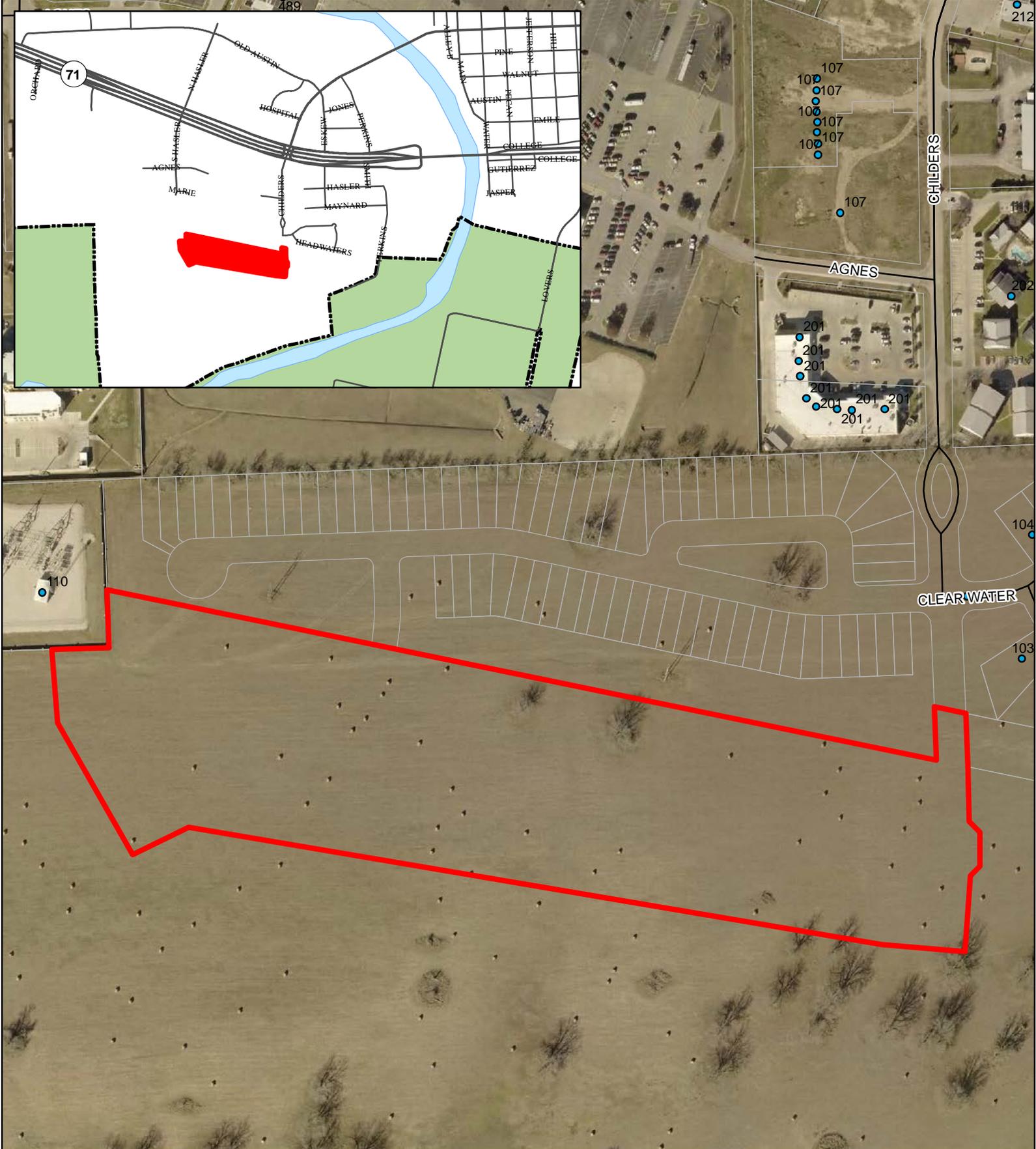
Property owner notification were mailed to 25 adjacent properties on June 2, 2017. At the time of this report, no responses were received.

**RECOMMENDATION:**

Consider action to approve Resolution R-2017-35 of the City Council of the City of Bastrop, Texas approving a Final Plat for Pecan Park 3A, being 12.181 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the 100' wide LCRA easement, within the city limits of Bastrop, Texas; and providing an effective date.

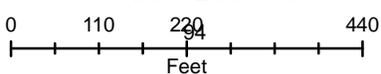
**ATTACHMENTS:**

- Location Map
- Revised Pecan Park Section 3A Final Plat
- Original Pecan Park Section 3A Final Plat
- Staff Report from October 11, 2016 City Council meeting
- Resolution R-2017-35



Location Map  
Pecan Park 3A Final Plat

1 inch = 239.18 feet



Date: 6/2/2017

**N** 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.



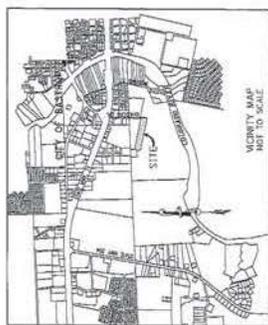




FOR REVIEW ONLY

THE STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS... THE COUNTY OF TARRANT X KNOW ALL MEN BY THESE PRESENTS... THE STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS...

PECAN PARK RESIDENTIAL SECTION 3A FINAL PLAT



SECTION 3A, BLOCK 10, LOT 10, OF THE MESA RESIDENTIAL SUBDIVISION, INSTRUMENT NO. 2014-00123, IN BASKIN COUNTY, TEXAS, BEING A PORTION OF THE TRACT CALLED 48-232 ACRES...

STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS... COUNTY OF TARRANT X... THE STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS...

STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS... COUNTY OF TARRANT X... THE STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS...

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STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS... COUNTY OF TARRANT X... THE STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS...

PLAT NOTES: 1. BASKIN COUNTY... 2. THE CITY OF BASKIN... 3. ALL INTERESTS... 4. THE CITY OF BASKIN... 5. THE CITY OF BASKIN...

11. IN WITNESS WHEREOF... 12. BY APPROVING THIS PRELIMINARY PLAT... 13. IN WITNESS WHEREOF... 14. IN WITNESS WHEREOF... 15. IN WITNESS WHEREOF...

16. IN WITNESS WHEREOF... 17. IN WITNESS WHEREOF... 18. IN WITNESS WHEREOF... 19. IN WITNESS WHEREOF... 20. IN WITNESS WHEREOF...

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31. IN WITNESS WHEREOF... 32. IN WITNESS WHEREOF... 33. IN WITNESS WHEREOF... 34. IN WITNESS WHEREOF... 35. IN WITNESS WHEREOF...

PLAT NOTES CONTINUED: 36. PUBLIC UTILITY... 37. THE DEVELOPER... 38. EXISTING WORKS... 39. IN WITNESS WHEREOF... 40. IN WITNESS WHEREOF...

41. IN WITNESS WHEREOF... 42. IN WITNESS WHEREOF... 43. IN WITNESS WHEREOF... 44. IN WITNESS WHEREOF... 45. IN WITNESS WHEREOF...

46. IN WITNESS WHEREOF... 47. IN WITNESS WHEREOF... 48. IN WITNESS WHEREOF... 49. IN WITNESS WHEREOF... 50. IN WITNESS WHEREOF...

51. IN WITNESS WHEREOF... 52. IN WITNESS WHEREOF... 53. IN WITNESS WHEREOF... 54. IN WITNESS WHEREOF... 55. IN WITNESS WHEREOF...

56. IN WITNESS WHEREOF... 57. IN WITNESS WHEREOF... 58. IN WITNESS WHEREOF... 59. IN WITNESS WHEREOF... 60. IN WITNESS WHEREOF...

61. IN WITNESS WHEREOF... 62. IN WITNESS WHEREOF... 63. IN WITNESS WHEREOF... 64. IN WITNESS WHEREOF... 65. IN WITNESS WHEREOF...



FINAL PLAT PECAN PARK RESIDENTIAL SECTION 3A BASTROP COUNTY, TEXAS

PLAT NO. 3541

Bowman CONSULTING logo and contact information: Houston Consulting Group, LLC, 10010 Katy Road, Suite 200, Houston, Texas 77054. Phone: (281) 321-1100. Fax: (281) 321-4282. www.bowmanconsulting.com





**City of Bastrop**

**Agenda Information Sheet:**

**City Council Meeting Date:**

**October 11, 2016**

**Project Description:**

Discussion, consideration and possible action on the Final Plat of Pecan Park, Section 3A being +/-12.181 acres within the Mozea Rousseau Survey A-56, located west of Childers Drive (proposed extension) and south of the 100' wide LCRA easement within the city limits of Bastrop, Texas.

**Item Summary:**

**Owner:** DM Pecan Park Associates, LTD, Duke McDowell  
**Applicant:** Charles Wirtanen, P.E., Bowman Consulting Group, Ltd.  
**Location:** West of Childers Drive and south of the LCRA easement  
**Utilities:** City water, sewer, and Bluebonnet electric  
**Zoning:** PD-PH: Planned Development - Patio Home

**Background:**

This is the Final Plat of Pecan Park Residential, Section 3A. City Council approved the preliminary plat at the September 13, 2016 meeting.

Pecan Park Development, comprising of 311 acres of both residential and commercial development, has a Memorandum of Understanding (MOU) that was approved by City Council on November 12, 2013. It was signed off by both parties (Pecan Park and City of Bastrop) on December 12, 2013. Staff has provided the first 12 pages of the MOU.

- **PD-PH – Patio Home** - minimum lot size 40' x 115', home size 1,000 square feet; staggered 20'-25' front building setbacks, Homes in these areas shall be at least ten feet (10') apart, five feet (5') from the property line. 30% maximum acreage (Not allowed in Section 6)

**Status:**

The Section 3A final plat includes 68 (sixty-eight) residential lots and 5 (five) open space lots. The property has a zoning classification of "PD-PH", and the following lot standards apply:

<u>Distri</u> <u>ct</u>	<u>Min.</u> <u>Lot</u> <u>Area</u>	<u>Min.</u> <u>Dwelli</u> <u>ng</u> <u>Unit</u> <u>Size</u>	<u>Min.</u> <u>Lot</u> <u>Widt</u> <u>h</u>	<u>Min.</u> <u>Lot</u> <u>Dept</u> <u>h</u>	<u>Min.</u> <u>Fron</u> <u>t</u> <u>Yard</u>	<u>Min.</u> <u>Interi</u> <u>or</u> <u>Side</u> <u>Yard</u>	<u>Min.</u> <u>Side</u> <u>when</u> <u>two-</u> <u>story &amp;</u> <u>adj. SF</u> <u>Zone</u>	<u>Min.</u> <u>Ext.</u> <u>Yard</u> <u>(See</u> <u>Sec.43.</u> <u>3)</u>	<u>Min.</u> <u>Rear</u> <u>Yard</u>	<u>Min.</u> <u>Rear</u> <u>when</u> <u>two-</u> <u>story</u> <u>&amp;Adj.</u> <u>SF</u> <u>Zone</u>	<u>Max.</u> <u>Heigh</u> <u>t of</u> <u>Build</u>	<u>Max.</u> <u>Lot</u> <u>Cover</u> <u>age</u>
PD PH	4,600 sq. ft.	1000 sq. ft.	40'	115'	20' - 25'	5.0'		10.0'	15'		35'	75%

**Traffic Impact Analysis (TIA):**

A Traffic Impact Analysis (TIA) has been submitted by the developer that lists the recommended improvements based on the level of build-out within the project. According to the TIA, improvements will be needed when 398 lots are platted. Currently, 273 lots are platted or proposed, which leaves approximately 125 lots available for development before improvements are needed.

The table below summarizes the current projects within Pecan Park:

Section 4	70 Lots (Platted)
Section 5A	48 Lots (Platted)
Section 5B	43 Lots (Under construction)
Section 3A	68 Lots (Proposed)
<u>Section 6A</u>	<u>44 Lots (Proposed)</u>
Total	273 Lots

**Drainage/Flood Plain:**

According to information provided by the design engineer, stormwater runoff generally flows southward toward the Colorado River, which defines the southern boundary of the overall Pecan Park development. In order to maintain this general flow path, the developer has proposed to install a storm sewer system designed to collect and route stormwater generated within the development to the Colorado River. The design engineer has provided a preliminary layout of the proposed system. In accordance with the approved MOU and a Technical Memorandum prepared by Espey Consultants, stormwater detention will not be required or necessary for the Pecan Park development.

**Streets:**

Roadway access will be provided from Childers Drive, as well as a roadway connection to the newly-constructed Section 4, located just north of the project. Proposed Trailside Lane will terminate at a temporary turn-around in order to allow for its extension to future sections.

**Basis of Support:**

Staff supports the Pecan Park, Sections 3A Final Plat. The final plat appears to comply with the approved MOU and all appropriate subdivision requirements.

**Comments:**

Three (3) adjacent property owner notifications were mailed September 28, 2016. At the time of this report preparation, no responses have been received.

**Staff Recommendation:**

Staff recommends approval of the requested Final Plat for Pecan Park, Section 3A being +/-12.181 acres within the Mozea Rousseau Survey A-56, located west of Childers Drive (Childers Drive to be extended) and south of the 100' wide LCRA easement within the city limits of Bastrop, Texas.

