

**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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**January 9, 2018 at 6:00 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. **EXECUTIVE SESSION (BEGINS AT 600 P.M.)**
  - 2A. City Council shall convene into closed executive session pursuant to Section 551.086 of the Texas Government Code to discuss competitive rates between Lower Colorado River Authority (LCRA) and Bastrop Power & Light (BP&L).
3. **TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION**

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

4. **PLEDGE OF ALLEGIANCE – Boys and Girls Club**

**TEXAS PLEDGE OF ALLEGIANCE**

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

5. **INVOCATION - Boys and Girls Club**
6. **PRESENTATIONS**

- 6A. Receive a presentation from Wayne Wood, Bastrop County Constable, recognizing Officer Tamera McIntyre for being named a finalist for the Central Texas Crime Prevention Association Award.
- 6B. Presentation by Bastrop County First Responders showing the life safety equipment purchased through the BP&L Community Support Grant.
- 6C. Presentation of Proclamation of the City Council of the City of Bastrop, Texas, recognizing January 15, 2018 as Martin Luther King Day.
- 6D. Presentation on "It's Time Texas Community Challenge" and the City's Happy Healthy New Year's Bash on January 13, 2018 at Bastrop Convention Center from 9:00 a.m. – Noon.
- 6E. Mayor's Report
- 6F. Councilmembers' Report
- 6G. City Manager's Report

## **7. WORK SESSION/BRIEFINGS**

- 7A. Receive presentation on proposed update to Subdivision ordinance, Part 2. (postponed from December 12<sup>th</sup>)
- 7B. Receive presentation and provide feedback on the Request for Proposal for a Cultural Masterplan.

## **8. STAFF AND BOARD REPORTS**

- 8A. Receive presentation on the unaudited Comprehensive Monthly Financial Report for the period ending November 30, 2017.

## **9. 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.*

## 10. CONSENT AGENDA

*The following may be acted upon in one motion. A Councilmember or a citizen may request items be removed from the Consent Agenda for individual consideration.*

- 10A. Consider action to approve City Council minutes from the November 29, 2017, December 6, 2017 (Joint meeting with BAIPP), December 6, 2017 (Joint meeting with Main Street) and December 12, 2017 meetings.
- 10B. Consider action to approve the second reading of Ordinance No. 2017-29 of the City Council of the City of Bastrop, Texas, amending the Code of Ordinances to provide for creating and enacting Chapter 1, Article 1.19, of the Bastrop Code of Ordinances; creating a Youth Advisory Council and providing for the Council's Organization, Membership, Responsibilities, and Resources; and providing for findings of fact, enactment, effective date, repealer, severability, codification, and proper notice and meeting.
- 10C. Consider action to approve the second reading of Ordinance No. 2017-30 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 12, titled "Traffic and Vehicles", Article 12.12, titled "Golf Carts" and regulating the operation of golf carts on public streets; providing for a penalty for the violation of this ordinance; providing for repealing, savings, severability clauses, and effective date.
- 10D. Consider action to approve the second reading of Ordinance No. 2017-31 of the City Council of the City of Bastrop, Texas, amending the Code of Ordinances by amending Chapter 3, by adding article 3.21, "Streets: Public Right-of-Way Management" and adding sections to provide for definitions, municipal authorization, registration, compensation and fees; provide for administration and enforcement; provide for construction obligations; permit required; provide for construction obligations; permit required; provide for conditions of public right-of-way occupancy; provide for insurance requirements and indemnity; providing for improperly installed facilities; provide for restoration of property; provide for revocation or denial of permit; provide for appeal from denial of permit; provide for inspections; provide for abandoned facilities; provide that underground installation preferred; provide for courtesy and proper performance; provide for signage; providing for graffiti abatement; providing for alternate means or method; waiver; provide for legal action; provide for a design manual; provide for prohibited or restricted areas for wireless facilities in the right-of-way; provide for preferred locations; provide for order of preference regarding attachment to existing facilities; provide for placement requirements; provide for concealment or camouflage required when possible; provide for general requirements; provide for electrical supply; provide for installation and inspections; provide for requirements in regard to removal, replacement, maintenance and repair; provide for requirements upon abandonment; provide for general provisions; provide for insurance, indemnity, bonding and security deposits; provide for design manual updates; provide for administrative hearing – request for exemption; and providing for the following: findings of fact, enactment, repealer, severability, codification, effective date, and proper notice & meeting.
- 10E. Consider action to approve the second reading of Ordinance No. 2017-32 of the City Council of the City of Bastrop, Texas amending the Code Ordinances, Chapter 14 titled "Zoning", Section 37 titled "Exterior Construction Requirements", providing a repealing clause; providing a severability clause; providing a savings clause; and providing for an effective date.

- 10F. Consider action to approve the second reading of Ordinance No. 2017-28 of the City Council of the City of Bastrop, Texas, approving an amendment to the Bastrop Code of Ordinances, Chapter 4, Titled "Business Regulations", Article 4.02, Titled "Sale of Alcoholic Beverages" and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting.

**11. ITEMS FOR INDIVIDUAL CONSIDERATION**

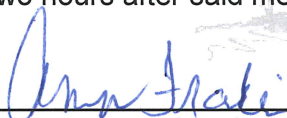
- 11A. Consider action to approve the first reading of Ordinance No. 2018-01 amending the budget for the Fiscal Year 2018 in accordance with existing statutory requirements; appropriating the various amounts herein; repealing all prior ordinances and actions in conflict herewith; and providing an effective date; and move to include on the January 23, 2018 agenda for a second reading.
- 11B. Consider action to approve Resolution No. R-2018-01 of the City Council of the City of Bastrop, Texas confirming the appointment by the Mayor to the Main Street Board, as required in Section 3.08 of the City's Charter, as outlined in Exhibit A; and establishing an effective date.

**12. EXECUTIVE SESSION – N/A**

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

**14. 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, January 5, 2018 at 5:00 p.m. and remained posted for at least two hours after said meeting was convened.

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



# STAFF REPORT

**MEETING DATE:** January 9, 2018

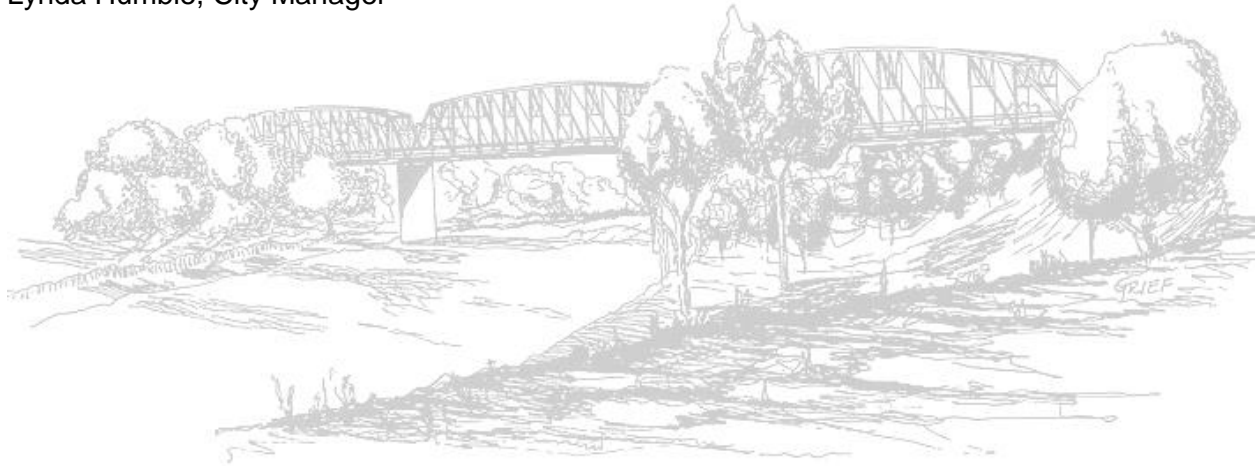
**AGENDA ITEM:** 2A

**TITLE:**

City Council shall convene into closed executive session pursuant to Section 551.086 of the Texas Government Code to discuss competitive rates between Lower Colorado River Authority (LCRA) and Bastrop Power & Light (BP&L).

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 3

**TITLE:**

Take any necessary or appropriate action on matters posted for consideration in closed/executive session

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager





# STAFF REPORT

**MEETING DATE:** January 9, 2018

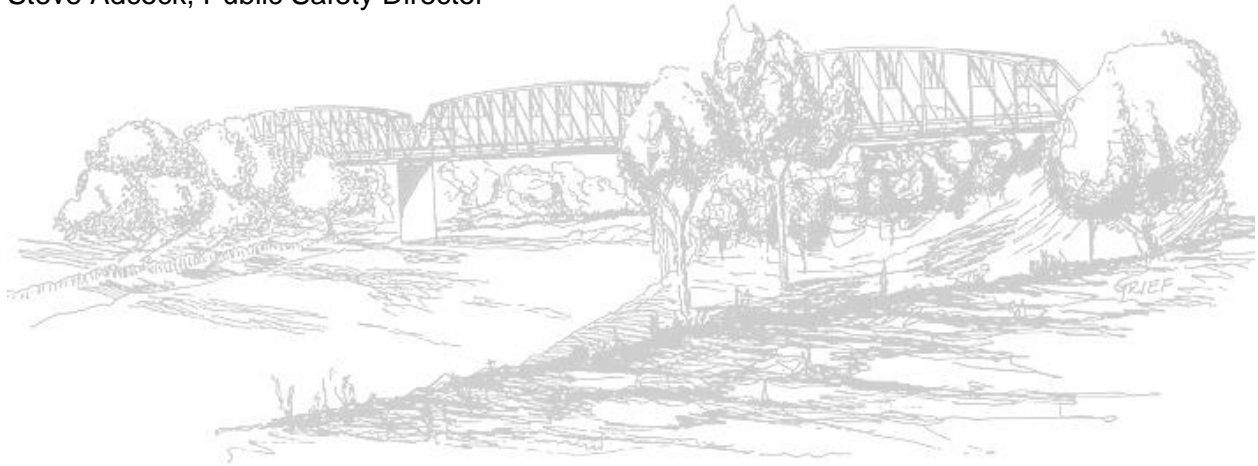
**AGENDA ITEM:** 6A

**TITLE:**

Receive a presentation from Wayne Wood, Bastrop County Constable, recognizing Officer Tamera McIntyre for being named a finalist for the Central Texas Crime Prevention Association Award.

