

ORDINANCE NO. 2019-44

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CITY CODE OF ORDINANCES, CHAPTER 1, TITLED "GENERAL PROVISIONS," ARTICLE 1.02, TITLED "ADMINISTRATION," SECTION 1.02.002, ARTICLE 1.04, TITLED "BOARDS, COMMITTEES AND COMMISSIONS," SECTIONS 1.04.001, 1.04.002, AND ADDING 1.04.003; ARTICLE 1.05, TITLED "HOUSING AUTHORITY," SECTION 1.05.002, ARTICLE 1.10, TITLED "PARKS," SECTION 1.10.001, ARTICLE 1.12, TITLED "LIBRARIES," DIVISION 2, TITLED "LIBRARY BOARD," SECTION 1.12.062, ARTICLE 1.15, TITLED "CODE OF ETHICS," DIVISION 3, TITLED "IMPLEMENTATION," SECTION 1.15.013; ARTICLE 1.16, TITLED "BASTROP ART IN PUBLIC PLACES," SECTION 1.16.002 AND 1.16.003; ARTICLE 1.17, TITLED "MAIN STREET ADVISORY BOARD," SECTION 1.17.001; CHAPTER 3, TITLED "BUILDING REGULATIONS," ARTICLE 3.02, TITLED "CONSTRUCTION STANDARDS BOARD OF ADJUSTMENTS AND APPEALS," SECTIONS 3.02.001, 3.02.002, AND 3.02.003; CHAPTER 15, TITLED "CEMETERIES," ARTICLE 15.01, TITLED, "FAIRVIEW CEMETERY," SECTION. 15.01.002; UNIFYING APPOINTMENTS, TERMS, NUMBER OF MEMBERS, RESIDENCY REQUIREMENTS, AND THE FILLING OF VACANCIES FOR CITY BOARDS AND COMMISSIONS; PROVIDING FOR FINDINGS OF FACT, ENACTMENT, DISSOLUTION, REPEALER, SEVERABILITY, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

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

WHEREAS, the City is authorized by Texas Local Government Code § 51.001 to adopt or amend any ordinance is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

WHEREAS, Article III, Section 3.01 of the Bastrop City Charter gives the City Council the authority to provide for boards and commissions, and to appoint the members of all such boards and commissions; and

WHEREAS, the City currently has several boards and commissions, with requirements for each board and commission codified in various sections of the Bastrop City Code; and

WHEREAS, the City Council has determined that unifying and simplifying the requirements for its boards and commissions is in the best interest of the City and its citizens; and

WHEREAS, the City Council has determined that formally dissolving the Bastrop Vision Task Force and the Form Based Code North Side Task Force, which once played active roles in shaping the City of Bastrop but are no longer active, is in the best interest of the City and its citizens; and

WHEREAS, the City Council intends to amend these requirements when the Cultural Arts Master Plan is adopted.

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

SECTION 1. FINDINGS OF FACT

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

SECTION 2. ENACTMENT

Chapter 1, Article 1.02, Section 1.02.002, Article 1.04, Sections 1.04.001, 1.04.002, and 1.04.003; Article 1.05, Section 1.05.002, Article 1.10, Section 1.10.001, Article 1.12, Division 2, Section 1.12.062, Article 1.15, Division 3, Section 1.15.013, Article 1.16, Section 1.16.002 and 1.16.003; Article 1.17, Section 1.17.001; Chapter 3, Article 3.02, Sections 3.02.001, 3.02.002, and 3.02.003; Chapter 15, Article 15.01, Section 15.01.002 of the Code of Ordinances of the City of Bastrop are amended to read as described and attached here to as Exhibit "A."

SECTION 3. DISSOLUTION

The Bastrop Vision Task Force, which was recognized as a formal advisory body of the City of Bastrop in Resolution 2015-R-29, adopted on December 8, 2015, and the Form Based Code North Side Task Force, which was established by the Bastrop City Council on May 26, 2013, are hereby dissolved.

SECTION 4. REPEALER

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

SECTION 5. SEVERABILITY

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

SECTION 6. ENFORCEMENT

The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance. Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and/or equity.

SECTION 7. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

SECTION 8. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

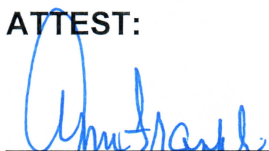
READ & APPROVED on First Reading on the 12th day of November 2019.

READ & ADOPTED on the Second Reading on the 26th day of November 2019.