**Attachments:**

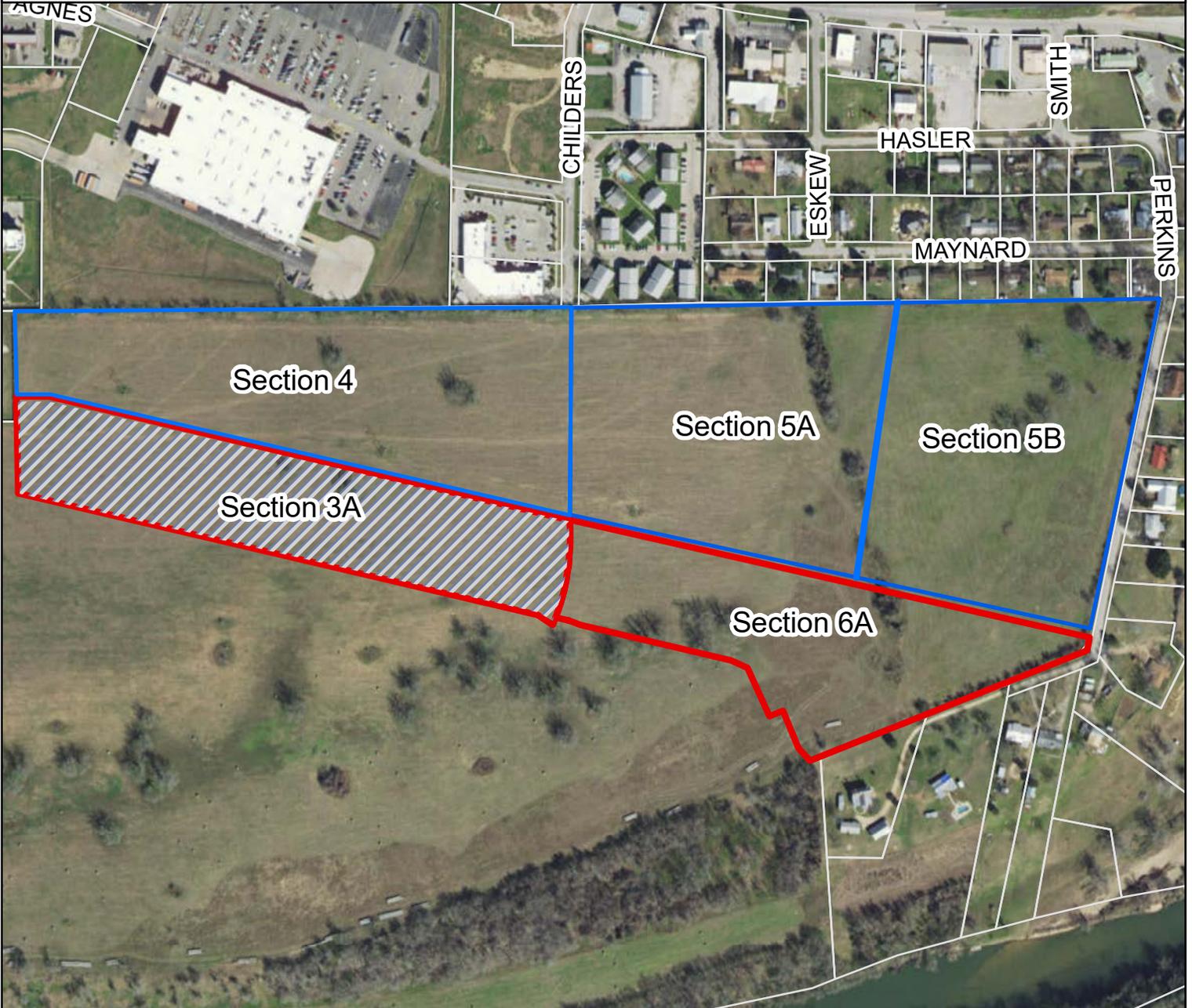
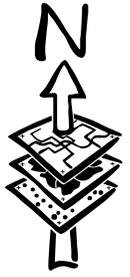
Location map and plat layout

**City Contact:**

Melissa M. McCollum, AICP, LEED AP, Director and  
Wesley Brandon, PE, City Engineer  
Planning and Development Department



# Property Location Map for Pecan Park Sections 3A

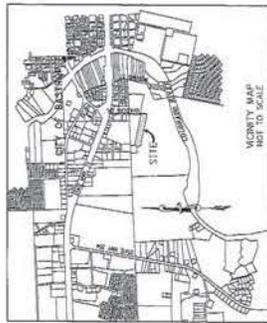


## Legend

 Section 3A

FOR REVIEW ONLY

THE STATE OF TEXAS KNOW ALL MEN BY THESE PRESENTS... THE COUNTY OF TARRANT KNOW ALL MEN BY THESE PRESENTS... THE STATE OF TEXAS KNOW ALL MEN BY THESE PRESENTS...



VICINITY MAP NOT TO SCALE

LEGAL DESCRIPTION: A CERTAIN PORTION OF THE SOUTHWEST CORNER, INTERSECTING AND XA IN BASKIN COUNTY, TEXAS BEING A PORTION OF THE TRACT CALLED 48-232 ACRE... COUNTY OF TARRANT X KNOW ALL MEN BY THESE PRESENTS...

STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS... COUNTY OF TARRANT X KNOW ALL MEN BY THESE PRESENTS... I, [Name], REGISTERED PROFESSIONAL ENGINEER... FOR REVIEW ONLY... REGISTERED PROFESSIONAL LAND SURVEYOR...

STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS... COUNTY OF TARRANT X KNOW ALL MEN BY THESE PRESENTS... I, [Name], REGISTERED PROFESSIONAL LAND SURVEYOR... REGISTERED PROFESSIONAL ENGINEER...

STATE OF TEXAS X KNOW ALL MEN BY THESE PRESENTS... COUNTY OF TARRANT X KNOW ALL MEN BY THESE PRESENTS... I, [Name], REGISTERED PROFESSIONAL LAND SURVEYOR... REGISTERED PROFESSIONAL ENGINEER...

PECAN PARK RESIDENTIAL SECTION 3A FINAL PLAT

PLAT NOTES: 1. BASKIN, TEXAS - HAS AN (ELECTED) FOR RECORD OF THE NATIONAL GEODESIC SURVEY... 2. THE PLAT IS SUBJECT TO THE CITY OF BASKIN, TEXAS... 3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF BASKIN...

11. IN ADDITION TO THE TECHNICAL REQUIREMENTS PROVIDED BY TEXAS COMPAK, INC. (DATED FEBRUARY 2008)... 12. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 13. ALL UTILITIES SHALL BE SHOWN IN ACCORDANCE WITH THE CITY OF BASKIN...

14. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 15. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 16. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT...

17. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 18. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 19. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT...

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PLAT NOTES CONTINUED: 23. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 24. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 25. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT...

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29. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 30. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 31. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT...

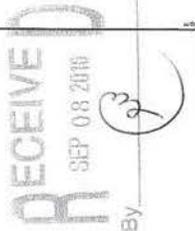
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35. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 36. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT... 37. THE CITY OF BASKIN, TEXAS HAS ADOPTED THE CITY OF BASKIN SUBDIVISION ACT...

Table with 2 columns: Description and Value. Includes items like 'ACRES', 'TOTAL AREA', 'TOTAL AREA', 'TOTAL AREA'.

Table with 2 columns: Description and Value. Includes items like 'AREA BOUNDARY', 'AREA BOUNDARY', 'AREA BOUNDARY'.

DATE: 08/20/10 BY: [Signature]



FINAL PLAT PECAN PARK RESIDENTIAL SECTION 3A BASTROP COUNTY, TEXAS

Bowman Consulting Group, LLC 10010 West Loop West, Suite 1000, Houston, Texas 77042 Phone: (281) 416-1100 Fax: (281) 416-1101 www.bowmanconsulting.com

TYPE Form No. F-14209 | EPLS Form No. 101200-00

Table with 4 columns: Name, Title, Date, and Signature. Includes fields for 'BY: SURVEYOR', 'DATE', 'BY: WITNESS', and 'DATE'.



**RESOLUTION NO. R-2017-35**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING THE FINAL PLAT KNOWN AS PECAN PARK SECTION 3A BEING 12.181 ACRES WITHIN THE MOZEA ROUSSEAU SURVEY A-56, LOCATED WEST OF THE CHILDERS DRIVE EXTENSION, AND SOUTH OF THE 100' WIDE LCRA EASEMENT, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the Texas Local Government Code Section 212 and the City of Bastrop Subdivision Ordinance, the City Council is required to take action regarding certain plats; and

**WHEREAS**, the Pecan Park Planned Development zoning ordinance was adopted on August 25, 2015 (Ord #2015-15) and amended on May 23, 2017 (Ord #2017-14) by City Council; and

**WHEREAS**, the Preliminary Plat for Pecan Park Section 3A was recommended for approval by the Planning & Zoning Commission on August 25, 2016 and approved by City Council on September 13, 2016; and

**WHEREAS**, Ordinance 2017-14, which was approved by City Council on May 23, 2017, amended Pecan Park Planned Development (Ordinance 2015-15), removing the off-street guest-parking requirement and requiring the remaining space to be used as one additional new residential lot and amended rear setbacks from 15 feet to 10 feet; and

**WHEREAS**, both amendments included in Ordinance 2017-14 affect the previously approved Final Plat; and

**WHEREAS**, the Bastrop Planning and Engineering Department has reviewed the above-referenced final plat and found it is in compliance with the Subdivision Ordinance, Pecan Park Planned Development and the approved preliminary plat; and

**WHEREAS**, property owner notifications were sent to receive input from the public.

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

**Section 1.** The Final Plat known as Pecan Park Section 3A, being 13.181 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the the 100; wide LCRA easement, within the city limits of Bastrop, Texas is hereby approved for recording, a copy of same being attached hereto as Exhibit "A" and incorporated herein for all purposes.

**Section 2.** 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 13<sup>th</sup> day of June, 2017.

**APPROVED:**

\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
David Bragg, City Attorney







# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 8C

**TITLE:**

Consider action to approve Resolution R-2017-36 of the City Council of the City of Bastrop, Texas approving a Final Plat for Pecan Park 6A, being 10.913 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the 100' wide LCRA easement, within the city limits of Bastrop, Texas; and providing an effective date.

**STAFF REPRESENTATIVE:**

Wesley Brandon, P.E., Director of Planning and Engineering

**BACKGROUND/HISTORY:**

This is the Final Plat of Pecan Park Residential, Section 6A. City Council previously approved a Final Plat for this section at their October 11, 2016 meeting (see previous staff report and minutes). The Pecan Park Planned Development (Ordinance # 2015-15), was amended by Ordinance 2017-14, which was approved by City Council on May 23, 2017. One of these amendments affected the previously approved Final Plat:

1. The rear setbacks have been amended from 15 feet to 10 feet, which is reflected on the plat.

The Section 6A preliminary plat includes 4 residential lots and three (3) open space lots. The property has a zoning classification of "PD-SFS", and the following lot standards apply:

<u>District</u>	<u>Min. Lot Area</u>	<u>Min. Dwelling Unit Size</u>	<u>Min. Lot Width</u>	<u>Min. Lot Depth</u>	<u>Min. Front Yard</u>	<u>Min. Interior Side Yard</u>	<u>Min. Ext. Yard (See Sec.43 .3)</u>	<u>Min. Rear Yard</u>	<u>Max. Height of Build</u>	<u>Max. Lot Coverage</u>
PD-SFS	6,000 sq. ft.	1,200 sq. ft.	50'	120'	20' - 25'	5.0'	15.0'	10'	35'	75%

**POLICY EXPLANATION:**

Chapter 212 of the Texas Local Government Code (LGC) gives municipalities the ability to regulate the subdivision of land. The Bastrop Code of Ordinances, Chapter 10 includes the process and standards for subdivisions within the city limits and extra-territorial jurisdiction.

A Preliminary Plat must be reviewed by staff, and then reviewed by the Planning & Zoning Commission for a recommendation to City Council. The City Council will then approve or deny the Preliminary Plat. Per the LGC, Chapter 212, if a plat meets all of the rules within the subdivision regulations the governing body must approve the plat.

- The Pecan Park Subdivision Section 6A Preliminary Plat was recommended for approval by P&Z on August 25, 2016 and approved by City Council at a Special Meeting on September 20, 2016.

After the Preliminary Plat is approved, the applicant must submit construction plans detailing the installation of the public infrastructure. Minor changes can be made to the Final Plat. Once these are complete, the Final Plat is forwarded to City Council for approval.

- A Final Plat for Pecan Park Section 6A was approved by City Council on October 11, 2016.
- This Final Plat has come back to City Council for approval to reflect the amendments to the Pecan Park Planned Development approved by City Council on May 23, 2017, by reducing the minimum rear building setback.