**STAFF REPRESENTATIVE:**

Steve Adcock, Public Safety Director





# STAFF REPORT

**MEETING DATE:** January 9, 2018

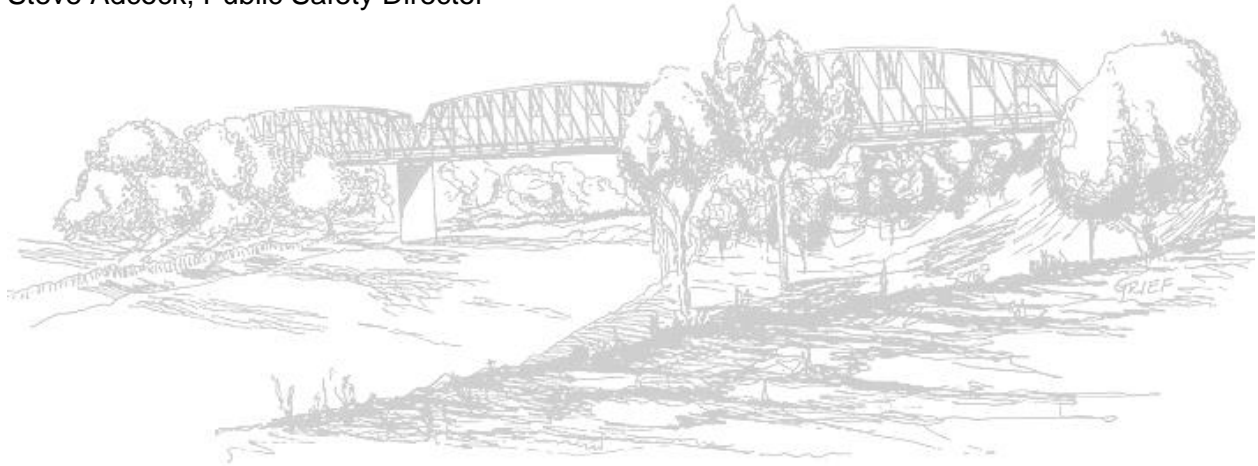
**AGENDA ITEM:** 6B

**TITLE:**

Presentation by Bastrop County First Responders showing the life safety equipment purchased through the BP&L Community Support Grant.

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager  
Steve Adcock, Public Safety Director







# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 6C

**TITLE:**

A proclamation of the City Council of the City of Bastrop, Texas, recognizing January 15, 2018 as Martin Luther King Day.

**STAFF REPRESENTATIVE:**

Lynda K. Humble, City Manager



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# ROCLAMATION



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

**WHEREAS**, Dr. Martin Luther King, Jr. challenged our Nation to recognize that our individual liberty relies upon our common equality; and

**WHEREAS**, at a time when our Nation was sharply divided, Dr. King called on a generation of Americans to be “voices of reason, sanity, and understanding amid the voices of violence, hatred, and emotion”; and

**WHEREAS**, Dr. King devoted his life to the struggle for justice and equality, sowing seeds of hope for a day when all people might claim “the riches of freedom and the security of justice”; and

**WHEREAS**, on the Martin Luther King, Jr. Federal Holiday, we commemorate the 32<sup>nd</sup> Anniversary of the holiday recognizing one of America’s greatest visionary leaders, and we celebrate the life and legacy of Dr. King; and

**WHEREAS**, Dr. King’s “I Have A Dream Speech” turns 55 in 2018, and reminds us to recognize that in these challenging times, too many Americans face limited opportunities, but our capacity to support each other remains limitless; and

**WHEREAS**, we must face the challenges with the same strength, persistence and determination exhibited by Dr. King; and

**WHEREAS**, the theme for 2018 is "**Reflect On Yesterday For A Better Tomorrow;**" and

**WHEREAS**, the American people are called to engage in public service and promote nonviolent social change so that Dr. King’s unfinished movement toward equality can be achieved by our united, enduring efforts; and

**WHEREAS**, in the City of Bastrop, Texas, all citizens are urged to join with the City of Bastrop and the Bastrop County Martin Luther King Jr. Holiday Commission for the 31<sup>st</sup> Anniversary Program of the Bastrop Martin Luther King, Jr. Scholarship Committee on January 14, 2018 at 3:00 p.m. at Mount Rose Missionary Baptist Church, in preserving the memory of Dr. Martin Luther King, Jr.; and

**WHEREAS**, all citizens are also urged to join in the 29<sup>th</sup> annual walk on January 15, 2018 at 9:00 a.m. beginning at the Martin Luther King Community Park in Smithville, Texas for universal peace, justice, human rights, and social and economic progress for all people.

**NOW, THEREFORE**, I, Connie B. Schroeder, Mayor of the City of Bastrop, Texas, do hereby proclaim Monday, January 15, 2018 as:

**Dr. Martin Luther King, Jr. Day**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 9<sup>th</sup> day of January, 2018.

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Connie B. Schroeder, Mayor





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 6D

**TITLE:**

Presentation on “It’s Time Texas Community Challenge” and the City’s Happy Healthy New Year’s Bash on January 13, 2018 at Bastrop Convention Center from 9:00 a.m. – Noon.

**STAFF REPRESENTATIVE:**

Lynda K. Humble, City Manager

Terry Lyne Moore – YMCA Executive Director



# CITY COUNCIL'S PLEDGE

In Support of the IT'S TIME TEXAS Community Challenge,  
We, the City Council of Bastrop, Texas

Pledge to:

- Kick off the IT'S TIME TEXAS Community Challenge by declaring our support and encouraging our constituents to participate!
- To Earn Challenge Points For Our Community, We Will:
  - Declare our support by signing the pledge and by uploading a picture of the group holding the pledge to the Challenge site. (For 2,500 points)
  - Encourage our Mayor to sign the Community Challenge Pledge if it hasn't been submitted.
  - Establish or strengthen a Mayor's Health and Fitness Council or Citywide Health Collaborative (Optional, for 20,000 points)

*We recognize that a healthy community is more united, more productive, and more prosperous. As a result, I am committed to the health of my community and pledge to make our community a model for others to follow.*

**Our city is up to the Challenge!**

Council Members Signatures:

Sign: \_\_\_\_\_

Date: \_\_\_\_\_

Sign: \_\_\_\_\_

Date: \_\_\_\_\_

Sign: \_\_\_\_\_

Date: \_\_\_\_\_

Sign: \_\_\_\_\_

Date: \_\_\_\_\_

Sign: \_\_\_\_\_

Date: \_\_\_\_\_



JOIN **BASTROP MAYOR CONNIE SCHROEDER** AT THE

# HAPPY HEALTHY NEW YEAR'S BASH

**A HIGH ENERGY HEALTH FAIR  
LOADED WITH ACTIVITIES,  
LEARNING, AND FUN!**

**FREE CLASSES  
WORKOUT DEMONSTRATIONS  
HEALTH EDUCATION  
INTERACTIVE BOOTHS  
KIDS CORNER  
DOOR PRIZES  
LOCAL BUSINESSES**



**FREE! ALL AGES!**

An IT'S TIME TEXAS Community Challenge event - visit [itstimetexas.org](http://itstimetexas.org) for more info.

**JANUARY 13, 2018 9AM-NOON**  
**BASTROP CONVENTION CENTER**

MORE INFORMATION: [BastropHealth@cityofbastrop.org](mailto:BastropHealth@cityofbastrop.org) 512-332-8800

**IT'S  
TIME**  
TEXAS

**MAKE  
HEALTHY  
EASIER**



[cityofbastrop.org](http://cityofbastrop.org)



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 6E

**TITLE:**  
Mayor's Report

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

## ACTIVITIES OF MAYOR SCHROEDER SINCE THE LAST COUNCIL MEETING

- Photos from events since Nov 30



A Christmas Carol Rag  
Bastrop Opera House  
Opening Night Dec 1



KEYE - My Home Town  
Bastrop  
December 7



Bastrop Historical Society  
Rendezvous  
December 8



TML Region 10 Meeting  
December 13



Christmas Tree Lighting – December 9th

***Events attended since last Council Meeting:***

- December 13
  - Quarterly Community Support Meeting
  - TML Region 10 Meeting
- December 16 – Sip, Shop and Swirl
- December 18 – BEDC Board Meeting
- December 19 – BEDC Open House



*Report submitted on January 3, the meetings/events planned between now and Council are:*

- January 3 –
  - Chamber Luncheon at the Convention Center!
  - BAIPP monthly meeting
- January 4
  - BEDC Special Meeting
  - Farm Street Opry
- January 7 – Small Business Revolution team comes to town!
- January 8
  - Small Business Revolution Interviews
  - Small Business Revolution Tours
  - Flash Mob to say Good bye
- January 9 – City Council

**Upcoming Events:**

- January 12 – The HUB Open House
- January 13 – *HAPPY HEALTHY NEW YEARS BASH*
- January 15 – Martin Luther King Day
- January 16 – Joint Council Meeting with Planning and Zoning
- January 17 – BAIPP meeting
- January 18
  - City Council Joint Meeting with Parks Board
  - City Council Joint Meeting with Cemetery Board
- January 22 – BEDC Monthly Meeting
- January 23 – Council Meeting



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 6F

**TITLE:**

Councilmembers' Report

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager

**POLICY EXPLANATION:**

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 6G

**TITLE:**

City Manager's Report

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager

**POLICY EXPLANATION:**

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# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 7A

**TITLE:**

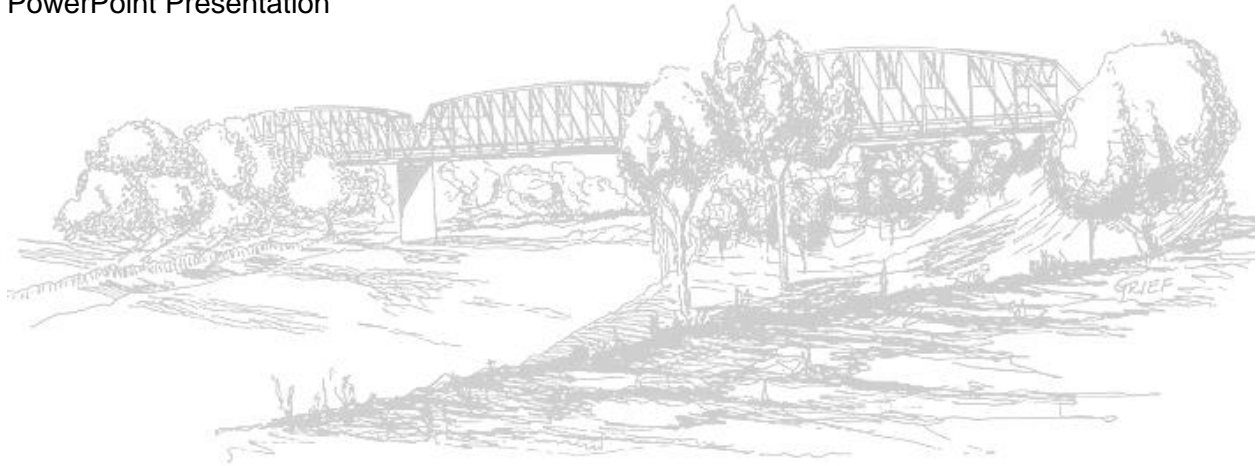
Receive presentation on proposed update to Subdivision ordinance, Part 2. (postponed from December 12<sup>th</sup>)

**STAFF REPRESENTATIVE:**

Dave Gattis, Interim Planning Director

**ATTACHMENTS:**

PowerPoint Presentation



Subdivision Ordinance Updates  
Part 2  
City Council  
January 9, 2017



# Subdivision Ordinance Update Status

- Work session on Part 1 held in October and November
- Text of Part 1 release pending City Attorney approval