APPROVED:

by: 
Connie B. Schroeder, Mayor

ATTEST:


Ann Franklin, City Secretary

APPROVED AS TO FORM:


Alan Bojorquez, City Attorney

City of Bastrop, TX
CODE OF ORDINANCES
Chapter 1 – General Provisions
ARTICLE 1.02- ADMINISTRATION

Sec. 1.02.002 – Form of government.

(a) Title 28, chapters 1-10, Revised Civil Statutes of the State of Texas 1925, and amendments thereto, relating to cities and towns, are hereby adopted by the city, and the government of the city and its affairs shall hereafter be guided thereby. The City Council having determined that there exist six hundred (600) inhabitants or more within the city, and having adopted this section by a two-thirds (2/3) vote of the Council, the City Secretary is hereby directed to file notice of said adoption with the county clerk as the law provides.

(b) *Uniform advisory bodies' attendance requirements.* In order to ensure the effectiveness and proper operation of the city's appointed, advisory bodies, the City Council requires all members of city advisory bodies, to maintain a suitable attendance record for such civic service. Because regular attendance is vital to effective service, the City Council requires attendance as follows:

(1) Members of all advisory bodies are required to attend a minimum of two-thirds (66%), of the duly called regular meetings of the member's advisory body during any twelve (12) consecutive month (i.e., cumulative 'rolling') period. A member who fails to achieve this required attendance level or who misses three (3) consecutive, regularly scheduled meetings shall provide the ~~City Manager~~ City Secretary, within two (2) weeks following the absence, a letter identifying which of the reasons noted below reflects the basis for the absence in subsections (A)—(C) or, alternatively, a written request that the Council excuse the absence pursuant to subsection (D) below:

(A) Medical circumstances involving the member, or the member's immediate family;

(B) Urgent family matters that are not medical in nature;

(C) Required attendance at events/meetings of the member's primary employment; or

(D) Any other “absence” excused by the City Council, upon the Council’s receipt of a written explanation and request made by the absentee member that the Council make an exception and excuse same.

Absences caused by circumstances noted in subsections (A) through (C), or otherwise excused by the Council pursuant to subsection (D), above, shall not count toward the 66% attendance requirement set forth in subsection (1) above, unless the Council determines otherwise, on a case-by-case basis.

(2) Each advisory body chair shall follow the rules and procedures set forth by City Council in accordance with Section 3.13 of this Code and this section, and ensure that each advisory body member is aware of this uniform attendance requirement.

(3) For purposes of calculating attendance percentages, as required herein, the term “duly called regular meetings” includes only the standard and routine meetings of the advisory bodies, and specifically does not include specially called workshops or other specially convened meetings of the advisory bodies.

(4) The city staff member or department director assigned as the staff liaison to the advisory body is responsible for accurately recording member attendance at all advisory bodies’ meetings. Chairs are not responsible for recording attendance, nor shall they be responsible for and/or asked or authorized to determine whether an absence by a board member is “excused” or falls within the city’s attendance requirements.

(5) The city staff member or department director assigned as the staff liaison to each advisory body shall provide the attendance records monthly for their respective advisory body to the City Secretary. The City Secretary will notify the Mayor [and Council Liaison](#) if a member is out of compliance with the attendance requirements set forth in (b)(1).

(c) *Uniform quorum determination.*

(1) The City Council does hereby establish a uniform rule for determining whether a quorum of any advisory body is present and/or had been convened.

(2) In this subsection, the following terms shall be defined as follows: Vacancy and vacancies. A vacancy exists on an advisory body when a person has not been appointed to a place or an appointed member has ceased service, and no alternate member is serving in the vacant place, and the City Council has not taken action to fill the position.

(3) Appointed members are required to comply with the city's ethics article, with regards to appearances before boards and city bodies.

(4) Except as otherwise required by state law, or in circumstances otherwise set forth herein below, a simple majority of the total membership, excluding vacancies, of each advisory body shall constitute a quorum for purposes of convening a meeting, and/or conducting the business of the advisory body.

(d) *Uniform training.*

(1) The City Council does hereby establish uniform training requirements for advisory body members, said training shall be provided by the city at no cost to the members of the advisory bodies. The following types of information shall be provided to appointees to the city's advisory bodies at the training sessions:

(A) Attendance requirements for service on a city advisory body.

(B) Duties, responsibilities and roles of members on the respective city advisory bodies.

(C) Open meeting and public information laws.

(D) State and local conflicts of interest and ethics laws.

(E) City polices and regulations, as applicable.