**PUBLIC COMMENTS:**

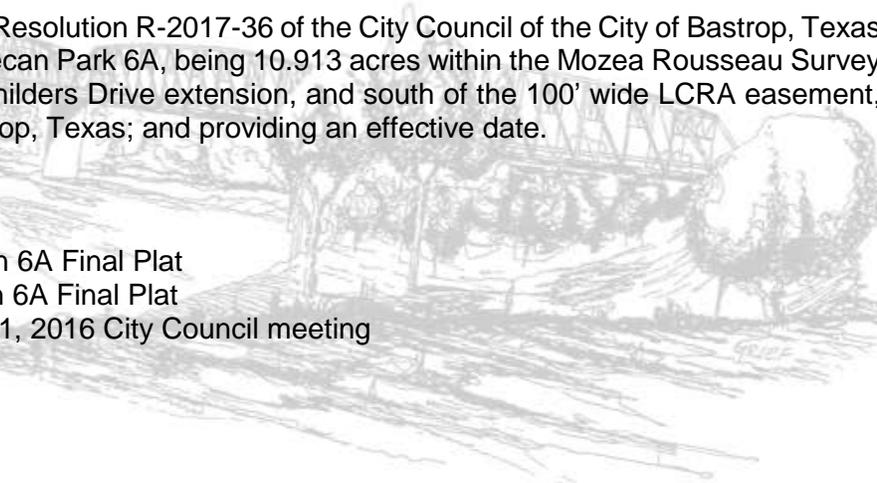
Property owner notification were mailed to 25 adjacent properties on June 2, 2017. At the time of this report, no responses were received.

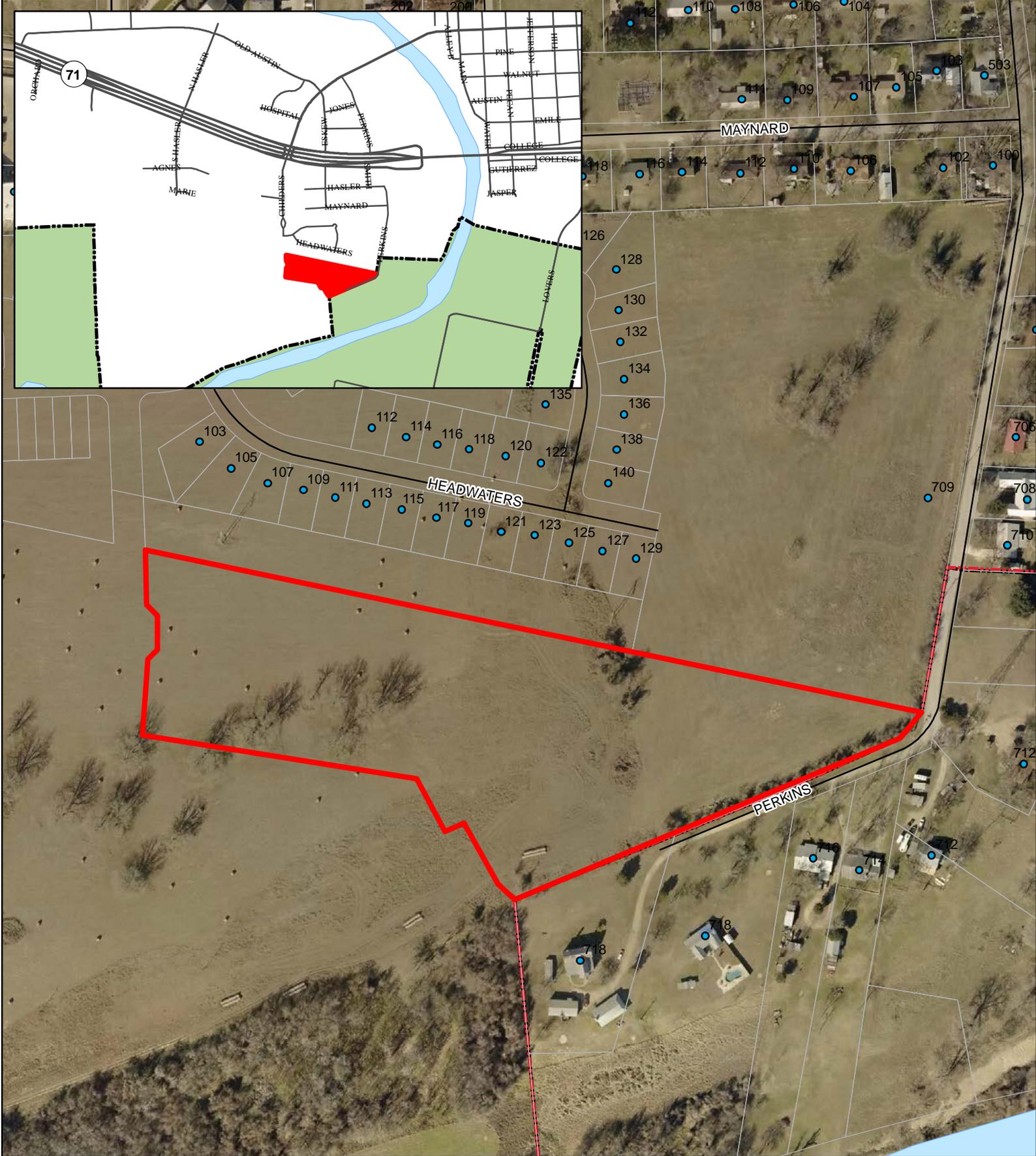
**RECOMMENDATION:**

Consider action to approve Resolution R-2017-36 of the City Council of the City of Bastrop, Texas approving a Final Plat for Pecan Park 6A, being 10.913 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the 100' wide LCRA easement, within the city limits of Bastrop, Texas; and providing an effective date.

**ATTACHMENTS:**

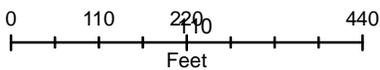
- Location Map
- Revised Pecan Park Section 6A Final Plat
- Original Pecan Park Section 6A Final Plat
- Staff Report from October 11, 2016 City Council meeting
- Resolution R-2017-36





Location Map  
Pecan Park 6A Final Plat

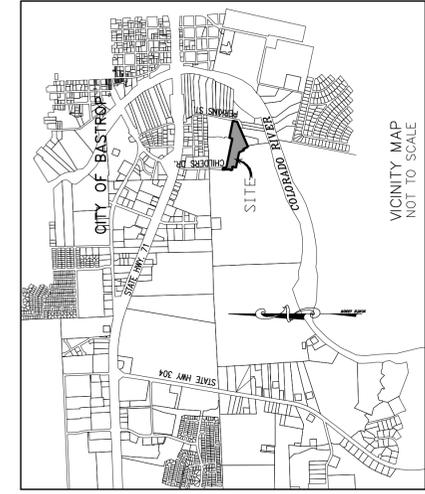
1 inch = 239.18 feet



Date: 6/2/2017

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.

# PECAN PARK RESIDENTIAL SECTION 6A FINAL PLAT



VICINITY MAP  
NOT TO SCALE

**LEGAL DESCRIPTION:**  
10.913 ACRES OF LAND OUT OF THE MOZEA ROUSSEAU SURVEY, ABSTRACT NO. 56, IN BASTROP COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 189.952 ACRE TRACT OF LAND DESIGNATED AS TRACT B-1, BOTH TRACTS DESCRIBED IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DEED TO DM PECAN PARK ASSOCIATES, LTD. OF RECORD IN VOLUME 1482, PAGE 70, OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS.

STATE OF TEXAS  KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS

ENGINEER'S STATEMENT:  
THIS IS TO CERTIFY THAT I AM AUTHORIZED TO PRACTICE THE PROFESSION OF ENGINEERING IN THE STATE OF TEXAS THAT I HAVE REVIEWED THE FINAL PLAT SUBMITTED HERewith; THAT ALL INFORMATION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AS RELATED TO THE ENGINEERING PORTIONS THEREOF; THAT ALL ENGINEERING WORK FOR THE ROADS AND DRAINAGE WITHIN THE SUBDIVISION IS IN ACCORDANCE WITH THE ENGINEERING STANDARDS AT THE TIME OF CONSTRUCTION PLAN PREPARATION AND SUBMITTAL.

CHARLES R. WIRTANEN, P.E.  
REGISTERED PROFESSIONAL ENGINEER  
NO. 55422 - STATE OF TEXAS  
BOWMAN CONSULTING GROUP  
1120 SOUTH CAPITAL OF TEXAS HIGHWAY  
BUILDING 3, SUITE 220  
AUSTIN, TEXAS 78746  
PHONE: (512)327-1180

STATE OF TEXAS  KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS

I, JOHN D. BARNARD, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL ON-THE-GROUND SURVEY OF THE LAND, AND THAT ALL CORNER MONUMENTS SHOWN THEREON WERE PROPERLY PLACED UNDER MY PERSONAL SUPERVISION, IN ACCORDANCE WITH THE SUBDIVISION CODE OF THE CITY OF BASTROP, TEXAS.

JOHN D. BARNARD  
REGISTERED PROFESSIONAL LAND SURVEYOR  
NO. 5749 - STATE OF TEXAS  
BOWMAN CONSULTING GROUP  
1120 SOUTH CAPITAL OF TEXAS HIGHWAY  
BUILDING 3, SUITE 220  
AUSTIN, TEXAS 78746

**FLOOD NOTE:**  
A PORTION OF THE SUBJECT TRACT IS SHOWN TO BE IN FLOOD ZONE AE, AND FLOOD ZONE X, ANNUAL CHANCE FLOOD, AND ALSO A PORTION SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD. AREAS OF THE SUBJECT TRACT IS SHOWN TO BE IN FLOOD ZONE X, OTHER FLOOD AREAS, AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1.0 SQUARE MILE; AND AREAS FLOOD DATED DEPTHS OF LESS THAN 1.0 SQUARE MILE; AS DETERMINED BY THE FLOOD INSURANCE RATE MAP PANEL NO. 48021 C 0356L, DATED JANUARY 19, 2006.

THE STATE OF TEXAS  KNOW ALL MEN BY THESE PRESENTS:  
THE COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS: THAT WE, DM PECAN PARK ASSOCIATES, LTD., A TEXAS LIMITED LIABILITY COMPANY, HAVING OUR OFFICE AND PRINCIPAL PLACE OF BUSINESS, 1311 RIVERS BEND DRIVE, SUITE 300, AUSTIN, TEXAS 78746, ARE THE OWNER OF 10.913 ACRES OF LAND OUT OF THE MOZEA ROUSSEAU SURVEY, ABSTRACT NO. 56, IN BASTROP COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 189.952 ACRE TRACT OF LAND DESIGNATED AS TRACT A-1 AND BEING A PORTION OF THAT CERTAIN CALLED 20.019 ACRE TRACT OF LAND DESIGNATED AS TRACT B-1, BOTH TRACTS DESCRIBED IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DEED TO DM PECAN PARK ASSOCIATES, LTD., A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF DM PECAN PARK ASSOCIATES, LTD., A TEXAS LIMITED PARTNERSHIP ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND LIMITED PARTNERSHIP, HAS CAUSED THESE PRESENTS TO BE EXECUTED BY DUKE MCDOWELL, THERE UNTO DULY AUTHORIZED.

**PECAN PARK RESIDENTIAL, PHASE 6A**

IN ACCORDANCE WITH THE PLAT SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON.

IN WITNESS WHEREOF THE SAID DM PECAN PARK ASSOCIATES, LTD., A TEXAS LIMITED LIABILITY COMPANY, BY DUKE MCDOWELL, MANAGER OF MCDOWELL DEVELOPMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF DM PECAN PARK ASSOCIATES, LTD., A TEXAS LIMITED PARTNERSHIP ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND LIMITED PARTNERSHIP, HAS CAUSED THESE PRESENTS TO BE EXECUTED BY DUKE MCDOWELL, THERE UNTO DULY AUTHORIZED.

DUKE MCDOWELL  
MANAGER

THE STATE OF TEXAS  KNOW ALL MEN BY THESE PRESENTS:  
THE COUNTY OF TRAVIS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED DUKE MCDOWELL, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN SUCH CAPACITY AS THE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017, A.D.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

PRINTED NAME OF NOTARY \_\_\_\_\_ MY COMMISSION EXPIRES ON: \_\_\_\_\_

DUKE MCDOWELL  
PICKED SAVINGS BANK  
100 CREEK RD., DRIPPING SPRINGS TEXAS 78620

BY: DAVID DESTEFANO  
VICE PRESIDENT

THE STATE OF TEXAS  KNOW ALL MEN BY THESE PRESENTS:  
THE COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED DAVID DESTEFANO, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN SUCH CAPACITY AS THE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017, A.D.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

PRINTED NAME OF NOTARY \_\_\_\_\_ MY COMMISSION EXPIRES ON: \_\_\_\_\_

CITY OF BASTROP  
APPROVED THIS DAY \_\_\_\_\_ OF \_\_\_\_\_ A.D., 2017.  
BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS.

APPROVED THIS DAY \_\_\_\_\_ OF \_\_\_\_\_ A.D., 2017.  
BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS.

MAYOR \_\_\_\_\_ CITY SECRETARY \_\_\_\_\_

**THE STATE OF TEXAS  
COUNTY OF BASTROP**

I, ROSE PIETSCH, COUNTY CLERK OF BASTROP COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2017, AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_M., IN THE PLAT RECORDS OF BASTROP COUNTY, TEXAS, IN CABINET \_\_\_\_\_, PAGE \_\_\_\_\_.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ OF \_\_\_\_\_ A.D., 2017.