# Proposed Update Strategy and Schedule

- Divides Ordinance into thirds:
  - Policies, Procedures, etc.
  - Tree preservation, Park dedication, Street design, Lots and Blocks
  - Drainage design, Water and Sewer, Electrical, Street lights and other utilities, Street trees
- Schedule
  - P&Z work session - 10/26
  - City Council work session – 11/4
  - Part 2 P&Z work session – 11/30
  - **Part 2 City Council work session – 12/12**
  - Part 3/total ordinance – P&Z Special meeting - 1/4/18 - Postponed
  - Part 3/Total ordinance – City Council work session – 1/9/18 - Postponed
  - Recommendation by P&Z – 1/25/18 - Postponed
  - Action by City Council – 2/13 and 2/27/18 - Postponed
- Review draft will be sent to you (and to public stakeholders) after review by City Attorney



# Part 2 Changes Proposed

- New standards for subdivision design approach
- New tree preservation requirements
- Revised standards for easements
- New street standards
- New requirements for lots and blocks
- Standards for survey monuments and property corners





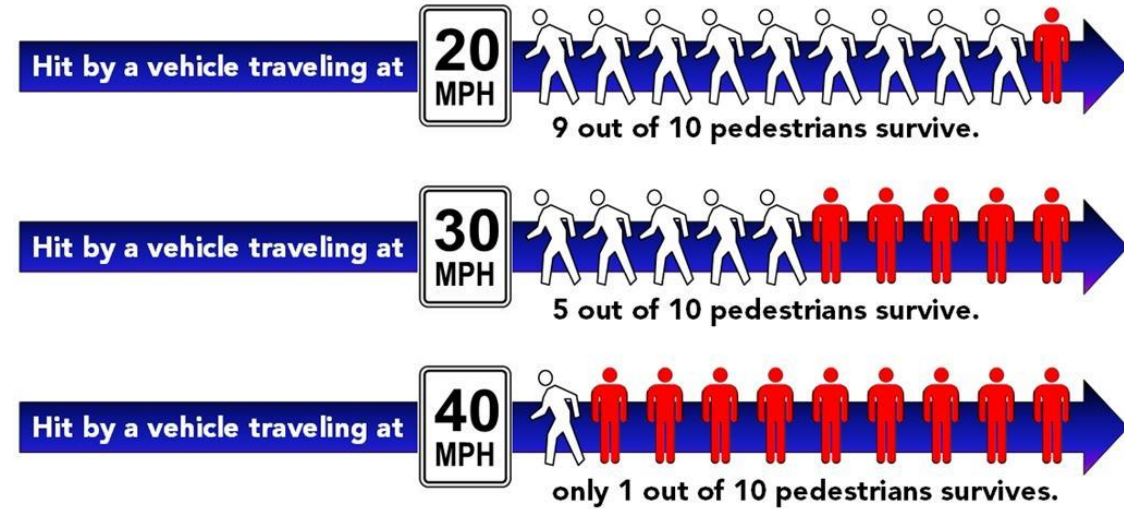
# Design Approach-City

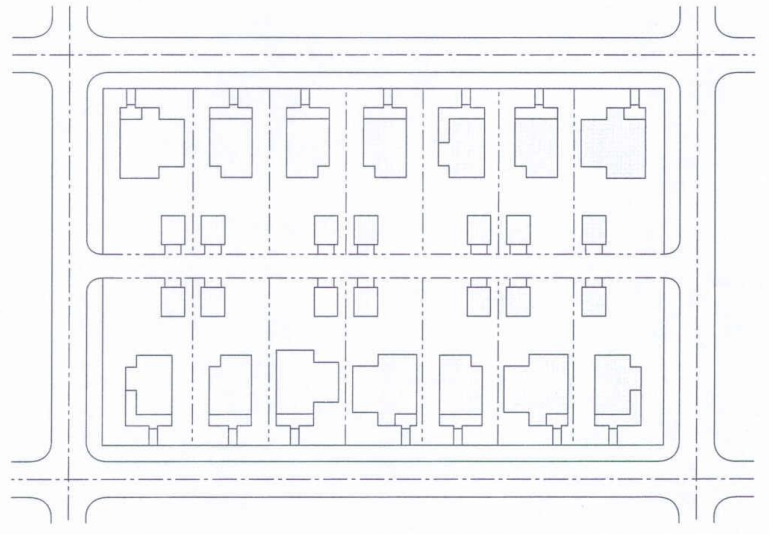
- Two approaches:

- City
- Rural

- City Standards

- Streets classified by movement, with slower design speeds.
- Streets designed for walkability, with vehicles as secondary.
- Rectangular grid is not required, but encouraged through interconnectivity.
- Sidewalks and street trees are required on both sides of street.
- Cul-de-sacs are generally prohibited. Where allowed, they are short.
- Alleys required for rear vehicle access.
- Maximum block perimeters are 1600 feet, unless broken by a interconnecting sidewalk or Civic Space lot.





**PLAN: SINGLE-FAMILY DETACHED**

Source: Skidmore, Owings & Merrill LLP.



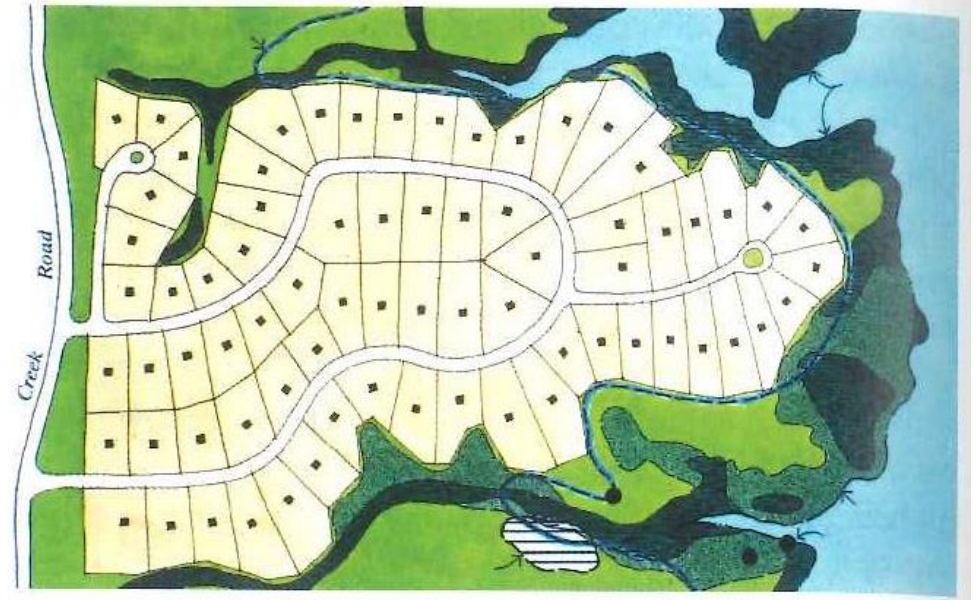
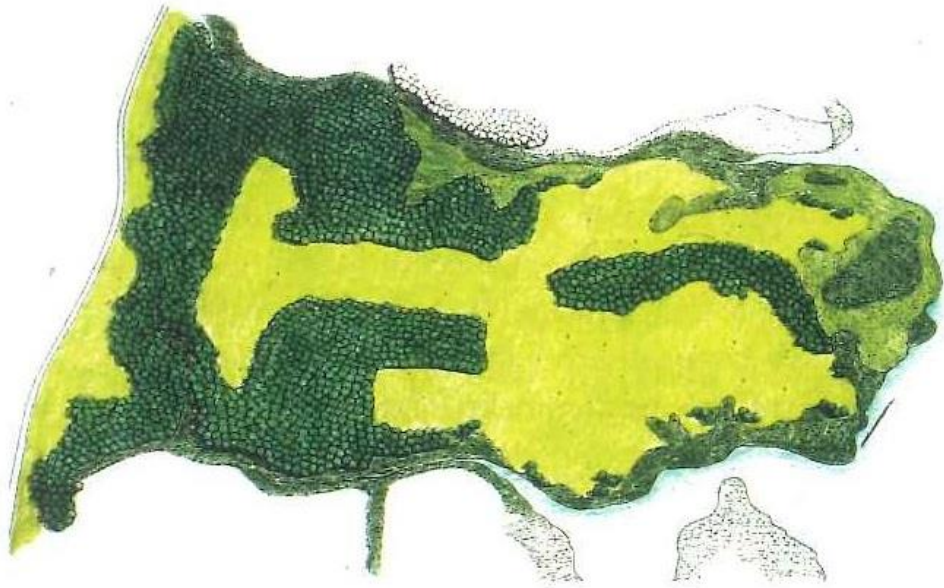
The information contained herein is for marketing purposes only and is subject to change without notice. No representation or warranty of any kind is being made herein or hereby, including any claim, liability or warranty, either express or implied, of the information contained herein. For complete and accurate information, the viewer is advised to consult with the appropriate authorities or the project architect or site plan. The information contained herein is for marketing purposes only and is subject to change without notice. No representation or warranty of any kind is being made herein or hereby, including any claim, liability or warranty, either express or implied, of the information contained herein. For complete and accurate information, the viewer is advised to consult with the appropriate authorities or the project architect or site plan. The information contained herein is for marketing purposes only and is subject to change without notice. No representation or warranty of any kind is being made herein or hereby, including any claim, liability or warranty, either express or implied, of the information contained herein. For complete and accurate information, the viewer is advised to consult with the appropriate authorities or the project architect or site plan.