(2) The city shall conduct the above-referenced training sessions once a year or as needed, at dates that the City Manager determines to be best for the various members of the city's advisory bodies. Members are required to attend as quickly as possible after appointment, but in no event shall new appointment fail to attend within one year of their initial appointment. In addition, all advisory body members are required to complete online open government training (open meetings and public information) within thirty (30) days of appointment. The city staff member or department director assigned as the staff liaison to each body is responsible for notifying the City Manager if any member has failed to attend the required training within a year of the member's appointment and/or to complete the state's required open government online training within thirty (30) days of appointment. The City Manager will report, periodically to the Council concerning the status of board training and attendance by members at same. Members who have failed to attend the city training or to obtain the online open government training required by state law, within the time frames set forth herein, shall be suspended from service on their appointed

boards and commissions until such time as they demonstrate to the City Secretary that all required training has been successfully completed.

ARTICLE 1.04- BOARDS, COMMITTEES AND COMMISSIONS

Sec. 1.04.001 - Appointments.

(a) Appointments to city boards shall be made pursuant to the following procedures:

(1) Annual Recruitment

a) In June of each year, the City Secretary will post notices of any advisory body position with terms expiring at the end of the current fiscal year or are currently vacant in established places or new places becoming available for appointment to city advisory bodies at City Hall and any other media sources selected.

b) In July of each year, the city will hold a Volunteer Fair to inform the community of opportunities to service on city advisory bodies, and other volunteer opportunities within the community.

c) Applications to be considered for an advisory body position with a term starting October 1st must be received no later than August 15th. Applications received after August 15th will be held by the City Secretary and considered if a position becomes available mid-term.

d) By the end of August each year, the Mayor will review the applications to serve on the city's advisory bodies received by the City Secretary. City Council will conduct interviews of the qualified applicants

e) In September of each year, the Mayor will select his/her desired appointees and, subject to the concurrence of the Council, appoint those persons selected by him/her to the available advisory body seats, with ratification effective October 1st.

f) Unless otherwise controlled by state or local law, any appointee may be removed for cause or no cause, at the will of the Council.

(2) Mid-Term Appointments

(a) If an advisory board position becomes vacant mid-term, the Mayor will review the applications on file with the City Secretary and/or may

instruct the City Secretary to post notice of the vacancy and solicit applications to fill the vacancy.

(b) The mayor may conduct interviews of the applicants, if necessary, and, subject to the concurrence of the City Council, appoint individuals to fulfill the term of the vacant advisory body seat.

(c) The mayor will strive to fill all advisory body seats vacated mid-term within 90 days.

(3) In November of each year, the City will recognize those appointed to serve on the various boards at a Volunteer Banquet.

Sec. 1.04.002 - Membership, terms

Unless otherwise controlled and mandated by state or federal law and/or City Charter, the following overarching provisions shall apply to the city's boards, commissions, task forces, committees and advisory bodies ("board(s)," "body" or "advisory bodies"):

(1) Board members shall be appointed by the mayor and confirmed by the Council, for terms of three (3) years. No board member shall serve more than two (2) consecutive terms on a particular advisory body. An individual that has previously served two consecutive terms on a particular advisory body, must wait one full year before being reappointed to the same advisory body. The Mayor, upon a finding of good cause, has the authority to waive this one-year waiting period.

(2) All city advisory bodies shall consist of seven (7) members and each seat shall be assigned a "place."

(3) Advisory body members' terms of service shall be "staggered," three (3) year terms, so that the entire membership of the board will not be subject to replacement at any single point in time. If necessary, to establish initial staggering of the membership Place 1 and Place 2 shall initially serve a three (3) year term, Place 3 and Place 4 shall initially serve a two (2) year term, and Place 5, Place 6 and Place 7 shall initially serve one (1) year terms.

(4) In the event of a vacancy, an individual appointed to fill the vacant place will serve only the remaining term of the individual who is being replaced by the appointee, so that the staggering of terms shall remain intact.

(5) All advisory body members shall reside within the city limits or the City's Extraterritorial Jurisdiction (ETJ). No more than two members of a particular advisory body can be from the ETJ. Upon a showing of good cause, the Mayor may waive the residency requirement.

(7) Each advisory body will have a City Council Member assigned as Council Liaison. This will facilitate the transfer of information from the advisory bodies to the City Council.

Sec. 1.04.003 – Procedures

(a) Each advisory body will follow the rules and procedures set forth by City Council in accordance with Section 3.13 of this Code, including agenda order, unless specifically addressed by this Chapter.

(b) The staff Liaison will be responsible for preparing and posting the agenda but will provide the advisory body chair an opportunity to review and comment on the agenda prior to posting.