ROSE PIETSCH  
COUNTY CLERK  
BASTROP COUNTY, TEXAS

**PLAT NOTES CONTINUED:**

31. THE MINIMUM FINISH FLOOR ELEVATIONS SHOWN FOR LOTS ARE IN CONFORMANCE WITH THE ON-LINE POSITIONING USER SERVICE (OPUS) BASED ON FIELDMARK GPS STATIC SESSIONS RUN ON MARCH 14 AND 2, 2016 AND VERIFIED WITH DATA COLLECTION USING SMARTNET NORTH AMERICA REFERENCE STATION FROM ID 2309 (EGGN).
32. RIVERS BEND AT PECAN PARK COMMUNITY ASSOCIATION, INC. OR APPLICABLE HOA SHALL BE RESPONSIBLE FOR COMMON AREA MAINTENANCE.
33. PARK DEDICATION WILL BE SATISFIED FOR ALL RESIDENTIAL BY A FUTURE DEDICATION OF 10 ACRES. THE SIZE OF THAT PUBLIC PARK WILL EXCEED THE PARKLAND DEDICATION AS SET OUT IN THE CITY'S ORDINANCE. ONE (1) ACRE FOR EACH ONE HUNDRED (100) PROPOSED DWELLING UNITS OR FIVE (5) PERCENT OF THE TOTAL RESIDENTIAL PLATTED AREA (EXCLUDING STREETS), WHICHEVER IS GREATER. A LIBERAL ESTIMATED 850 TOTAL RESIDENTIAL DWELLING UNITS WOULD EQUATE TO 8.5 ACRES. 5.0% OF THE EXPECTED PLATTED AREA OF APPROXIMATELY 157.62 ACRES WOULD EQUATE TO 7.881 ACRES. ESTIMATES PER OUR PROFESSIONAL LAND PLANNER, AS CURRENTLY PROPOSED, 5281 ACRES. ESTIMATES PER OUR PROFESSIONAL LAND PLANNER, AS CURRENTLY PROPOSED, 5281 ACRES. ESTIMATES PER OUR PROFESSIONAL LAND PLANNER, AS CURRENTLY PROPOSED, 5281 ACRES. SECTION 5 - 25.85 ACRES; SECTION 6 - 17.50 ACRES; SECTION 7 - 19.44 ACRES).
34. IT IS THE RESPONSIBILITY OF EACH RESIDENTIAL BUILDER TO DESIGN AND CONSTRUCT A SUITABLE GRADING AND DRAINAGE SCHEME WHICH WILL CONVEY SURFACE WATER, WITHOUT PONDING IN THE LOT OR UNDER THE HOUSE, FROM HIS STRUCTURE TO THE DRAINAGE SYSTEM CONSTRUCTED BY THE SUBDIVISION DEVELOPER.
35. PUBLIC UTILITY AND DRAINAGE EASEMENTS WHERE SHOWN AND/OR DESCRIBED HEREON ARE INTENDED TO INDICATE AN EASEMENT FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF PUBLIC UTILITY WATER LINES, TELEPHONE SIGNAL CONDUITS, ELECTRIC CONDUCTORS, DRAINAGE PIPES, AND NATURAL GAS LINES.
36. INSTALLATION AND MAINTENANCE OF A TEMPORARY EMERGENCY ACCESS MAY BE REQUIRED.
37. THE DEVELOPER SHALL PROVIDE APPROPRIATE TEST REPORTS AND CERTIFICATIONS CONFIRMING THE PROPER SELECTION, PLACEMENT, AND COMPACTION OF FILL MATERIAL WITHIN THE DEVELOPMENT.
38. EASEMENT WIDTHS SHOWN MAY REQUIRE ADJUSTMENTS AFTER UTILITY DEPTHS ARE PROVIDED.

**PLAT INFORMATION**

LOT SUMMARY  
RESIDENTIAL LOTS 44

OPEN SPACE LOTS 3

TOTAL LOTS 47

PROPOSED STREET LENGTH  
CROOKED TRAIL 780 FEET  
RIMROCK COURT 660 FEET  
TOTAL STREET LENGTH 1440 FEET

AREA SUMMARY  
LOTS 9,146 ACRES  
RIGHT-OF-WAY 1,767 ACRES  
OVERALL AREA 10,913 ACRES

**ZONING**

PD SFS- SINGLE FAMILY SELECT PER PECAN PARK ZONING ORDINANCE, PUD ORD-2015-15  
PD SFS ALLOWED 45% OF RUD AGEAGE  
WITH THIS SUBDIVISION THERE WILL BE 5.33%

SCHOOL DISTRICT THIS SUBDIVISION LIES WITHIN THE BASTROP INDEPENDENT SCHOOL DISTRICT.



FILED: Pecan Park, 6A Final Plat.dwg	DRAWN BY: KM	CHECKED BY: CF, GW, JG
DATE: 5/9/2016	CHECKED BY: JB	PH # 385
SCALE: 1"=100'	DRAWING #:	FINAL PLAT
JOB # 70124-01-001(25K, 60D)	DRAWING #:	PLAN # 3542
NO.	REVISION	BY DATE











City of Bastrop

Agenda Information Sheet:

City Council Meeting Date:

October 11, 2016

**Project Description:**

Discussion, consideration and possible action for the Final Plat of Pecan Park, Section 6A being +/-10.961 acres within the Mozea Rousseau Survey A-56, located east of Childers Drive (proposed extension) and south of the 100' wide LCRA easement within the city limits of Bastrop, Texas.

**Item Summary:**

**Owner:** DM Pecan Park Associates, LTD, Duke McDowell  
**Applicant:** Charles Wirtanen, P.E., Bowman Consulting Group, Ltd.  
**Location:** East of Childers Drive and south of the LCRA easement  
**Utilities:** City water, sewer, and Bluebonnet electric  
**Zoning:** Planned Development, PD,

**Background:**

This is the Final Plat of Pecan Park, Section 6A. City Council approved the preliminary plat at a Special Meeting September 20, 2016.

Pecan Park Development, comprising of 311 acres of both residential and commercial development, has a Memorandum of Understanding (MOU) that was approved by City Council on November 12, 2013. It was signed off by both parties (Pecan Park and City of Bastrop) on December 12, 2013. Staff has provided the first 12 pages of the MOU.

Section 6A (+/-12.181 acres) is zoned Planned Development (PD) and the Planning and Zoning Commission recommended approval on July 30, 2015 and 2<sup>nd</sup> reading by City Council on August 25, 2015.

- **PD-SFS – Single Family Select** – Traditional lots, minimum lot size 50' x 120', home size 1,200 square feet; staggered 20'-25' front building setbacks, Homes in these areas shall be at least ten feet (10') apart, five feet (5') from the property line. 45% maximum acreage within the PD is permitted.

**Status:**

The Section 6A preliminary plat includes 44 (forty-four) residential lots and 3 (three) open space lots. The property has a zoning classification of "PD-SFS", and the following lot standards apply:

<u>Distri</u> <u>ct</u>	<u>Min.</u> <u>Lot</u> <u>Area</u>	<u>Min.</u> <u>Dwelli</u> <u>ng</u> <u>Unit</u> <u>Size</u>	<u>Min.</u> <u>Lot</u> <u>Widt</u> <u>h</u>	<u>Min.</u> <u>Lot</u> <u>Dept</u> <u>h</u>	<u>Min.</u> <u>Fron</u> <u>t</u> <u>Yard</u>	<u>Min.</u> <u>Interi</u> <u>or</u> <u>Side</u> <u>Yard</u>	<u>Min.</u> <u>Side</u> <u>when</u> <u>two-</u> <u>story &amp;</u> <u>adj. SF</u> <u>Zone</u>	<u>Min.</u> <u>Ext.</u> <u>Yard</u> <u>(See</u> <u>Sec.43.</u> <u>3)</u>	<u>Min.</u> <u>Rear</u> <u>Yard</u>	<u>Min.</u> <u>Rear</u> <u>when</u> <u>two-</u> <u>story</u> <u>&amp;Adj.</u> <u>SF</u> <u>Zone</u>	<u>Max.</u> <u>Heigh</u> <u>t of</u> <u>Build</u>	<u>Max.</u> <u>Lot</u> <u>Cover</u> <u>age</u>
PD-SFS	6,000 sq. ft.	1,200 sq. ft.	50'	120'	20' - 25'	5.0'		15.0'	15'		35'	75%

**Traffic Impact Analysis (TIA):**

A Traffic Impact Analysis (TIA) has been submitted by the developer that lists the recommended improvements based on the level of build-out within the project. According to the TIA, improvements will be needed when 398 lots are platted. Currently, 273 lots are platted or proposed, which leaves approximately 125 lots available for development before improvements are needed.

The table below summarizes the current projects within Pecan Park:

Section 4	70 Lots (Platted)
Section 5A	48 Lots (Platted)
Section 5B	43 Lots (Under construction)
Section 3A	68 Lots (Proposed)
<u>Section 6A</u>	<u>44 Lots (Proposed)</u>
Total	273 Lots

**Drainage/Flood Plain:**

According to information provided by the design engineer, stormwater runoff generally flows southward toward the Colorado River, which defines the southern boundary of the overall Pecan Park development. In order to maintain this general flow path, the developer has proposed to install a storm sewer system designed to collect and route stormwater generated within the development to the Colorado River. The design engineer has provided a preliminary layout of the proposed system. In accordance with the approved MOU and a Technical Memorandum prepared by Espey Consultants, stormwater detention will not be required or necessary for the Pecan Park development.

**Streets:**

Roadway access will be provided from Childers Drive, adjacent to proposed Pecan Park, Section 3A. Rimrock Court will terminate at a temporary turn-around in order to allow for its extension to future sections.

**Basis of Support:**

Staff supports the Pecan Park, Section 6A Final Plat. The final plat appears to comply with the approved MOU and all appropriate subdivision requirements.

**Comments:**

Eight (8) adjacent property owner notifications were mailed September 28, 2016. At the time of this report preparation, no response have been received.

**Staff Recommendation:**

Staff recommends approval of the requested Final Plat for Pecan Park Section 6A being +/-10.961 acres within the Mozea Rousseau Survey A-56, located east of Childers Drive (Childers Drive to be extended) and south of the 100' wide LCRA easement within the city limits of Bastrop, Texas.

**Attachments:**

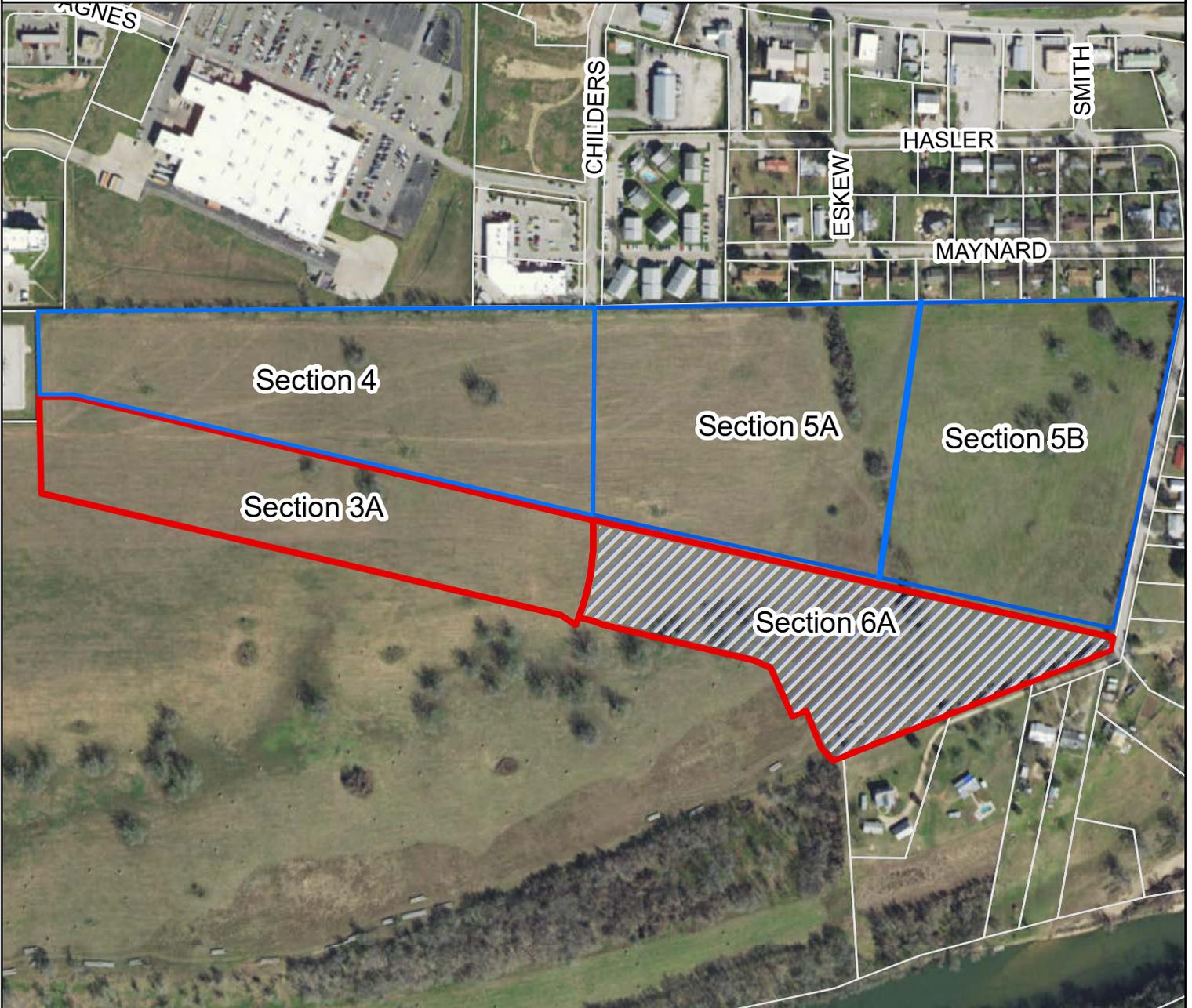
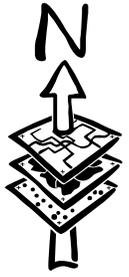
Location map, plat layout and surrounding property owner responses