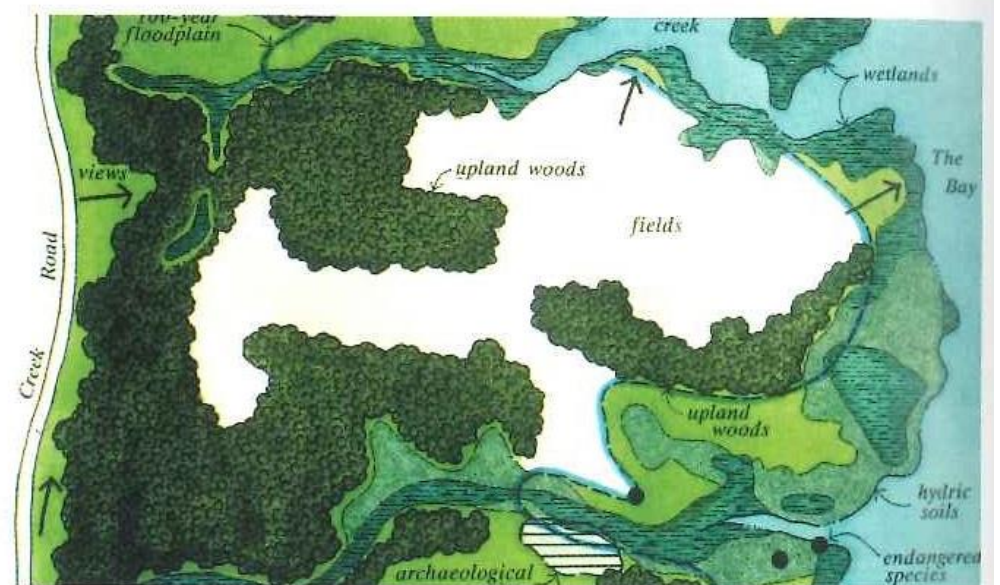
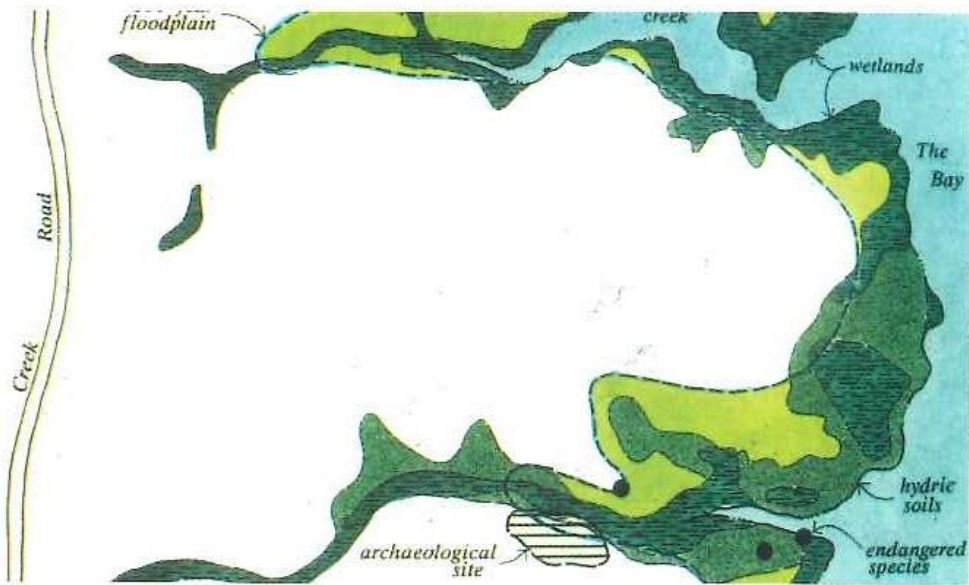
# Design Approach-Rural

- Intended for use in extraterritorial jurisdiction (ETJ)
  - Limits on ability to control uses and density in ETJ, but
  - Can limit based on septic tanks and on impervious cover.
  - Limit of 1 dwelling unit per acre, and/or 30% impervious cover.
- Five step design process:
  1. Evaluate existing conditions and calculate lot yield.
  2. Identify primary and secondary conservation areas.
  3. Identify potential development areas and locate house sites.
  4. Align streets and trails to access house sites.
  5. Draw lot lines, leaving conservation areas as common areas with conservation or agricultural easements.

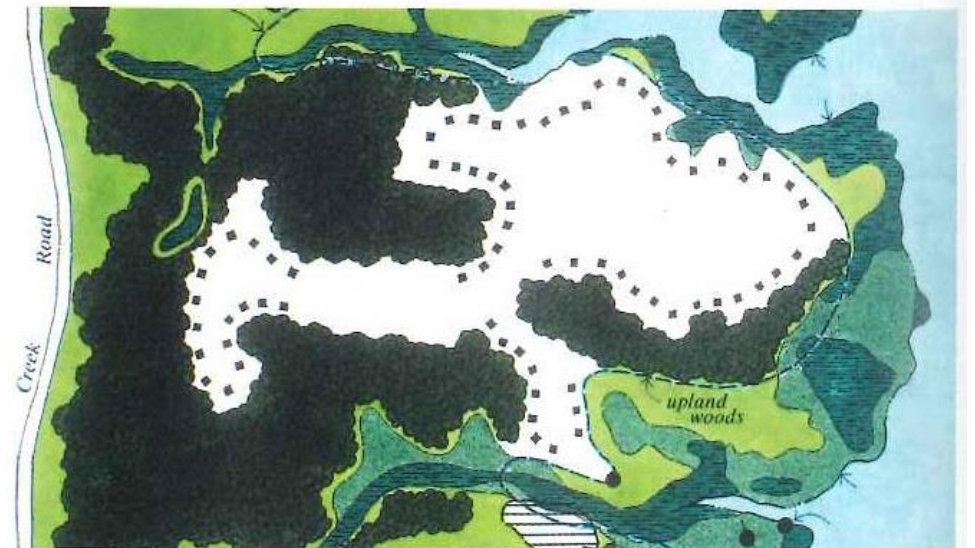
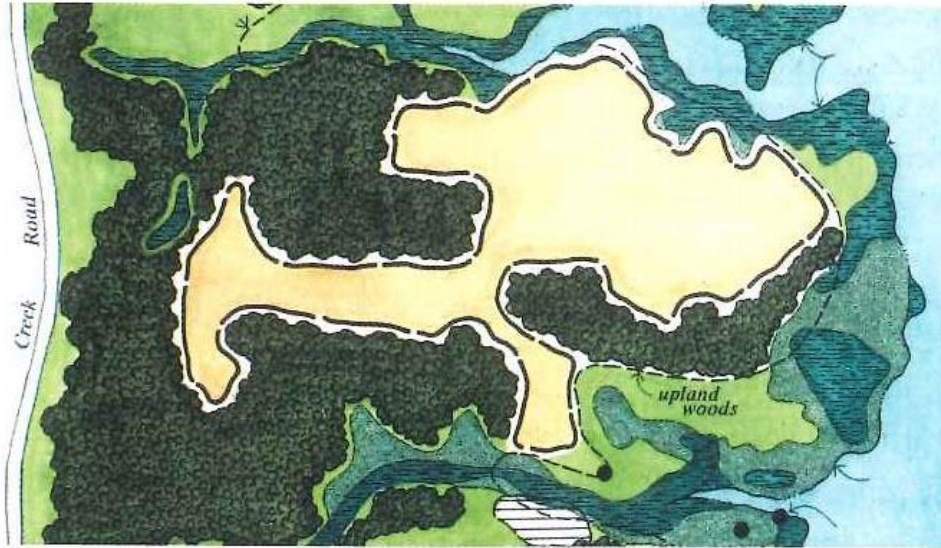




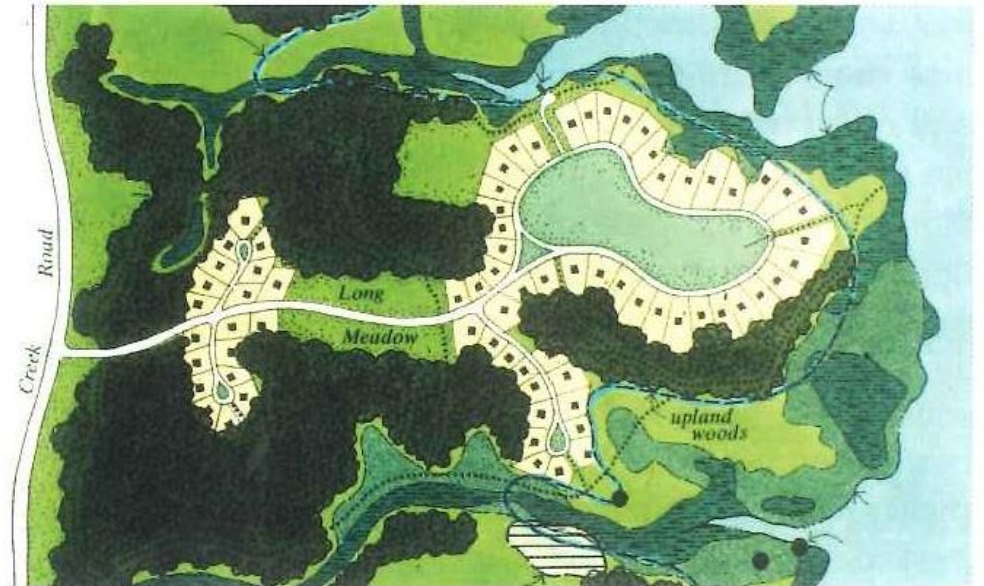
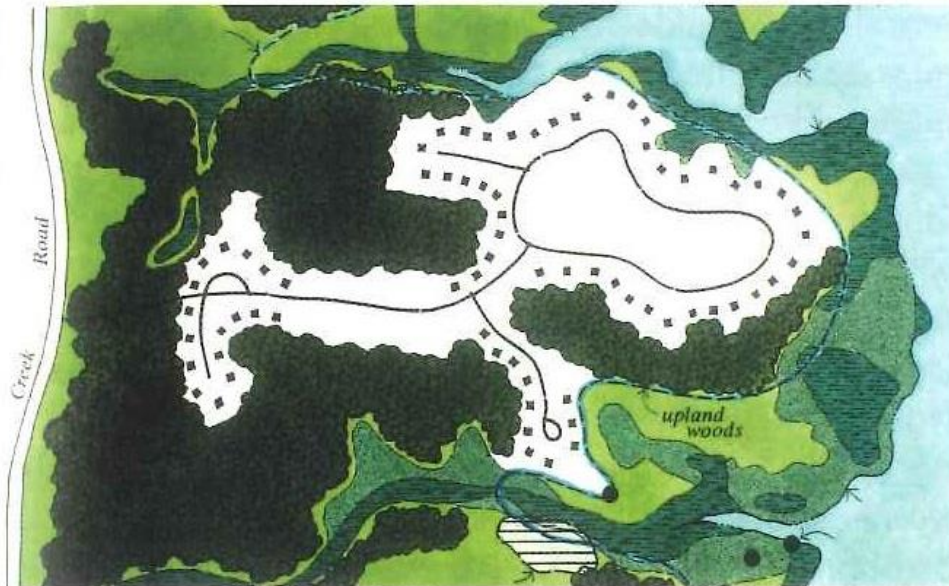
Initial Site Evaluation and Lot Yield