ARTICLE 1.05- HOUSING AUTHORITY

Sec. 1.05.002 – Membership, terms and filling of vacancies.

(a)

(a) The city's housing authority should be governed by five (5) commissioners that serve two (2) year terms. One of the commissioners of the city's housing authority shall be a resident ("resident member") of a public housing project over which the city's housing authority has jurisdiction, in compliance with the Local Government Code, section 392.0331. Including the one resident of the public housing project over which the city's housing authority has jurisdiction, four (4) of the commissioners shall be residents of the city and one of the commissioners may reside within the city's extraterritorial jurisdiction (ETJ) (so that the total number of commissioners is five (5)), so long as the extraterritorial jurisdiction residence is also located within five (5) miles of the city's corporate limits.

(b) Each seat on the commission will be assigned a "place." Commission members' terms of service shall be "staggered," so that the entire membership of the commission will not be subject to replacement at any single point in time.

(c) The rules for filling vacancies are set forth in this chapter of the code, Section 1.04.002.

(d) Attendance requirements for the commissioners are set forth in this code, section 1.02.002(b), et seq.

ARTICLE 1.10- PARKS

Sec. 1.10.001- Parks board.

(a) Created; *composition; compensation; appointment.*

(1) There is hereby created a parks board of the city. The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002. In their discretion, the parks board may also identify and name one minor, who resides within the BISD jurisdiction, to serve on the board as an ex officio, nonvoting youth member of the board. The youth member shall be enrolled in grades 9 -12 and serve a term in length identified by the parks board at the time of the youth member's selection. The members shall be known to be interested in public parks and public recreation and the proper use of the leisure time of the people of the city.

(2) One member of the board shall be held by the superintendent of the city's state park, or his/her designee, who may reside either within the city limits or in any other area within the BISD's jurisdiction.

(b) *Attendance.* Attendance requirements for the board members are set forth in this Code, section 1.02.002(b), et seq.

ARTICLE 1.12- LIBRARIES

DIVISION 2. – LIBRARY BOARD

Sec. 1.12.062- Membership.

(a) The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002.

(b) Attendance requirements for the board members are set forth in this code, section 1.02.002(b), et seq.

ARTICLE 1.15- CODE OF ETHICS

DIVISION 3. – IMPLEMENTATION

Sec. 1.15.013 – Board of Ethics.

(a) *Creation.* There is hereby created a Board of Ethics for the City of Bastrop. The rules for appointment of members, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002.

(b) *Number.* The Board of Ethics shall consist of five (5) regular members, and one (1) alternate member.

(c) *Ineligibility.* The following shall disqualify a person from serving on the Board of Ethics:

- (1) Current service as a city official;
- (2) Separation from city service as a city official within two (2) years of the appointment;
- (3) Familial relations within the third (3rd) degree of affinity (marriage) or consanguinity (blood or adoption); and/or
- (4) Conviction of a felony, or crime of moral turpitude.

(d) *Alternates.* An alternate member of the Board of Ethics shall attend meetings only upon request by the City Secretary's Office. The role of an alternate is to participate in meetings of the Board of Ethics as a replacement for a regular member who is absent or abstaining.

(e) *Scope of authority.* The jurisdiction of the Board of Ethics shall be limited to implementation and enforcement of this article.

(f) *Amendments.* The Board of Ethics may recommend amendments to this article. A recommendation from the Board of Ethics is not required for the City Council to exercise its discretion in amending this article.

(g) *Officers.* At the first meeting of each fiscal year, if a meeting is called, the Board of Ethics shall select from among its members a Chairperson and Vice-Chairperson.

(h) *Removal.* The City Council may by a vote of two-thirds ($\frac{2}{3}$) remove a member of the Board of Ethics for cause. Justifications warranting removal for cause shall include neglect of duty, incompetence, gross ignorance, inability or unfitness for duty, or disregard of the Code of Ordinances.

ARTICLE 1.16 – BASTROP ART IN PUBLIC PLACES

Sec. 1.16.002 – Membership, appointment, vacancies and attendance.

(a) The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in this chapter of the City Code, Section 1.04.002.

(b) In the sole discretion of the Mayor and confirmed by City Council, a member of the board may reside outside of the corporate limits and the extraterritorial limits so long as the appointed individual provides exceptional expertise with regard to the board's responsibilities.

(c) Attendance requirements for the board members are set forth in the code, section 1.02.002(b), et seq.

Sec. 1.16.003 – Purpose, powers and duties.