**City Contact:**

Melissa M. McCollum, AICP, LEED AP, Director and  
Wesley Brandon, PE, City Engineer  
Planning and Development Department



# Property Location Map for Pecan Park Sections 6A



## Legend

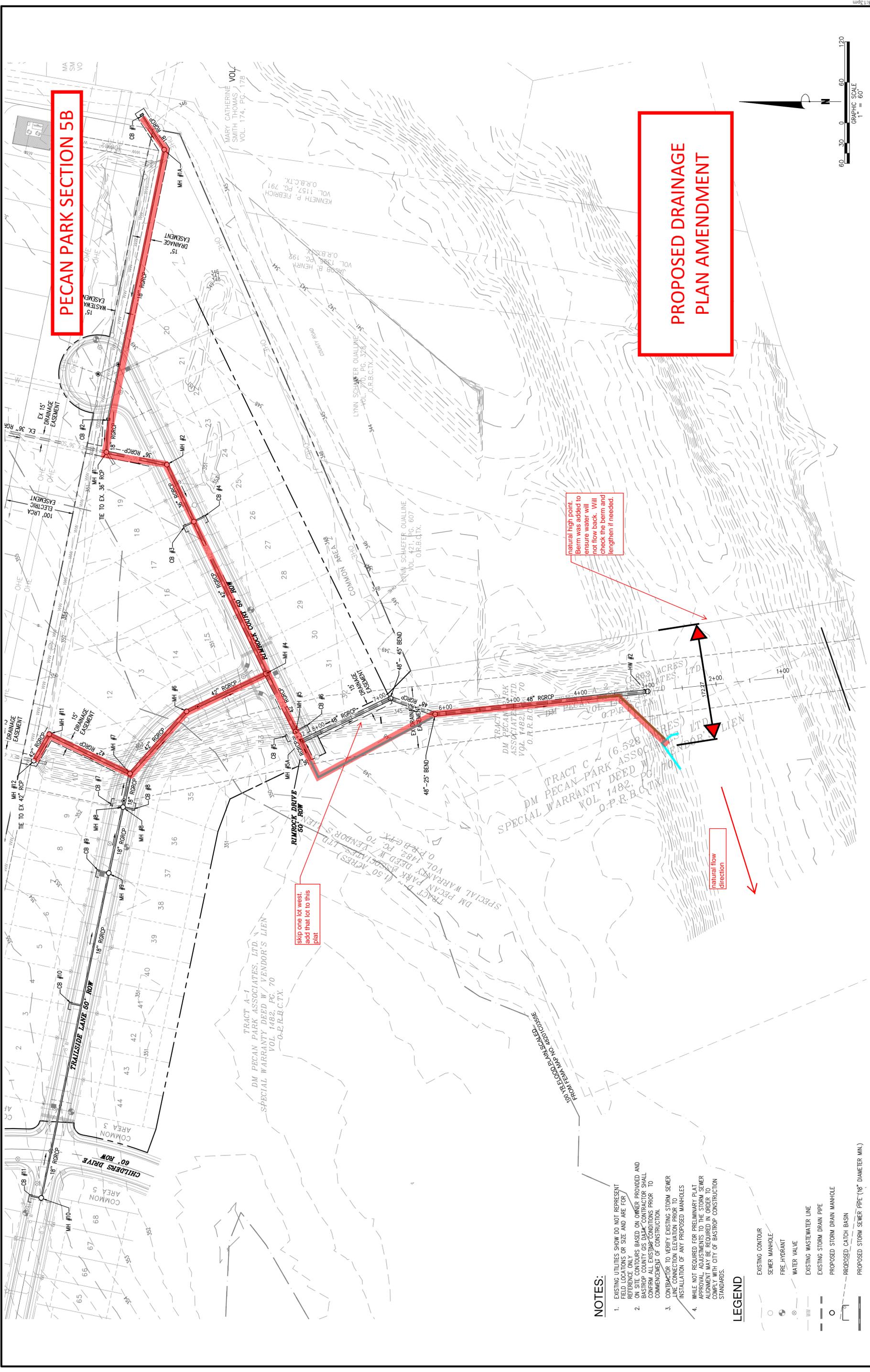
 Section 6A











**PECAN PARK SECTION 5B**

**PROPOSED DRAINAGE  
PLAN AMENDMENT**

natural high point.  
Berm was added to  
ensure water will  
not flow back. Will  
check the berm and  
lengthen if needed.

skip one lot west,  
add that lot to this  
plat

reduced flow  
direction

**NOTES:**

- EXISTING UTILITIES SHOW DO NOT REPRESENT FIELD LOCATIONS OR SIZE AND ARE FOR INFORMATION ONLY.
- ON SITE CONTOURS BASED ON OWNER PROVIDED AND BASTROP COUNTY GIS DATA. CONTRACTOR SHALL CONFIRM ALL EXISTING CONDITIONS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
- CONTRACTOR TO VERIFY EXISTING STORM SEWER LINE CONNECTION ELEVATION PRIOR TO INSTALLATION OF ANY PROPOSED MANHOLES.
- WHILE NOT REQUIRED FOR PRELIMINARY PLAT APPROVAL, ADJUSTMENTS TO THE STORM SEWER ALIGNMENT MAY BE REQUIRED IN ORDER TO COMPLY WITH CITY OF BASTROP CONSTRUCTION STANDARDS.

**LEGEND**

- EXISTING CONTOUR
- SEWER MANHOLE
- FIRE HYDRANT
- WATER VALVE
- EXISTING WASTEWATER LINE
- EXISTING STORM DRAIN PIPE
- PROPOSED STORM DRAIN MANHOLE
- PROPOSED CATCH BASIN
- PROPOSED STORM SEWER PIPE (18" DIAMETER MIN.)

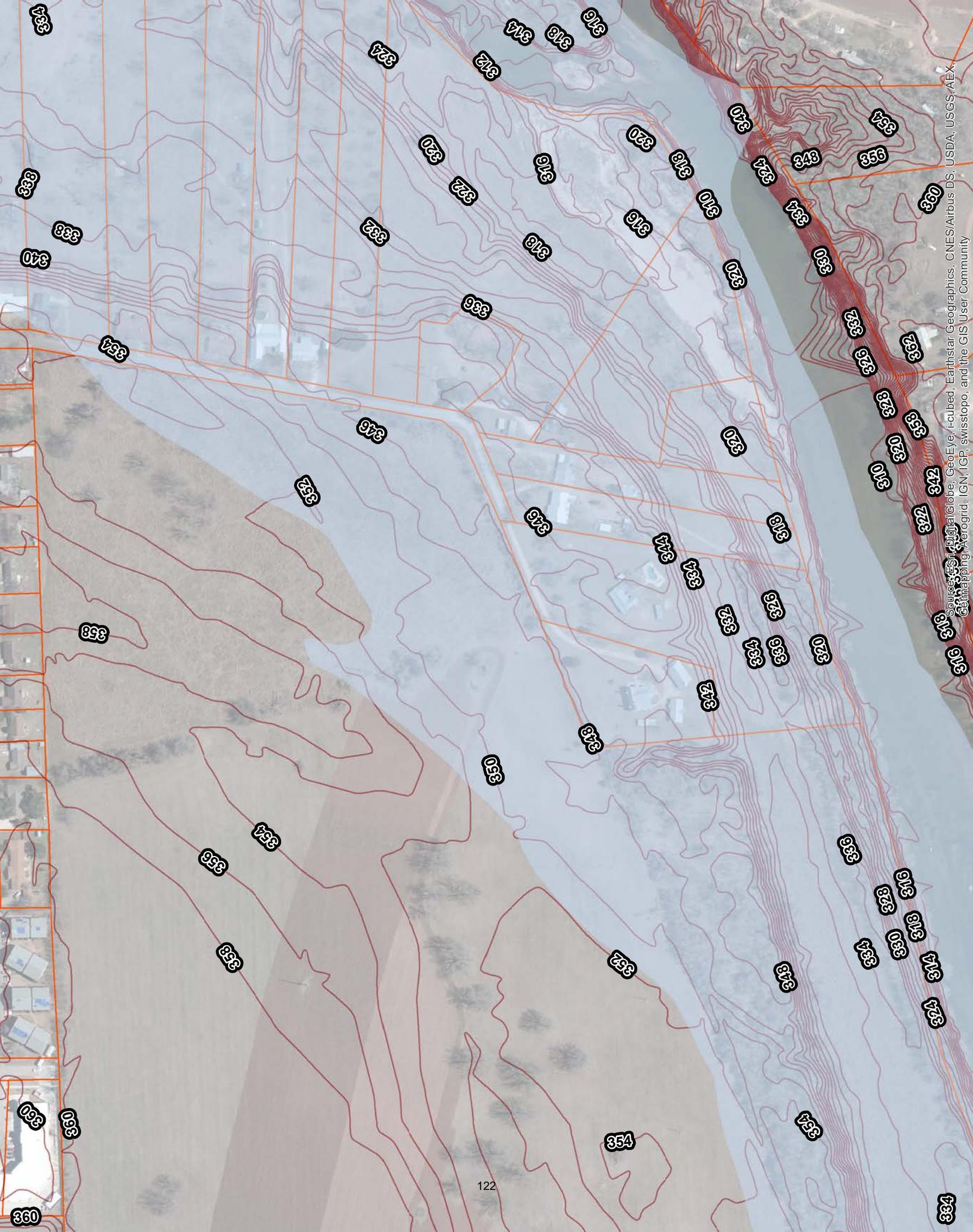
FILED: 7/19/2016	SEAL: [Signature]	DATE: 07/19/2016
DATE: 7-13-16	DRAWN BY: NIP, KE	CHECKED BY: [Signature]
DATE: 7/19/2016	DESIGNED BY: [Signature]	SCALE: AS SHOWN
DATE: 7/19/2016	DRAWING #:	PROJECT #:
DATE: 7/19/2016	BY: [Signature]	DATE: [ ]
NO.	REVISION	BY

**Bowman**  
CONSULTING

Bowman Consulting Group, Ltd.  
1128 South Capital of Texas Hwy, Bldg 3, Suite 220, Austin, Texas 78746  
Phone: (512) 327-1180 Fax: (512) 327-4062  
www.bowmanconsulting.com © Bowman Consulting Group, Ltd.

TBPE Firm No. F-14309 | TBPLS Firm No. 101206-00

EXHIBIT C  
STORM SEWER PLAN  
PECAN PARK RESIDENTIAL SECTION 6A  
BASTROP COUNTY, TEXAS



Sources: ESRI, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, GeoMapping, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community

**RESOLUTION NO. R-2017- 36**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING THE FINAL PLAT KNOWN AS PECAN PARK SECTION 6A BEING 10.913 ACRES WITHIN THE MOZEA ROUSSEAU SURVEY A-56, LOCATED WEST OF THE CHILDERS DRIVE EXTENSION, AND SOUTH OF THE 100' WIDE LCRA EASEMENT, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the Texas Local Government Code Section 212 and the City of Bastrop Subdivision Ordinance, the City Council is required to take action regarding certain plats; and

**WHEREAS**, the Preliminary Plat for Pecan Park Section 6A was recommended for approval by the Planning & Zoning Commission on August 25, 2016 and approved by City Council on September 13, 2016; and

**WHEREAS**, the Pecan Park Planned Development zoning ordinance was adopted on August 25, 2015 (Ordinance 2015-15) and amended on May 23, 2017 (Ordinance 2017-14) by City Council, amending the rear setbacks from 15 feet to 10 feet; and

**WHEREAS**, the amendment included in Ordinance 2017-14 affects the previously approved Final Plat; and

**WHEREAS**, the Bastrop Planning and Engineering Department has reviewed the above-referenced final plat and found it is in compliance with the Subdivision Ordinance, Pecan Park Planned Development and the approved preliminary plat; and

**WHEREAS**, property owner notifications were sent to receive input from the public.

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

**Section 1.** The Final Plat known as Pecan Park Section 6A, being 10.913 acres within the Mozea Rousseau Survey A-56, located west of the Childers Drive extension, and south of the 100' wide LCRA easement, within the city limits of Bastrop, Texas is hereby approved for recording, a copy of same being attached hereto as Exhibit "A" and incorporated herein for all purposes.

**Section 2.** 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 13<sup>th</sup> day of June, 2017.

**APPROVED:**

\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
David Bragg, City Attorney







# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 9A

**TITLE:**

Hold public hearing and consider action to approve the first reading of Ordinance No. 2017-17 granting a Conditional Use Permit to allow a manufactured home at 1103 Cedar Street, being 0.289 acres of Building Block 20, East of Main Street, setting out conditions; establishing an effective date and move to include on the June 27, 2017 agenda for a second reading.

**STAFF REPRESENTATIVE:**

Wesley Brandon, P.E., Director of Planning and Engineering

**BACKGROUND/HISTORY:**

On April 27, 2017, the property owner moved a pre-owned 1998 model manufactured home onto the lot at 1103 Cedar Street. The previous structure was a 1974 model mobile home that had been occupied on the lot since 1975. According to the property owner in the week prior, a large branch from a nearby tree fell on the structure irreparably damaging the house. The owner purchased the manufactured home and through a misunderstanding, believed that the seller and mover had secured the necessary permits.