Identify Primary and Secondary Conservation Areas



Potential Development Areas and Locate House Sites



Align Streets and add Lot Lines

# Maintaining Rural Character

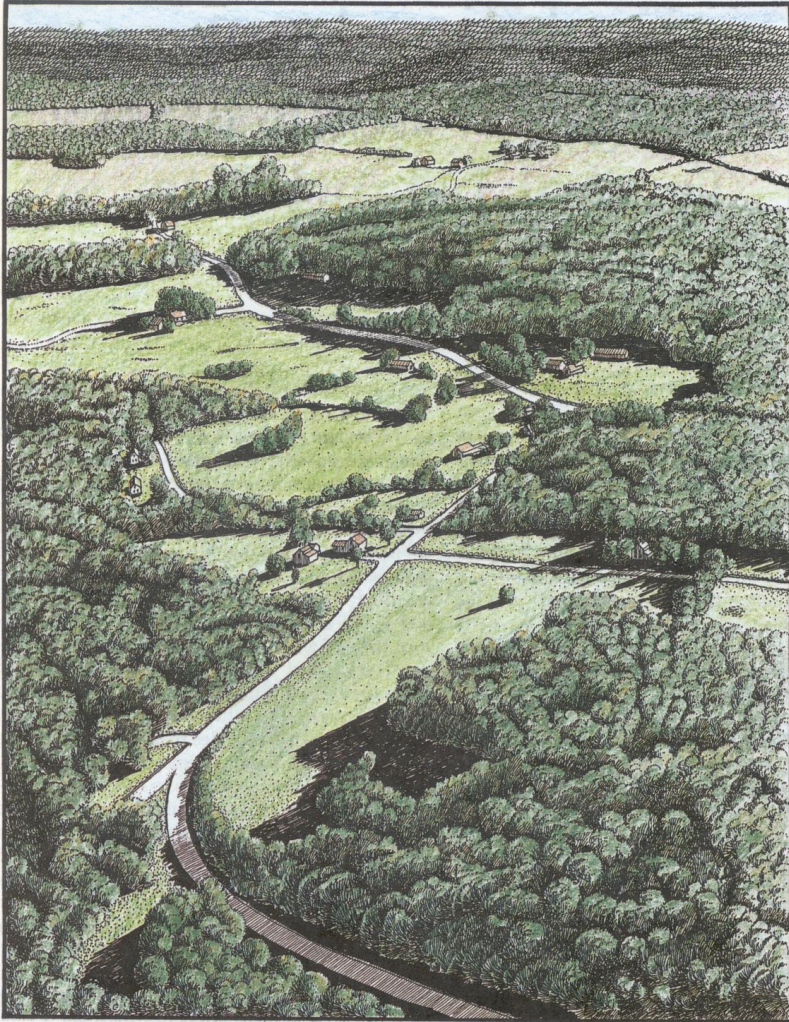


Figure 7-1. Aerial view of existing situation.

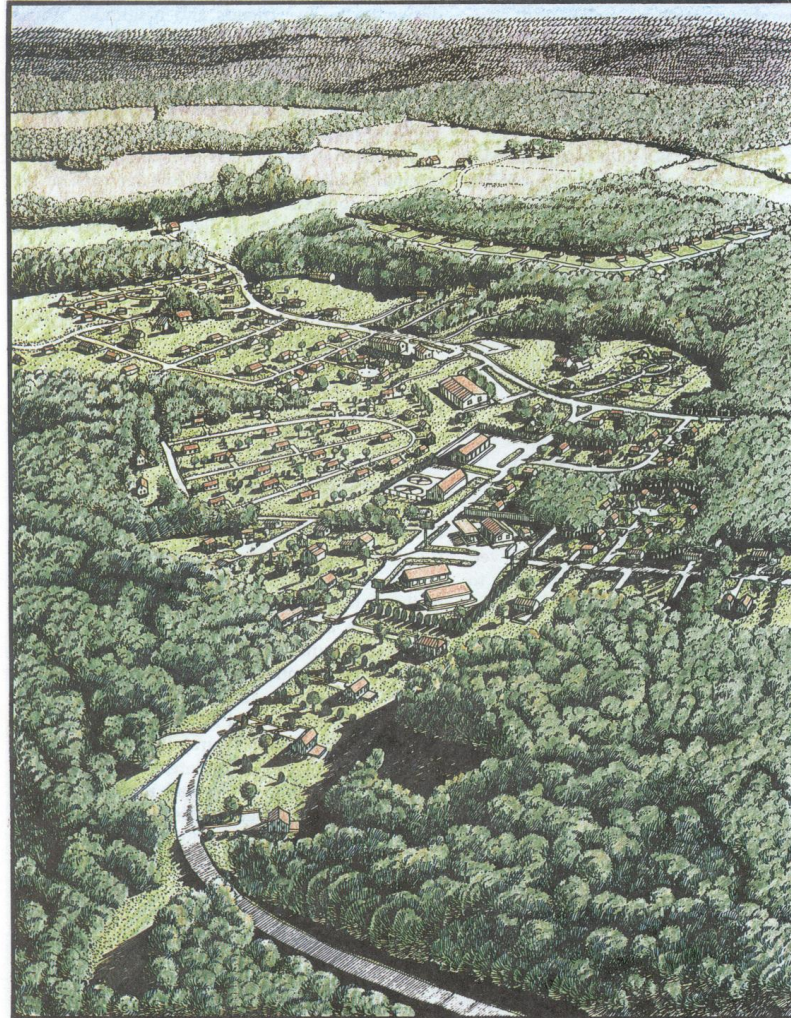


Figure 7-2. Aerial view after conventional development.

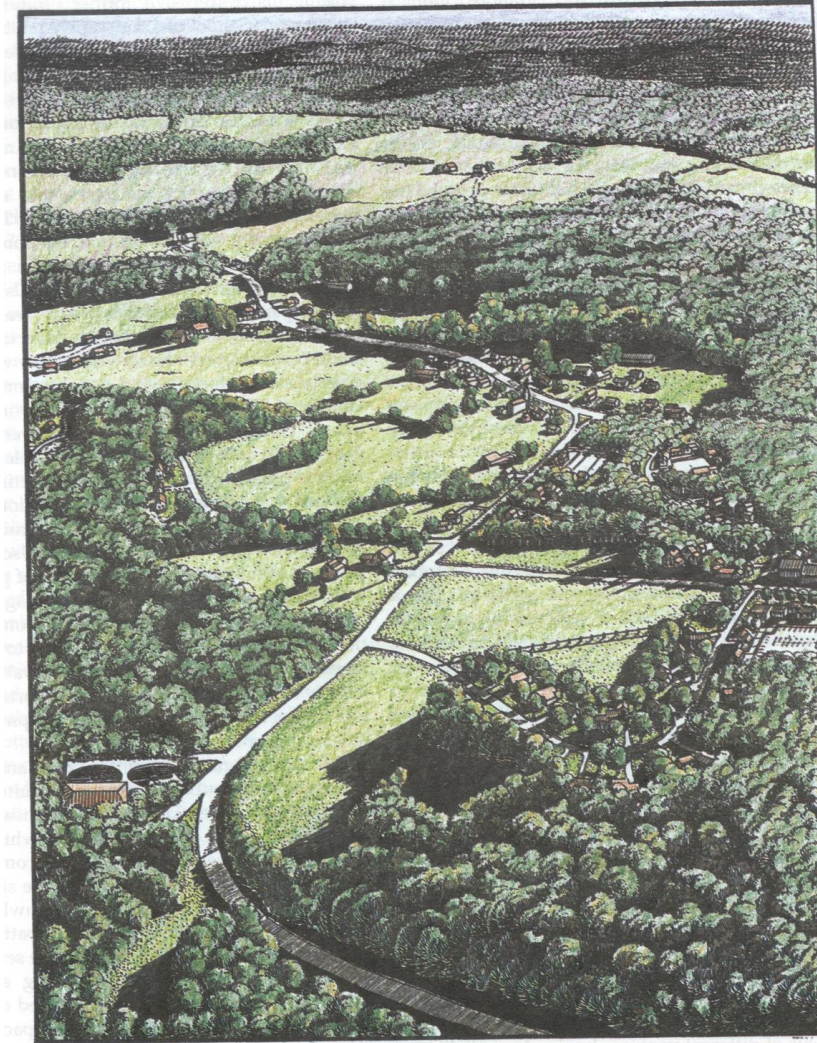
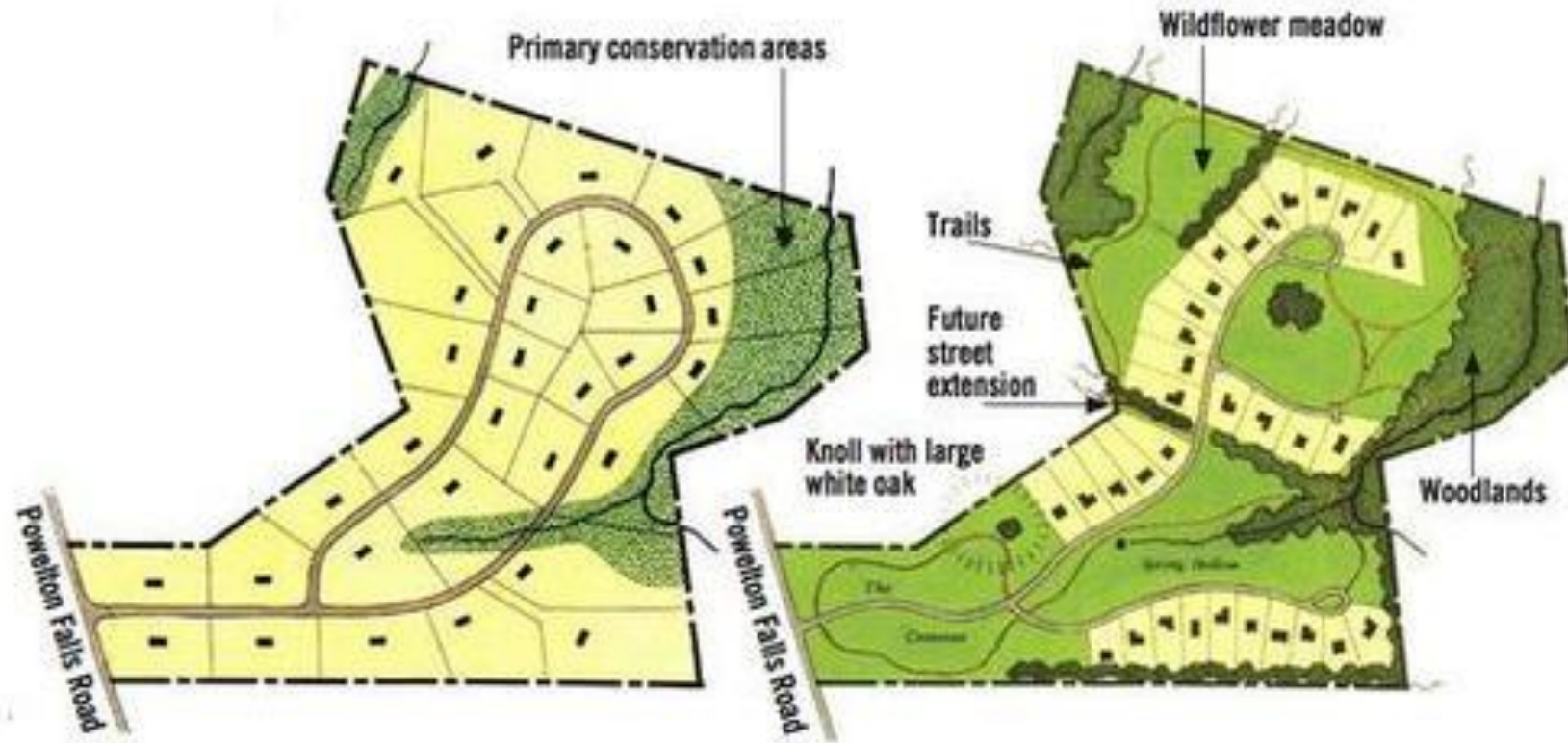