(a) The BAIPP shall act as an advisory board to the City Council in matters related to the city's art in public places program, with the goal of increasing awareness and appreciation of art, as well as increase civic pride, through the display of art in the city.

(b) *Art selection guidelines.* The BAIPP shall assist the City Council with acquiring Works of Art by:

(1) Identifying and recommending suitable Works of Art to be displayed.

(2) Facilitating the preservation of Works of Art to be displayed.

(3) Assisting with the process and methodology for competitively selecting Works of Art for acquisition and/or display.

(c) *Procedure for initiating calls for projects of the BAIPP.*

(1) At least ninety (90) days prior to publication of any call to artists, for a BAIPP project, the BAIPP Board shall submit the proposed Call to the office of the City Manager for evaluation.

(2) Additionally, the City Manager may create an in-house team of staff advisors to assist in evaluating the specifics required for each BAIPP projects, such as site identification and preparation, material requirements specific to the project, if any, security issues, and insurance issues.

(3) The City Manager will also determine whether it is necessary to involve the City Council in any approval for the proposed project, at that time (i.e., prior to the call publication).

(4) The City Manager will notify the BAIPP of any additional information required and also will notify the BAIPP Chairperson and staff Liaison when the City Manager's office has finished its evaluation of the proposed project and it is ready for publication of the call to artists.

(d) Funding

(1) The BAIPP shall be responsible for developing a “proposed” yearly operating budget for the acquisition and display of new Works of Art in the City of Bastrop, as well as, any ongoing maintenance and/or replacement (repair) responsibilities for those Works of Art currently under the City’s possession or control. This budget shall be submitted to the City Manager on or before June 1st of each calendar year.

ARTICLE 1.17 – MAIN STREET ADVISORY BOARD

Sec. 1.17.001 – Membership, terms and filling of vacancies.

(a) Residency requirements and vacancies are set forth in the Code, Section 1.04.002. The main street program board shall be composed of nine (9) regular voting members, whom shall be appointed by the mayor and confirmed by the City Council to serve for three-year terms. The Council may appoint additional ex-officio members and/or positions, who shall be identified to serve on the board.

(b) The bylaws of the board shall address procedural issues, such as but not limited to quorum counts and required attendance by members, which bylaws shall conform with the Council’s attendance requirements for the board members as set forth in this code, section 1.02.002(b), et seq. The bylaws shall fully outline member responsibilities and provide guidance for the participation of the ex-officio members, as well as regular members. Such by-laws are necessary to maintain the City of Bastrop Main Street Program’s Accreditation as both a National Main Street and Texas Main Street member. To maintain the above accreditation, the program must maintain an active board of directors and committees with current by-laws that are to govern operational aspects of the board.

Chapter 3 – Building Regulations

ARTICLE 3.02- CONSTRUCTION STANDARDS BOARD OF ADJUSTMENTS AND APPEALS

Sec. 3.02.001 – Established; appointment of members.

There is hereby established a board, to be called the construction standards board of adjustments and appeals. The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in Chapter 1 of the City Code, Section 1.04.002.

Sec. 3.02.002 – Composition.

The construction standards board of adjustments and appeals shall be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors, and/or builders. At least five (5) members of the board shall represent the following construction trades: plumbing, electrical, mechanical, and/or general contractor. In addition, there should be one member at-large from the building industry and one member at-large from the public. A board member shall not act in a case in which he has a personal or financial interest.

Sec. 3.02.003 – Absence from meetings.

Attendance requirements for the board members are set forth in this code, section 1.02.002(b), et seq.

Chapter 15 – Cemeteries

ARTICLE 15.01- FAIRVIEW CEMETERY

Sec. 15.01.002 – City as permanent trustee for perpetual care and creation of cemetery advisory board.

(a) The city as owner and operator of Fairview Cemetery is hereby authorized to act as a permanent trustee for the perpetual care and upkeep of plots and graves in the cemetery and shall accept such trust as provided in this article.

(b) *Cemetery advisory board.*

(1) The rules for appointment of members, the number of members comprising the board, the length of member terms, board residency requirements, and the rules for filling board vacancies are set forth in Chapter 1 of the City Code, Section 1.04.002.

(2) The role of the advisory board shall be to recommend rules to the City Council, as are necessary, concerning the use, care, control, management, restriction, and protection of the Fairview Cemetery. Any matter relating to the Fairview Cemetery shall be referred to the Bastrop Cemetery Advisory Board for their consideration and recommendation before the action is taken by the City Council, however, the advisory board's role shall be advisory only.