After being informed that they were in violation of city codes, the property owner immediately made application for the Conditional Use Permit (CUP) to start securing the necessary city approvals. Staff allowed the manufactured home to remain on the lot **unoccupied** while undergoing the permit process, provided that the structure was properly secured. Work began on the exterior to improve its compatibility with the neighborhood. The applicant is living elsewhere until a decision is made on the CUP.

**PUBLIC COMMENTS:**

Twelve adjacent property owner notifications were mailed on May 10, 2017. At the time of this report, six (6) responses were received; three (3) were in favor, two (2) were opposed and one (1) had no objection. No verbal comments were made during the P&Z public hearing. (Attachment 3)

**POLICY EXPLANATION:**

A Conditional Use Permit is adopted by Ordinance, similar to the process that a zoning request, with public hearings at Planning & Zoning Commission and City Council and two ordinance readings at separate City Council meetings.

Within the Form-based Code, there are specific criteria that must be met for manufactured homes. Staff included some additional conditions for this case. These criteria and conditions are detailed in the attached Planning & Zoning Commission staff report.

The Planning & Zoning Commission held a public hearing and recommended approval of the CUP at their May 25, 2017 meeting by a vote of 8-0, with the following conditions.

- a. Construction shall be in conformance with the City of Bastrop regulations.

- b. All necessary permits for the proposed development shall be acquired prior to occupying the building.
- c. A Building Permit shall be applied for and secured within fourteen (14) days from the date the Conditional Use Permit is granted (second reading of the ordinance). **(Note: The Zoning Ordinance states that a permit shall be secured within one year, but due to the current existence of the home, Staff recommends shortening this timeframe).** A building permit is issued in order to document and inspect the work required to install the home, connect utilities, and make any other improvements to the property.
- d. The accessory structures and other debris in the backyard must be cleaned up and brought into compliance with the Property Maintenance Code within three months from the date the Conditional Use Permit is granted.
- e. The roof of the home must be structurally sound and not present any health and safety issues.
- f. The skirting must be cleaned and reattached to the front and sides of the structure within six months from the date the Conditional Use Permit is granted.
- g. A covered front porch with a minimum area of 100 square feet must be added to front of the house. All other exterior exits/entryways need stairs and landing that meet the building code requirements. These conditions must be met prior to the home being occupied.
- h. Existing street facing fence must be removed within six months from the date the Conditional Use Permit is granted. If a new fence is installed, it must meet all current code requirements and be constructed after applying for and receiving a fence permit.
- i. The covered parking and landscaping requirements in Section 35.4 of the Zoning Ordinance must be installed within six months from the date the Conditional Use Permit is granted.

If City Council approves the CUP, the second reading will be forwarded to the June 27, 2017 meeting for final approval.

**RECOMMENDATION:**

Consider action to approve the first reading of Ordinance No. 2017-17 granting a Conditional Use Permit to allow a manufactured home at 1103 Cedar Street, being 0.289 acres of Building Block 20, East of Main Street, setting out conditions; establishing an effective date and move to include on the June 27, 2017 agenda for a second reading.

**ATTACHMENTS:**

- Ordinance with Exhibits
- Planning & Zoning Commission Staff Report
- Attachment 1: Location Map
- Attachment 2: Letter from Applicant
- Attachment 3: Surrounding Property Owners' Responses
- Attachment 4: Site Plan and Before/After Picture of Property
- Attachment 5: Photographs of Nearby Properties



# PLANNING & ZONING STAFF REPORT



**MEETING DATE:** May 25, 2017

**TITLE:**

Public hearing and consider action to recommend approval of a Conditional Use Permit to allow a manufactured home at 1103 Cedar Street, being 0.289 acres of Building Block 20, East of Main Street.

**STAFF REPRESENTATIVE:**

Wesley Brandon, P.E., Director of Planning and Engineering

**ITEM DETAILS:**

Site Address: 1103 Cedar Street (Attachment 1)  
Total Acreage: 0.289 acres  
Legal Description: A portion of Building Block 20, East of Main Street, 0.289 acres

Property Owner: Helen Juarez  
Agent Contact: Florence Juarez

Existing Use: Single-Family Residential  
Existing Zoning: N, Neighborhood (Form-Based Code)  
Future Land Use: Downtown Bastrop

**BACKGROUND/HISTORY:**

On April 27, 2017, the property owner moved a pre-owned 1998 model manufactured home onto the lot at 1103 Cedar Street. The previous structure was a 1974 model mobile home that had been occupied on the lot since 1975.



*Previous Mobile Home*

According to the property owner, in the week prior, a large branch from a nearby tree fell on the structure, irreparably damaging the house. The owner purchased the manufactured home and

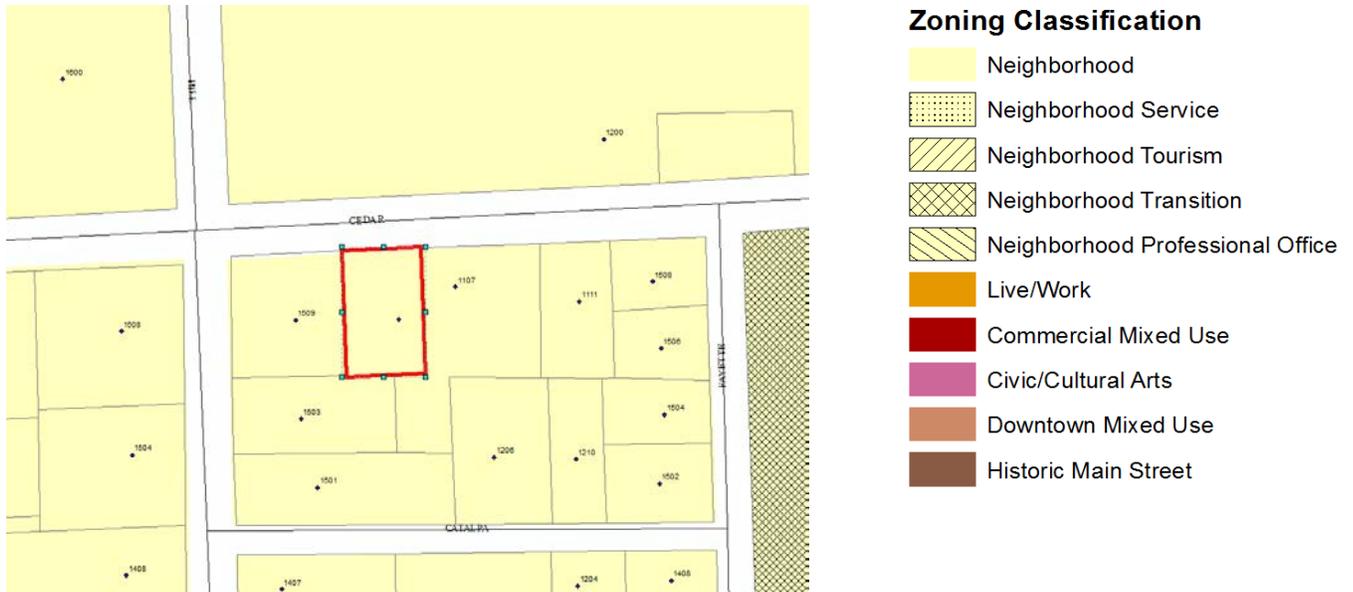
through a misunderstanding, believed that the seller and mover had secured the necessary permits.



*Current Manufactured Home*

After being informed that they were in violation of city codes, the property owner immediately made application for the Conditional Use Permit (CUP) to start securing the necessary city approvals. Staff allowed the manufactured home to remain on the lot **unoccupied** while undergoing the permit process, provided that the structure was properly secured. Work began on the exterior to improve its compatibility with the neighborhood. The applicant is living elsewhere until a decision is made on the CUP.

The lot is zoned N, Neighborhood and is in the Form-Based Code Regulating Plan Area.



*Zoning Map*

Per Section 3.5 (c) of the Form-Based Code, structures that are destroyed by an “Act of God” are allowed to be replaced, provided that the new structure is the same size and shape. The previous structure was approximately 56 feet by 14 feet (784 s.f.), according to the Bastrop Central Appraisal District records. The current structure is 56 feet by 28 feet (1,568 s.f.). The structure is 100% larger than the previous structure, which exceeds the requirements of this section. Moving new manufactured homes into the Neighborhood District is permitted with a CUP.

**PUBLIC COMMENTS:**

Twelve adjacent property owner notifications were mailed on May 10, 2017. At the time of this report, five (5) responses were received; two (2) were in favor, two (2) were opposed and one (1) had no objection. (Attachment 3)

**POLICY EXPLANATION:**

The purpose of conditional uses is to allow certain uses in districts that under most 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 meetings, as well as two ordinance readings at separate City Council meetings.

Section 5.2 of the Form-Based Code 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;*

This lot is on the edge of a residential area. The area to the north is zoned N, Neighborhood, but is the site of the Bastrop High School athletic facility. In the surrounding residential area, there is a mix of single-family housing types. Within the neighborhood, the homes vary greatly in size, shape and age (see Attachment 5). Additionally, while many homes are well maintained, there are some structures that need significant repairs.

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

The manufactured home is a single-family structure, which is the primary use of the Neighborhood District. The purpose of the CUP is to ensure that the structure is compatible within the area.

- iii. The nature of the use is reasonable;*

The requested use will remain residential in nature and will not increase the intensity of use on the property.

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

Staff is recommending a series of conditions, that once met, will mitigate negative impacts on the surrounding area. These conditions will ensure that the current structure is an improvement in appearance and compatibility within the neighborhood, greater than the previous structure provided.

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

Staff suggests the following conditions for approval of the CUP:

- The accessory structures and other debris in the backyard must be cleaned up and brought into compliance with the Property Maintenance Code, prior to the home being occupied.
- The roof of the home must be cleaned and repaired to improve its appearance and comply with the City's Building Code.
- New skirting must be added to the front and sides of the structure to improve curb appeal, prior to the home being occupied.
- A covered front porch with a minimum area of 100 square feet must be added to front of the house, which meets the requirements of Section 7.3 (b) of the Form-Based Code for Residential Façades.
- The existing street facing fence must be removed. If a new fence is installed, it must meet all current code requirements, and be constructed after applying for and receiving a fence permit.

Section 35.4 of the Zoning Ordinance, entitled Special and Supplemental Requirements, states that all manufactured homes approved through a Manufactured Home Overlay or Conditional Use Permit, must satisfy the following requirements:

- A. All dwelling units shall be HUD-code manufactured home units. *(Current home is compliant)*
- B. Anchorage of Manufactured Homes: To insure against natural hazards such as tornadoes, high winds, and electrical storms, anchorage at each manufactured home shall be provided, at the time of installation, according to the Building Code. *(Current home is compliant)*
- C. Skirting *(Current home is compliant; however, Staff is recommending replacement of the existing skirting)*:
  1. All manufactured home units, not attached to a permanent foundation, shall provide weather resistant skirting, at the time of installation, from the top of the unit's frame to grade. Skirting shall totally enclose and secure from view the unit's axles and all required anchors, footings, and piers.
  2. All required skirting shall be of a texture and color similar to the materials used in the construction of the manufactured home unit.
- D. Two (2) off-street parking spaces must be provided. One must be covered (carport/garage) and must meet the setback requirements. A building permit must be submitted for this carport or garage within two (2) months from the date the manufactured home was installed. The carport or garage must be built within six (6) months from the date the manufactured home was installed. ***(The current home was installed on April 27, 2017. Therefore, a building permit for the garage/carport must be submitted by June 27, 2017. If the CUP is approved, construction must be completed by October 27, 2017.)***
- E. The main roof shall be pitched, rather than flat. *(Current home is compliant)*
- F. The manufactured home must be sited with its longest dimension parallel to the street. *(Current home is compliant)*
- G. The exterior finish cannot have a high-gloss finish. The exterior walls shall look like wood or masonry, regardless of the actual composition. *(Current home is compliant)*
- H. The hitch must be removed. *(Current home is compliant)*

- I. The lot must be landscaped so that it is equivalent to the average amount of landscaping that exists on the adjoining lots. At a minimum, two (2) trees of the large variety and two (2) shrubs must be provided. Furthermore, the entire lot must be sodded with grass. ***(Current home is not compliant with this requirement)***
- J. The manufactured home must have a minimum floor area of one thousand (1000) square feet. *(Current home is compliant)*
- K. A manufactured home, that is not being placed within a Manufactured Home Park or subdivision, must have a minimum width of at least twenty-eight feet (28'). *(Current home is compliant, unlike the previous home)*
- L. A manufactured home that is not being placed within a manufactured home park or subdivision shall have a gabled entry or other such break in the facade or roof line. *(Current home is compliant, unlike the previous home)*

In addition to criteria described above, Section 5.2(c) of the City's Form-Based Code states:

“In granting a Conditional Use Permit, the Planning and Zoning Commission and City Council may impose conditions which shall be complied with by the owner or grantee before a Certificate of Occupancy may be issued by the Building Official for use of the building on such property pursuant to such Conditional Use Permit and such conditions precedent to the granting of the Certificate of Occupancy. Any special conditions shall be set forth in writing by the City Council prior to issuance of the Certificate of Occupancy”.