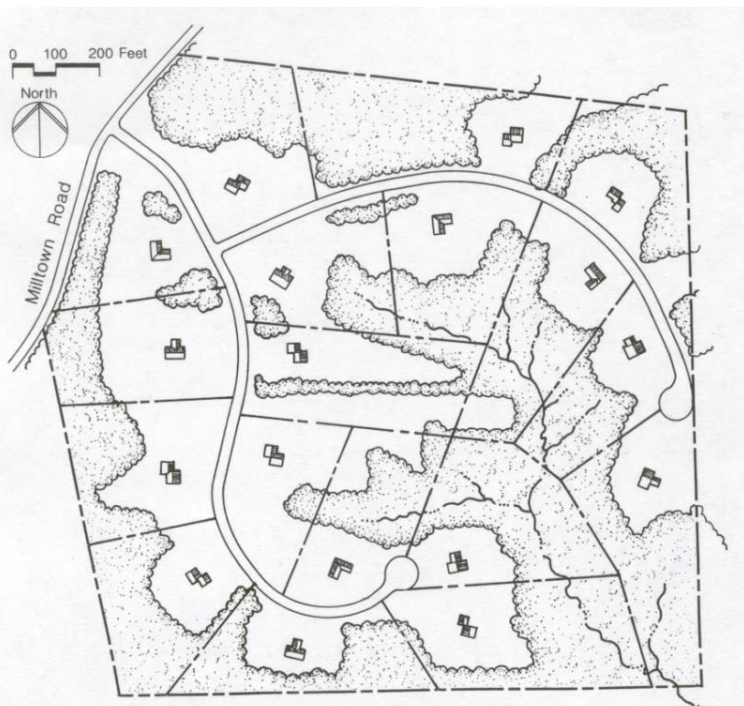
Figure 7-3. Aerial view after creative development.

# Example of Rural Design Approach



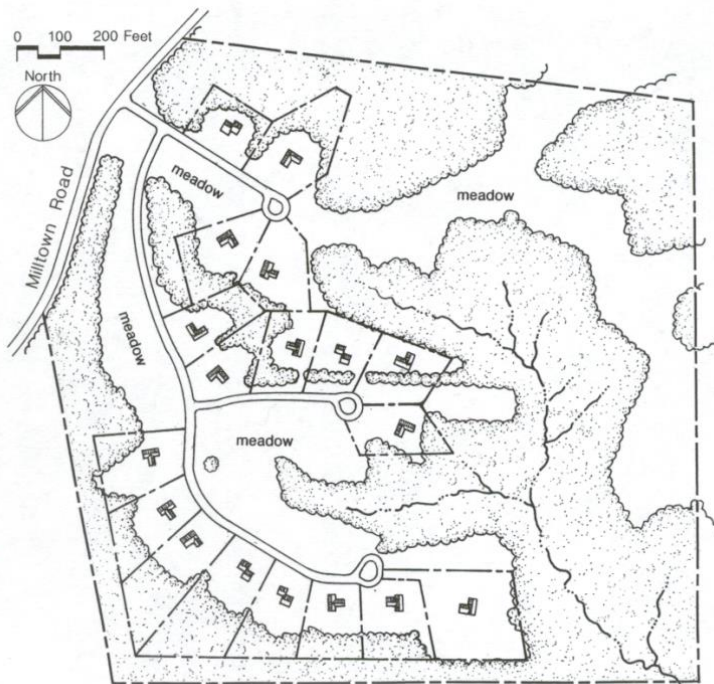


# Conservation Subdivisions



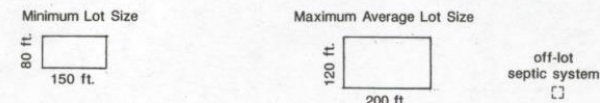
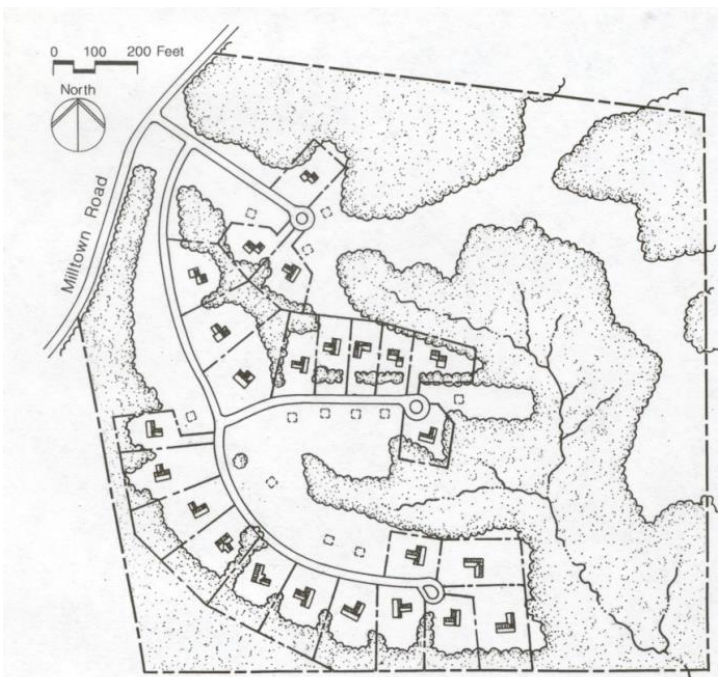
**Figure 4-2. CONVENTIONAL LAYOUT AT PREEXISTING DENSITY.**

Minimum lot size: 80,000 square feet  
 Overall density: One dwelling per 80,000 square feet adjusted tract acreage  
 Lot yield: 18 lots  
 Conservation land: None  
 Lot size range  
   Minimum: 80,000 square feet (1.8 acres)  
   Typical: 80,000 square feet (1.8 acres)  
   Maximum: None



**Figure 4-3. OPTION 1: NEUTRAL DENSITY AND BASIC CONSERVATION.**

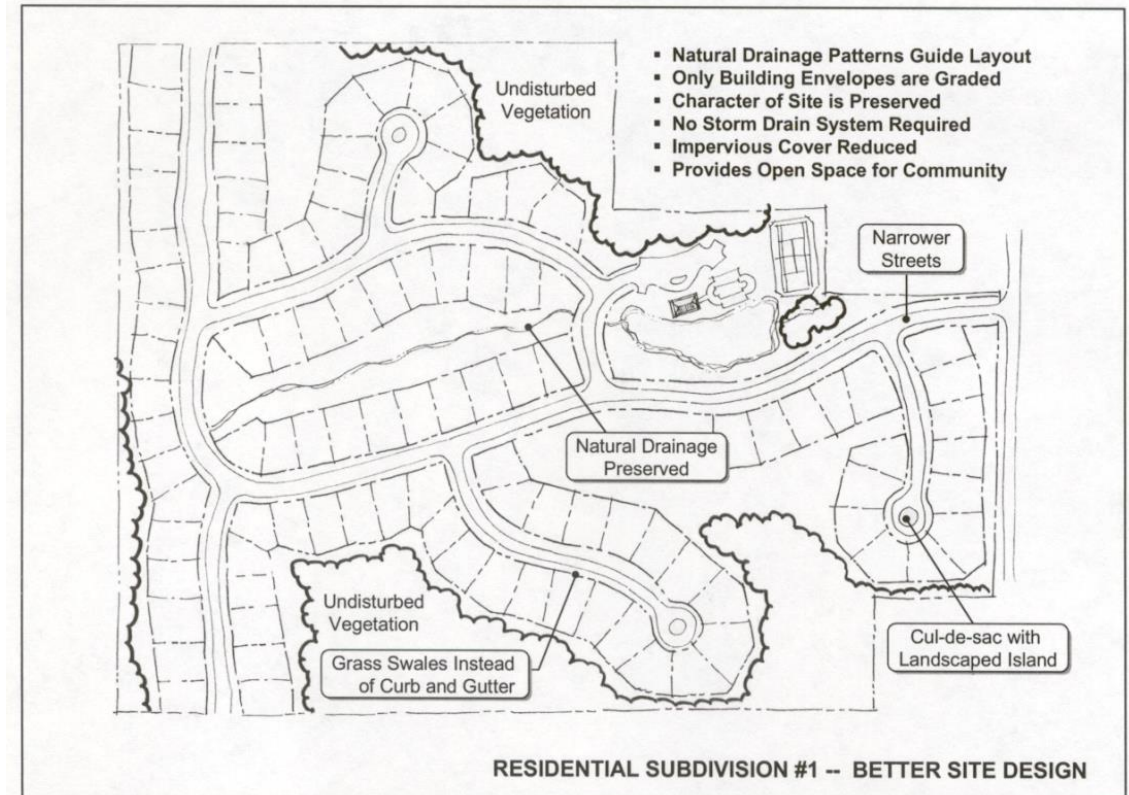
Maximum density: One dwelling per 80,000 square feet adjusted tract acreage  
 Lot yield: 18 lots (maximum)  
 Conservation land: 50 percent (minimum) of adjusted tract acreage  
 Lot size range  
   Minimum: 20,000 square feet (0.46 acres)  
   Typical: 30,000 square feet (0.68 acres)  
   Maximum: 40,000 square feet (0.91 acres), on average



**Figure 4-4. OPTION 2: ENHANCED CONSERVATION AND DENSITY.**

Maximum density: One dwelling per 60,000 square feet adjusted tract acreage  
 Lot yield: 24 lots (maximum)  
 Conservation land: 60 percent (minimum) of adjusted tract acreage  
 Lot size range  
   Minimum: 12,000 square feet (0.28 acres)  
   Typical: 18,000 square feet (0.41 acres)  
   Maximum: 24,000 square feet (0.55 acres), on average

# Sustainable Development – Better Site Planning



# Tree Preservation

- Applies to undeveloped land and redevelopment.
- Exempts:
  - Existing property less than 1 acre with SF house
  - Trees on existing platted subdivisions (or preliminary plat)
  - Trees in visibility triangle
  - Trees in ROW, public utility easements or drainage easements
  - Trees that are diseased, dead, dying, creating a public nuisance or damaging a foundation



# Tree Preservation cont.

- Tree Designations
  - Secondary trees: Mesquite, Bois d'arc, Locust, Gum Bumelia, Hackberry or Cottonwood
  - Protected trees: Non-secondary trees greater than 18" diameter dbh
  - Quality trees: Non-secondary trees between 10" and 18" diameter
  - Quality tree stands – 3 or more contiguous quality trees
  - Large secondary trees: over 18"
  - Secondary trees: between 10" and 18"



# Tree Preservation cont.

- Permit required to remove any tree over 10" in diameter at breast height (dbh)
- Tree inventory required as part of development process
- Tree Preservation and Mitigation Plan required



# Tree Preservation Requirements

Subdivision Size	Protected Trees	Quality Trees	Large Secondary Trees	Secondary Trees
Less than ½ acre	None	None	None	None
½ acre to 1 acre	At least 50% of protected trees must be preserved	At least 5% of quality trees must be preserved	At 5% of large secondary trees must be preserved	None
1 acre to 2.5 acres	At least 60% of protected trees must be preserved	At least 10% of quality trees must be preserved	At least 10% of large secondary trees must be preserved	None
Over 2.5 acres	At least 70% of protected trees must be preserved	At least 20% of quality trees must be preserved	At least 20% of large secondary trees must be preserved	None