**HISTORICAL REFERENCES:**

To date, no Conditional Use Permits (CUPs) have been approved for manufactured homes located within the Form-Based Code area since the Code's adoption in 2015. However, two CUPs have been approved for manufactured homes in the last two years within other areas of the City, both with an SF-7 zoning classification. One home was located at 202 MLK Drive, and the owner was authorized to install a new manufactured home on the property with the following conditions:

- 1. Construction and permits submitted shall be in conformance with the City of Bastrop regulations and shall meet the special requirements of Section 35.4, including concrete/asphalt parking/driveway.
- 2. All necessary permits for the proposed development shall be acquired prior to construction/movement of the manufactured home 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). A building permit is issued in order to document and inspect the work required to install the home, connect utilities, and make any other improvements to the property.

Another CUP was approved for a pre-owned 2006 model manufactured home located at 1006 Mesquite Street. The approval conditions were identical to the CUP conditions for 202 MLK Drive.

**In each of these previous CUP cases, the homes had not been moved and installed on their respective properties prior to receiving approval of the CUP.** Therefore, several of the suggested timeframes and approval conditions may be different for this current CUP request. For example, the property owner is typically given one year to secure a building permit, but because the home is already located on the property, the permitting timeline must be expedited.

**RECOMMENDATION:**

Hold public hearing and recommend approval of a Conditional Use Permit with the following conditions (in addition to the requirements of Zoning Ordinance Section 35.4), to allow a manufactured home at 1103 Cedar Street, being 0.289 acres of Building Block 20, East of Main Street and forward to the next available City Council meeting.

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 fourteen (14) days from the date the Conditional Use Permit is granted (second reading of the ordinance). **(Note: The Zoning Ordinance states that a permit shall be secured within one year, but due to the current existence of the home, Staff recommends shortening this timeframe).** A building permit is issued in order to document and inspect the work required to install the home, connect utilities, and make any other improvements to the property.
4. The accessory structures and other debris in the backyard must be cleaned up and brought into compliance with the Property Maintenance Code, prior to the home being occupied.
5. The roof of the home must be cleaned and repaired to improve its appearance and comply with the City's Building Code.
6. New skirting must be added to the front and sides of the structure to improve curb appeal, prior to the home being occupied.
7. A covered front porch with a minimum area of 100 square feet must be added to front of the house, which meets the requirements of Section 7.3 (b) of the Form-Based Code for Residential Façades.
8. The existing street facing fence must be removed. If a new fence is installed, it must meet all current code and permit requirements.

**ATTACHMENTS:**

Attachment 1: Location Map

Attachment 2: Letter from Applicant

Attachment 3: Surrounding Property Owners' Responses

Attachment 4: Site Plan and Before/After Picture of Property

Attachment 5: Photographs of Nearby Properties



# Property Location Map for 1103 Cedar Street



## Legend

 1103 Cedar Street



**FASEB**

Federation of American Societies  
for Experimental Biology

Science Research Conferences

Planning and zoning commission,  
I Helen Juarez have been in the  
community of Bastrop. I reside on 1103  
cedar st. Bastrop Tx 78602 with my 10 yr  
old granddaughter which ive been raising  
alone with no support from either parent.  
Working at Walmart for 17 years trying to  
make ends meet. My ~~trailer~~ house is a  
older model 1974 two bedroom 2 bath  
kitchen. Matinee has been very hard to  
afford. Ive become homeless due to the  
act of God a large branch of a pecan  
tree fell onto the roof of the center  
of trailer home which could not be  
repaired due to the fact i had no insurance  
on such a late model. I used what i had  
to pay for movers in which issued me  
of permits and all requirements needed.  
My daughter Florencia Juarez Lamb and her  
husband have taken me in for such a  
time and have financed the needed terms  
and requirements to please allowe me  
to have my trailer my permanent residence.

FASEB Science Research Conferences  
9650 Rockville Pike ♦ Bethesda, MD 20814  
<http://www.faseb.org/src>

Thank You,  
Helen Juarez



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.

RECEIVED

MAY 18 2017

Property Owner Name: Carol Kuzmick  
 Property Address: 1508 Hill St  
 Phone (optional): \_\_\_\_\_  
 Mailing Address: 20209 Grand Banks, Pflugerville, TX 78660  
 Email (optional): \_\_\_\_\_  
 Property Owner's Signature: Carol Kuzmick

By [Signature]

Comments: (Optional) you just raised my home value by 18% and now you want to lower the value by adding a manufactured home. I would only agree if my home value is lowered, not increased (by the appraisal district)

Please provide reply to: Planning and Development Department  
 City of Bastrop, P.O. Box 427, Bastrop, Texas 78602  
 or via fax (512) 332-8829

Re: Conditional Use Permit for a manufactured home at 1103 Cedar Street, notices mailed May 10, 2017

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: MARY HERRICK  
 Property Address: 1504 Hill St 78602  
 Phone (optional): \_\_\_\_\_  
 Mailing Address: same  
 Email (optional): mary.w.herrick@gmail.com  
 Property Owner's Signature: Mary Herrick  
 Comments: (Optional)

RECEIVED

MAY 18 2017

By [Signature]

I am opposed to putting anyone on the street - especially in a situation as this which was through no fault of her own!

Please provide reply to: Planning and Development Department  
 City of Bastrop, P.O. Box 427, Bastrop, Texas 78602  
 or via fax (512) 332-8829

Re: Conditional Use Permit for a manufactured home at 1103 Cedar Street, notices mailed May 10, 2017

**NOTICE OF PUBLIC HEARINGS  
PLANNING AND ZONING COMMISSION AND CITY COUNCIL**

Dear Property Owner:

The **Bastrop Planning and Zoning Commission** will conduct a public hearing on **Thursday, May 25, 2017 at 6:00 p.m.** and the **Bastrop City Council** will conduct a public hearing in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** to consider a request for a Conditional Use Permit to allow a manufactured home at 1103 Cedar Street. The property consists of 0.289 acres, being a portion of Building Block 20, East of Main Street, an area zoned N, Neighborhood, within the city limits of Bastrop, Texas.

Owner/Application: Helen Juarez

Address: 1103 Cedar Street

Legal Description: 0.289 acres, being a portion of Building Block 20, East of Main Street

**PLEASE SEE ATTACHED SITE LOCATION MAP & LETTER FROM PROPERTY OWNER**

As a property owner within 200' of the above referenced property, you are being notified of the public hearings and invited to attend to express your opinion. Petitions and letters, either in support or opposition to this request, may be submitted to the Planning Department at 1311 Chestnut Street or mailed to P.O. Box 427, Bastrop, Texas 78602 (512) 332-8840 any time prior to the public hearings.

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.

RECEIVED

MAY 18 2017

Property Owner Name: Leola Caldwell Carman By [Signature]  
Property Address: 1107 Cedar St.  
Phone (optional): 512 321 2671  
Mailing Address: SAME  
Email (optional): \_\_\_\_\_  
Property Owner's Signature: Leola Carman  
Comments: (Optional)

It is a hundred times better than the old trailer that was there. It looks like a very nice house

Please provide reply to: Planning and Development Department  
City of Bastrop, P.O. Box 427, Bastrop, Texas 78602  
or via fax (512) 332-8829

City of Bastrop Planning Dept.  
May 15 2017

Dear sirs. I am writing this note in regards to Mrs Helen Juarez's request for a permit to install a modular home on her lot on cedar street in Bastrop. Mrs Juarez has been my neighbor for many years. Her old trailer was in terrible condition and was seriously damaged in a wind storm recently. She has worked hard for years and helped support her grand kids and never asked for any thing from the government or the city. Working at walmart and helping her kids trying to get along does not create a hugh wealth acummlation and this Modular home is sure a hugh step forward from where she was with the old trailer and it is a very good looking house. I highly recommend that you approve this application.

  
Charles Carman  
1107 Cedar St.  
Bastrop, Tx 78602

RECEIVED

MAY 18 2017

By \_\_\_\_\_  


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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. **(ARE THEY ALLOWED TO MOVE ANOTHER ONE IN BEFORE THEY GET APPROVAL/PERMISSION?)**  
 I have no objection to the request.

Property Owner Name: KRISTINE NGUYEN

Property Address: 1509 HILL ST

Phone (optional): \_\_\_\_\_

Mailing Address: 1509 HILL ST

Email (optional): \_\_\_\_\_

Property Owner's Signature: Kristine Nguyen

Comments: (Optional)

**(APRIL 27th, 2017)  
TRAILER ADDED**

**THEY ALREADY MOVED ANOTHER TRAILER THERE. THEY DO NOT UPKEEP THE PROPERTY (IN THE BACK) I HAVE NOT SEEN THE TREE BRANCH THEY CLAIM. THE TRAILER HAS BEEN FALLING APART FOR SOME TIME.**

Please provide reply to:

Planning and Development Department  
City of Bastrop, P.O. Box 427, Bastrop, Texas 78602  
or via fax (512) 332-8829

RECEIVED

MAY 18 2017

By [Signature]

**NOTICE OF PUBLIC HEARINGS  
PLANNING AND ZONING COMMISSION AND CITY COUNCIL**

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Owner/Application: Helen Juarez

Address: 1103 Cedar Street

Legal Description: 0.289 acres, being a portion of Building Block 20, East of Main Street

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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.

RECEIVED

MAY 16 2017

By     *JL*    

Property Owner Name:     *Jimmy & Linda Mathison*    

Property Address:     *1103 Cedar St*    

Phone (optional):     *512 361 3458*    

Mailing Address:     *PO Box 1202 Bastrop*    

Email (optional): \_\_\_\_\_

Property Owner's Signature:     *Jimmy Mathison*    

Comments: (Optional)

    *Let this lady replace her home*    

    *She always keeps her place very clean.*    

Please provide reply to: Planning and Development Department  
City of Bastrop, P.O. Box 427, Bastrop, Texas 78602  
or via fax (512) 332-8829

**NOTICE OF PUBLIC HEARINGS  
PLANNING AND ZONING COMMISSION AND CITY COUNCIL**

Dear Property Owner:

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Owner/Application: Helen Juarez

Address: 1103 Cedar Street

Legal Description: 0.289 acres, being a portion of Building Block 20, East of Main Street

**PLEASE SEE ATTACHED SITE LOCATION MAP & LETTER FROM PROPERTY OWNER**

As a property owner within 200' of the above referenced property, you are being notified of the public hearings and invited to attend to express your opinion. Petitions and letters, either in support or opposition to this request, may be submitted to the Planning Department at 1311 Chestnut Street or mailed to P.O. Box 427, Bastrop, Texas 78602 (512) 332-8840 any time prior to the public hearings.

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: Jennifer E. bhw Outback

Property Address: 1503 Hill

Phone (optional): \_\_\_\_\_

Mailing Address: 11

Email (optional): \_\_\_\_\_

Property Owner's Signature: [Signature]

Comments: (Optional)

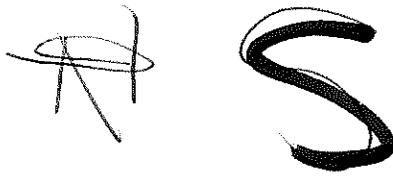
Without question, let her live how she needs to.

Please provide reply to:

Planning and Development Department  
City of Bastrop, P.O. Box 427, Bastrop, Texas 78602  
or via fax (512) 332-8829

6:04 pm  
rcvd 5/25/17 @ the meeting

FARM LOT 20, E.M.S.



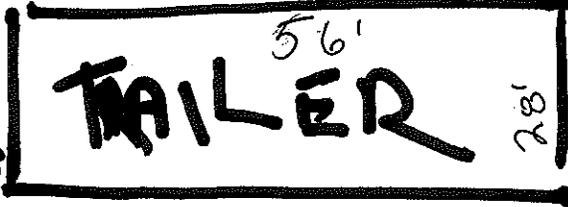
EAST 90'

NW CORNER  
L.D. PREWITT, et ux  
111/183



62' 6"

RALPH HOLLIGAN



140'  
NORTH

140'  
SOUTH

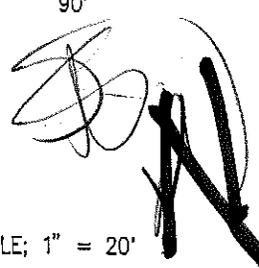
Handwritten scribbles and '14' 10"' with arrows pointing to the left boundary.

Handwritten scribbles and '18' 9"' with arrows pointing to the right boundary.