# Tree Mitigation Requirements

(caliper inches removed to caliper inches replaced)

Subdivision Size	Protected Trees	Quality Trees	Large Secondary Trees	Secondary Trees
Less than ½ acre	1:0.25	1:0.25	1:0.25	None
½ acre to 1 acre	1:0.5	1:0.5	1:0.25	None
1 acre to 2.5 acres	1:0.75	1:0.75	1:0.5	1:0.25
Over 2.5 acres	1:1	1:1	1:0.75	1:0.5

With approval, up to 50% of mitigation trees can be planted offsite

Payment of fee in lieu of planting

Over 50% requires P&Z approval

Less than 50% requires Planning Director approval

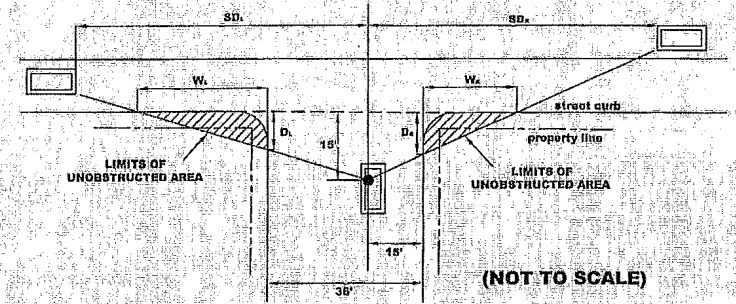
Alternative tree preservation plans



# Easements

- 10' utility easements on front side and rear
- Minimum 15' drainage easement
- 100-year Floodplain easement
- Public Open Space Easement (sight visibility)
- Emergency access easements (fire lanes)
- Commercial cross-access easements

Assumptions: At-grade intersection with approaches of 3.0 percent or less; 3.5 ft. Driver eye height above pavement; Both drivers can see each other.



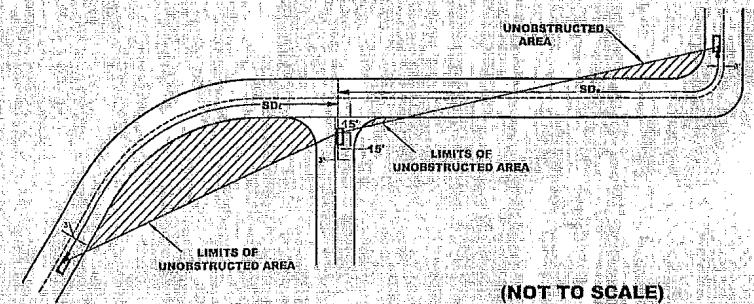
Thoroughfare Class	Speed Limit	Minimum Sight Distance 90 Degree Intersection Only							
		SD <sub>L</sub>	SD <sub>R</sub>	W <sub>L</sub>	W <sub>R</sub>	D <sub>L</sub>	D <sub>R</sub>		
L1, L2	20 mph	180	190	89	80	13	13		
L1, L2	25 mph	245	255	128	111	13	14		
L1, L2, C2, C3	30 mph	315	325	210	120	13	14		
C2, C3, S4, S5	35 mph	390	400	270	185	14	14		
S4, S5	40 mph	480	545	330	210	14	14		
S4-80, S4-100, A4	45 mph	580	650	400	260	14	14		
A6-100, A6-120	50 mph	685	755	400	260	14	14		

SD<sub>L</sub> and SD<sub>R</sub> are the required sight distance, in feet, to the left and to the right as measured from the driver's eye on the controlled intersection approach looking towards oncoming cross traffic.

W<sub>L</sub> and W<sub>R</sub> are the distance, in feet, along the curb line of the side of the visibility triangle parallel to the path of traffic on the uncontrolled intersection approach.

D<sub>L</sub> and D<sub>R</sub> are the distance, in feet, along the curb line of the side of the visibility triangle parallel to the path of the driver on the controlled intersection approach.

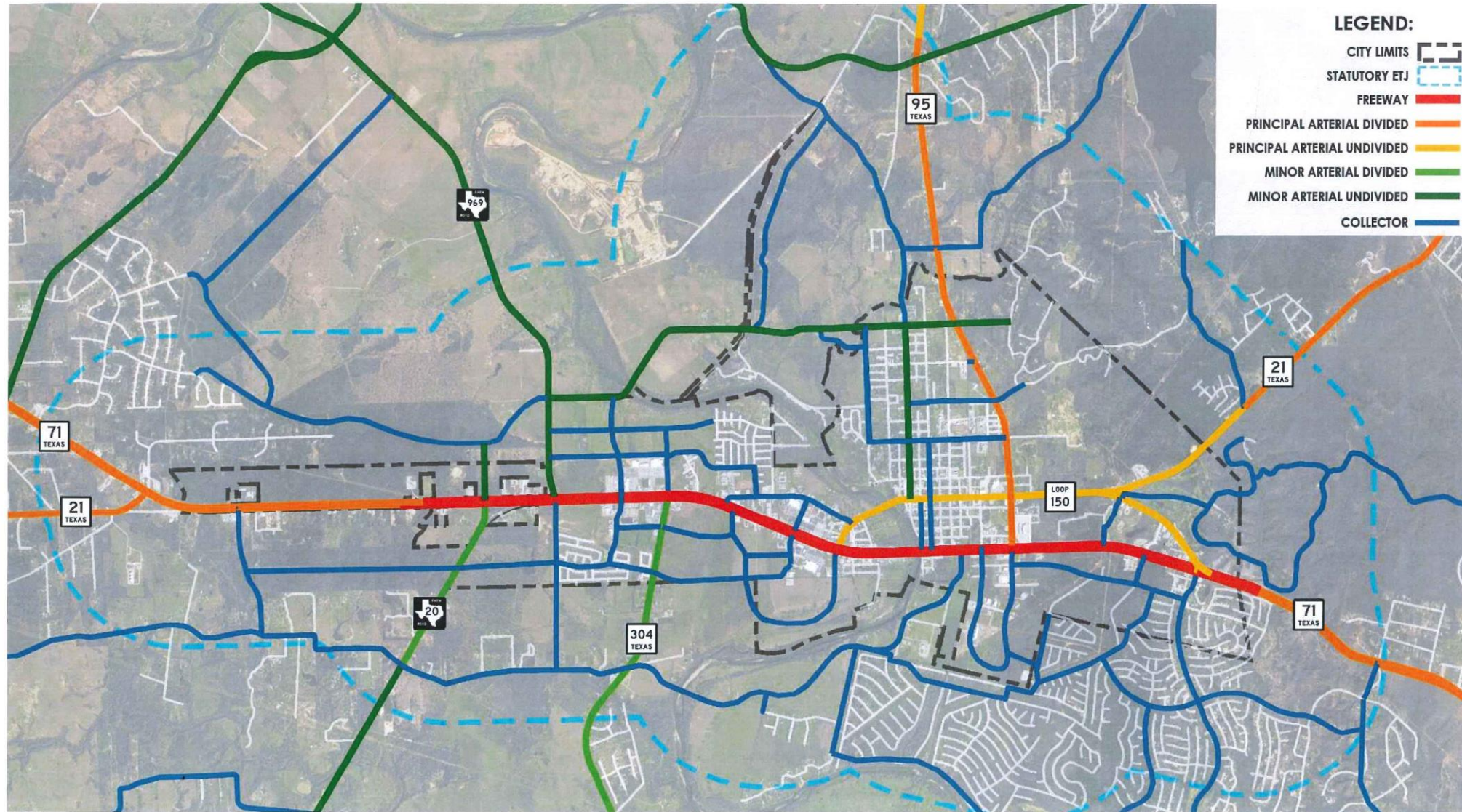
The distances given for W<sub>L</sub>, W<sub>R</sub>, D<sub>L</sub>, and D<sub>R</sub> are applicable to 90 degree intersections only.





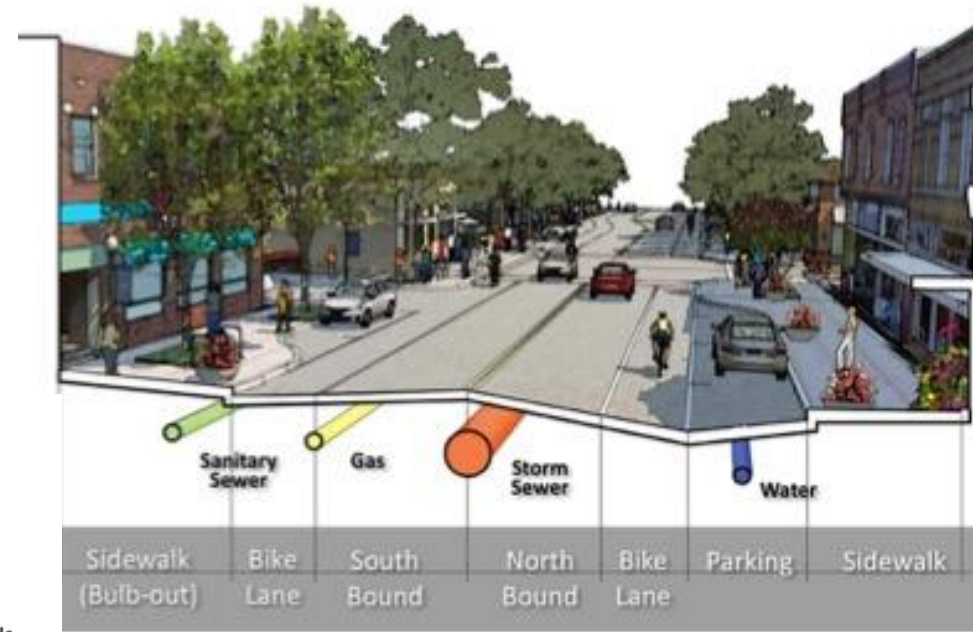
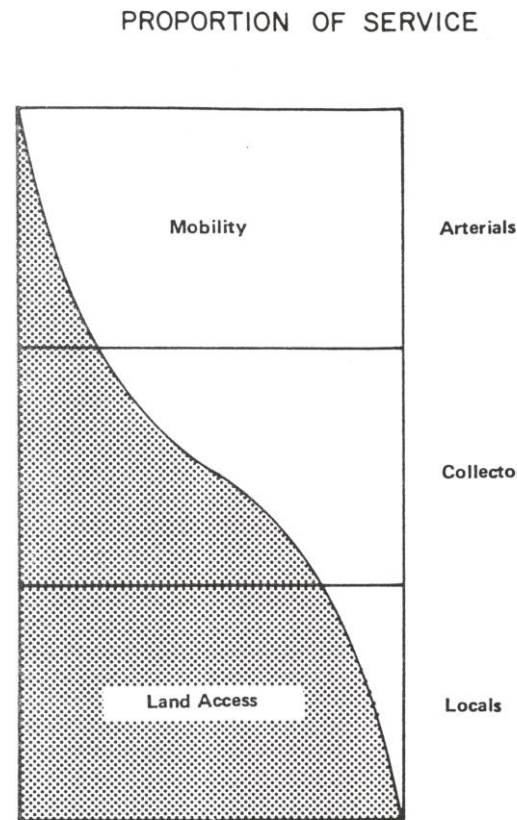