50' 2"



WEST 90'



SCALE: 1" = 20'

CEDAR ST

HELEN JUAREZ



ROAD

Previous Mobile Home





Current Manufactured Home



Attachment 5: Photographs of Nearby Properties





**ORDINANCE 2017- 17**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS GRANTING A CONDITIONAL USE PERMIT TO ALLOW A MANUFACTURED HOME, ON 0.289 ACRES OF BUILDING BLOCK 20, EAST OF MAIN STREET, LOCATED AT 1103 CEDAR STREET, WITHIN THE CITY LIMITS OF BASTROP, TEXAS; SETTING OUT CONDITIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Helen Juarez (hereinafter referred to as “Applicant”) submitted a request for a Conditional Use Permit (CUP) to allow manufactured home for 0.289 within a portion of Building Block 20, East of Main Street, within the City limits of Bastrop, Texas, hereinafter referred to as “the Property”; and

**WHEREAS**, a location map is attached hereto as Exhibit “A” (the “Property”); and

**WHEREAS**, the Property is currently zoned as Form-based Code Character Zone, N, Neighborhood; and

**WHEREAS**, pursuant to Section 10.4 of the City’s Zoning Ordinance, notice of the rezoning 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 May 25, 2017; and

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

**WHEREAS**, pursuant to Section 10.4 of the City’s Zoning Ordinance, notice of the rezoning request was given as required by the Ordinance, and the City Council of the City of Bastrop held a public hearing on the Conditional Use Permit on June 13, 2017 to consider the Applicant’s request to install a manufactured house; 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:** The Property, situated in 0.289 acres within a portion of Building Block 20, East of Main Street located at 1103 Cedar Street, within the city limits of Bastrop, Texas as more particularly shown and described on attachments Exhibit “A”, shall be and is hereby approved with the following conditions to:

- a. Construction shall be in conformance with the City of Bastrop regulations.
- b. All necessary permits for the proposed development shall be acquired prior to occupying the building.
- c. A Building Permit shall be applied for and secured within fourteen (14) days from the date the Conditional Use Permit is granted (second reading of the ordinance). **(Note: The Zoning Ordinance states that a permit shall be secured within one year, but due to the current existence of the home, Staff recommends shortening this timeframe).** A building permit is issued in order to document and inspect the work required to install the home, connect utilities, and make any other improvements to the property.
- d. The accessory structures and other debris in the backyard must be cleaned up and brought into compliance with the Property Maintenance Code within three months from the date the Conditional Use Permit is granted.
- e. The roof of the home must be structurally sound and not present any health and safety issues.
- f. The skirting must be cleaned and reattached to the front and sides of the structure within six months from the date the Conditional Use Permit is granted.
- g. A covered front porch with a minimum area of 100 square feet must be added to front of the house. All other exterior exits/entryways need stairs and landing that meet the building code requirements. These conditions must be met prior to the home being occupied.
- h. Existing street facing fence must be removed within six months from the date the Conditional Use Permit is granted. If a new fence is installed, it must meet all current code requirements and be constructed after applying for and receiving a fence permit.
- i. The covered parking and landscaping requirements in Section 35.4 of the Zoning Ordinance must be installed within six months from the date the Conditional Use Permit is granted.

**Section 2:** This ordinance shall take effect upon passage and in accordance with the laws of the State of Texas.

**Section 3:** 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 4:** 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 ACKNOWLEDGED on First Reading on the 13<sup>th</sup> day of June 2017.

READ and APPROVED on the Second Reading on the 27<sup>th</sup> day of June 2017.

**APPROVED:**

\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
David Bragg, City Attorney



# Property Location Map for 1103 Cedar Street



## Legend

 1103 Cedar Street



# STAFF REPORT

**MEETING DATE:** June 13, 2017

**AGENDA ITEM:** 9B

**TITLE:**

Consider action to approve the first reading of Ordinance No. 2017–15 amending the Code of Ordinances by amending Article 4.03 (taxicabs, shuttles and touring vehicles) providing the requirements of operating a taxicab, shuttles and touring vehicles and designating the City Manager or his or her designee to enforce all requirements; approving a repealing clause; establishing an effective date and move to include on the June 27, 2017, agenda for a second reading.

**STAFF REPRESENTATIVE:**

Steve Adcock, Public Safety Director

**BACKGROUND/HISTORY:**

Staff has received several calls on this ordinance and the interpretation of it. Staff agrees that the ordinance should be updated and clarified.

**POLICY EXPLANATION:**

The changes to this ordinance center around who must comply with this ordinance, the requirements to be issued a permit and give authority to the City Manager or his/her designee.

**FUNDING SOURCE:**

N/A

**RECOMMENDATION:**

Consider action to approve the first reading of Ordinance No. 2017–15 amending the Code of Ordinances by amending Article 4.03 (taxicabs, shuttles and touring vehicles) providing the requirements of operating a taxicab, shuttles and touring vehicles and designating the City Manager or his or her designee to enforce all requirements; approving a repealing clause; establishing an effective date and move to include on the June 27, 2017, agenda for a second reading.

**ATTACHMENTS:**

Final version of Ordinance 4.03

Power point presentation



# City of Bastrop Ordinance

## Section 4.03 Taxicabs, Shuttles and Touring Vehicles

### Suggested Changes to Ordinance for Council Consideration as discussed at April 25<sup>th</sup> Work Session





# City of Bastrop Ordinance



## Section 4.03.007 – License required; exemptions

### Current Ordinance:

Exempt from ordinance *“if temporarily in the city and having their operating base outside of the city.”*

### Proposed Change:

Delete Section 4.03.001 (a) (1) to require anyone operating inside the city to comply with this ordinance.

### **Policy consideration:**

This change would close the loophole of someone operating inside the city that may not be qualified to drive our citizens or visitors around. An example would be if someone lives in the county and uses that address as their operating base. They could use drivers that would not normally be allowed if they were required to follow the city ordinance. The City of Austin requires ALL drivers to be registered with the City, regardless of home base, for this reason.





# City of Bastrop Ordinance

## Section 4.03.007 – License required; exemptions

### Current Ordinance:

### Proposed Change:

Add (3) A transportation network company prearranging a ride through the entity’s digital network. A transportation network company and a digital network have the same meaning as defined in Chapter 2402 Occupations Code.

### **Policy consideration:**

With HB 100 signed into law this legislation, adding this exemption would keep the City in compliance with the new law. A municipality is not allowed by law to regulate a transportation network company (Uber) that prearranges a ride through a digital network.



# City of Bastrop Ordinance



## Section 4.03

### Consistent identification of staff responsible for enforcement

#### Current Ordinance:

Most places in the ordinance refers to the City Manager and some places refer to the Chief of Police

#### Proposed Change:

Clean the language up to refer to the City Manager or his/her designee

#### **Policy consideration:**

This change will make the ordinance more uniform throughout and always refer to the City Manager or his/her designee. It will also be less confusing to the customer.





# City of Bastrop Ordinance



## Section 4.03.007 (e) (4) – Standards for Vehicles

### Current Ordinance:

Each vehicle shall have permanently affixed to the front doors lettering at least 2 ½ inches high designating it as a taxicab, shuttle or touring vehicle and identifying the licensee.

### Proposed Change:

Strike this section of the ordinance. Language is proposed in future slide to add language to Section 4.03.002 – Vehicle Operation Requirements as (1)

### **Policy consideration:**

The days of flagging down a cab are over. People now use the Internet to get a cab. Also, many cab operators use their personal vehicle as a cab. Requiring permanent lettering would cause issues for these drivers when off duty.





# City of Bastrop Ordinance

## Section 4.03.002 (f) – Vehicle Operation Requirements

### Current Ordinance:

No person may drive any taxicab, shuttle or touring vehicle if he or she has been convicted of any alcohol or drug offense that could affect his ability, capacity, or fitness required to perform the duties or poses a threat to public health safety and welfare.

### Proposed Change:

No person may drive any taxicab, shuttle or touring vehicle in the city: (1) for one year if convicted of two or more moving traffic violations or one or more chargeable motor vehicle accidents in the preceding 12 months, (2) for three years from the date of conviction of a class B misdemeanor, (3) for five years from the date of a conviction of any class A misdemeanor, (4) indefinitely for any felony conviction. It should be noted that probated or deferred adjudication is considered a conviction.

### Policy consideration:

The current ordinance does not give ANY grace to the age of a conviction for some violations. By making the proposed changes, it clearly defines a period of time more appropriate for each class of conviction and allows for people to not be unduly punished for the rest of their life.



**BASTROPTX**  
Heart of the Lost Pines / Est. 1852



# City of Bastrop Ordinance



## Section 4.03.002 – Vehicle Operation Requirements

### Current Ordinance:

Replaces language deleted from Section 4.03.001 (e) (4) as permanent lettering

### Proposed Change:

Add (I) to this section: “All taxicabs, shuttles, and touring vehicles shall have affixed to the front left windshield a valid permit issued by the City while in operation.”

### **Policy consideration:**

Staff will come up with a solution that meets this proposed requirement, so law enforcement will be able to identify an authorized taxicab, shuttle or touring vehicle.





# City of Bastrop Ordinance



## Section 4.03.002 (c) – Restrictions on Operation of Taxicabs

### Current Ordinance:

It shall be the duty of every taxicab operated in the City to render ad valorem taxes to the City all vehicles or other equipment used in such business. Failure to render for and pay such ad valorem taxes to the City before they become delinquent shall operate as a revocation of any license authorizing the operating of any taxicab over the public streets, alleys, and ways of the City.

### Proposed Change:

Delete Section 4.03.006 (c)

### **Policy consideration:**

After researching this section, current laws are already in place that control ad valorem tax. Therefore, this section is no longer needed.





**ORDINANCE NO. 2017 - 15**

**AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING ARTICLE 4.03 (TAXICABS, SHUTTLES AND TOURING VEHICLES) PROVIDING THE REQUIREMENTS OF OPERATING A TAXICAB AND DESIGNATING THE CITY MANAGER OR HIS OR HER DESIGNEE TO ENFORCE ALL REQUIREMENTS; APPROVING A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, The City Council is charged with the regulation of taxicabs, shuttles and touring vehicles; and

**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 responsibility to regulate and monitor the taxicabs, shuttles and touring vehicles is essential for the safety and wellbeing of our community; and

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

**Section 1:** That Division 1 of Article 4.03, Taxicabs, Shuttles, and Touring Vehicles of the Code of Ordinances of the City of Bastrop, Texas, is hereby amended to read as follows:

**ARTICLE 4.03 - TAXICABS, SHUTTLES AND TOURING VEHICLES**

**DIVISION 1. - GENERALLY**

**Sec. 4.03.001 - License required; exemptions.**

**Section (a); changes to read as follows**

Delete (a)(1) and move (a)(2) to (a)(1) and (a)(3) to (a)(2). Add (a)(3) to read as follows: A transportation network company prearranging a ride through the entity's digital network. A transportation network company and a digital network have the same meaning as defined in Chapter 2402 Occupations Code.

**Section (b); changes to read as follows**

*Determination of fitness of applicant.* Before the City Secretary issues an annual license to an applicant for a taxi, shuttle, or touring vehicle, the City Manager or his/her designee, after consulting with applicable staff and directors, shall first determine the applicant is fit, able, and willing to perform the proposed service. If the City Manager or his/her designee finds that the applicant is not fit, able and willing to perform the service the City Manager or his/her designee shall notify the applicant in writing that the application has been rejected. The applicant may, within ten (10) days after written notice of the decision of the City Manager or his/her designee, appeal the decision to the City Council.

...

**Section (c) (8); changes to read as follows**

... shall be provided to the City Manager or his/her designee. Thereafter, the City Manager or his/her designee shall identify ...

**Section (d); changes to read as follows**

... The City Manager or his/her designee may require a license holder to obtain additional insurance depending on the service to be provided, the type of event and the number of people to be transported. In accord with this section, the City Manager or his/her designee ...

**Section (e)(4); delete**

**Sec. 4.03.002 - Vehicle operation requirements.**

**Section (b); changes to read as follows**

... For good cause, at any time, the City Manager or his/her designee shall have the discretion...

**Section (f) changes to read as follows**

No person may drive any taxicab, shuttle or touring vehicle in the city: (1) for one year if convicted of two or more moving traffic violations or one or more chargeable motor vehicle accidents in the preceding 12 months, (2) for three years from the date of conviction of a class B misdemeanor, (3) for five years from the date of a conviction of any class A misdemeanor, (4) indefinitely for any felony conviction. It should be noted that probated or deferred adjudication is considered a conviction.

**Section (h); changes to read as follows**

... the licensee shall contact the City Manager or his/her designee to determine appropriate access.

**Section (l); added section l**

All taxicabs, shuttles, and touring vehicles shall have, affixed to the front left windshield, a valid permit issued by the City while in operation.

**Sec. 4.03.003 - Inspection of vehicles.**

**Section 4.03.003; changes to read as follows**

The City Manager or his/her designee, may cause inspections ... Vehicles failing such random city inspections shall not be allowed to operate on city streets or alleys until brought into a condition satisfactory to the City Manager or his/her designee.

**Sec. 4.03.006 - Restrictions on operation of taxicabs.**

**Section 4.03.006 (c); delete (c) and move (d) up to (c)**

**Sec. 4.03.007 - Restriction on shuttle operations.**

**Section 4.03.007 (a) changes to read as follows**

In the event ... shall provide to the City Manager or his/her designee the routes ...

**Sec. 4.03.031 - Additional requirements.**

**Section 4.03.031 (3) changes to read as follows**

The applicant has agreed to operate only on a schedule and route and over the designated traffic lanes approved by the City Manager or his/her designee ...

**Sec. 4.03.032 - Termination of license.**

**Section 4.03.032; changes to read as follows**

... notice and hearing before the City Manager or his/her designee.

**Section 2:** That all ordinances of the City of Bastrop, Texas in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Bastrop, Texas not in conflict with the provisions of this ordinance shall remain in full force and effect.

**Section 3:** That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**Section 4:** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinance as a whole.

**Section 5:** This ordinance shall take effect from and after its passage and the publication of the caption as the law and Charter in such cases provide.

READ and ACKNOWLEDGED on First Reading on the 13<sup>th</sup> day of June 2017.

READ and APPROVED on the Second Reading on the 27<sup>rd</sup> day of June 2017.

**APPROVED:**

\_\_\_\_\_  
Connie Schroeder, Mayor

**ATTEST:**

\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
David Bragg, City Attorney