Map 5.1: 2040 Major Thoroughfare Map, City of Bastrop TMP



# Streets

- Traffic Impact Analyses
  - Clarify threshold
  - Simplify process
  - Perform in-house
- Street Classifications
  - Freeways (SH 71)
  - Principal Arterials
  - Minor Arterials
  - Collectors
  - Local Residential
  - Local Commercial/Industrial



# Streets

- Street Cross-sections
  - Arterials designed to move traffic
  - Collectors and Locals designed to slow traffic down
  - Use of tables to simplify text
  - Combine requirements for City and Rural streets to avoid redundancy
- Street Alignment
  - Grid preferred
  - Shorter cul-de-sacs
- Pavement Design
  - Revised pavement thicknesses
- Curb and Gutter
  - Ribbon curb with grass-lined swale preferred
  - Standard curb and gutter
  - Rural Pavement Margin (Shoulders)



Figure 5.2: Neighborhood Collector Constrained ROW- Extreme Case

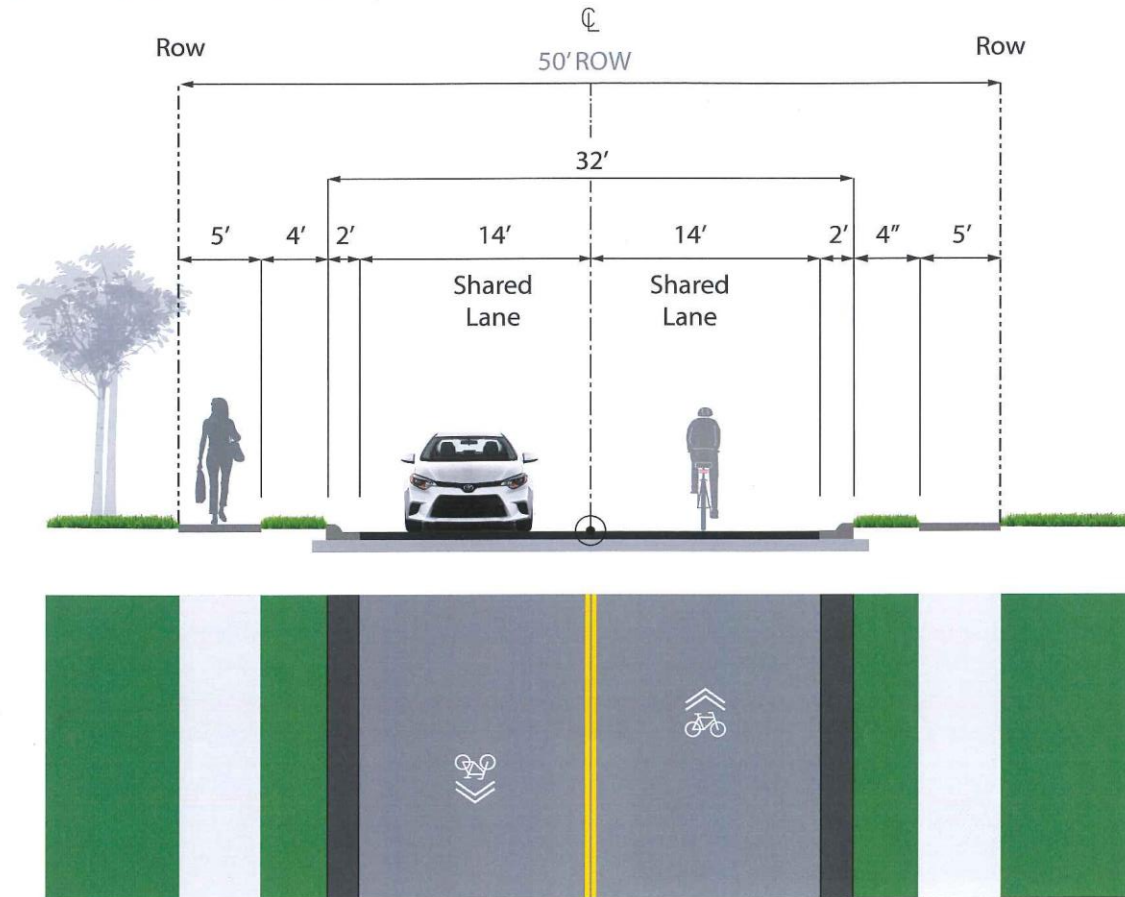


Figure 5.3: Principal Arterial/Divided Minor Arterial- Typical Urban Section

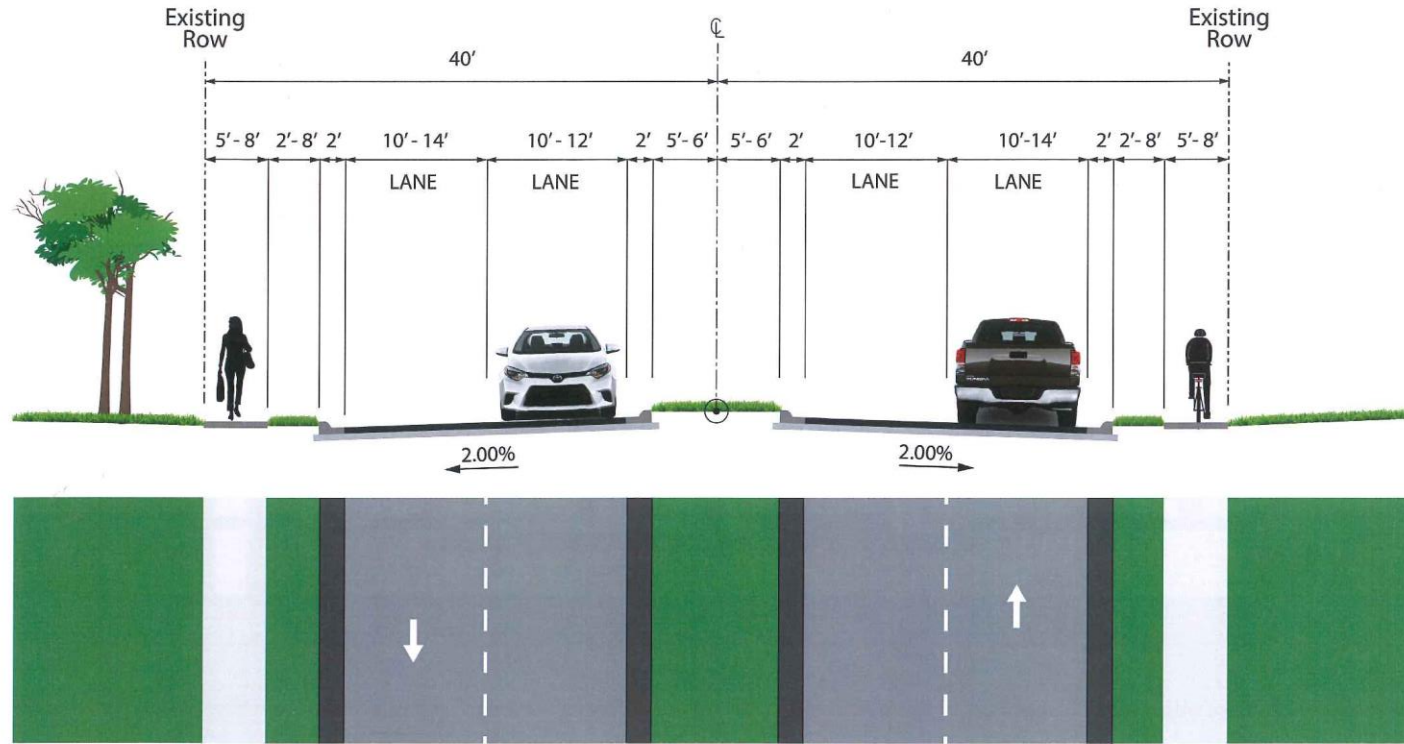


Figure 5.4: Example Downtown Cross Section

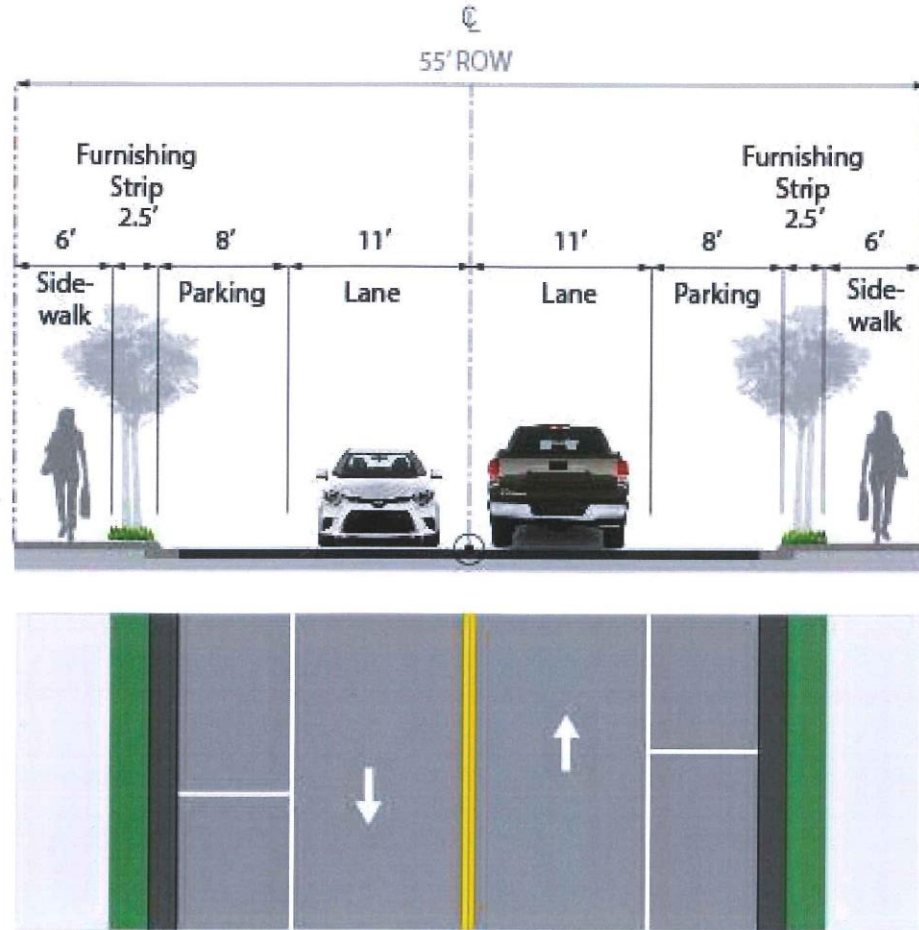
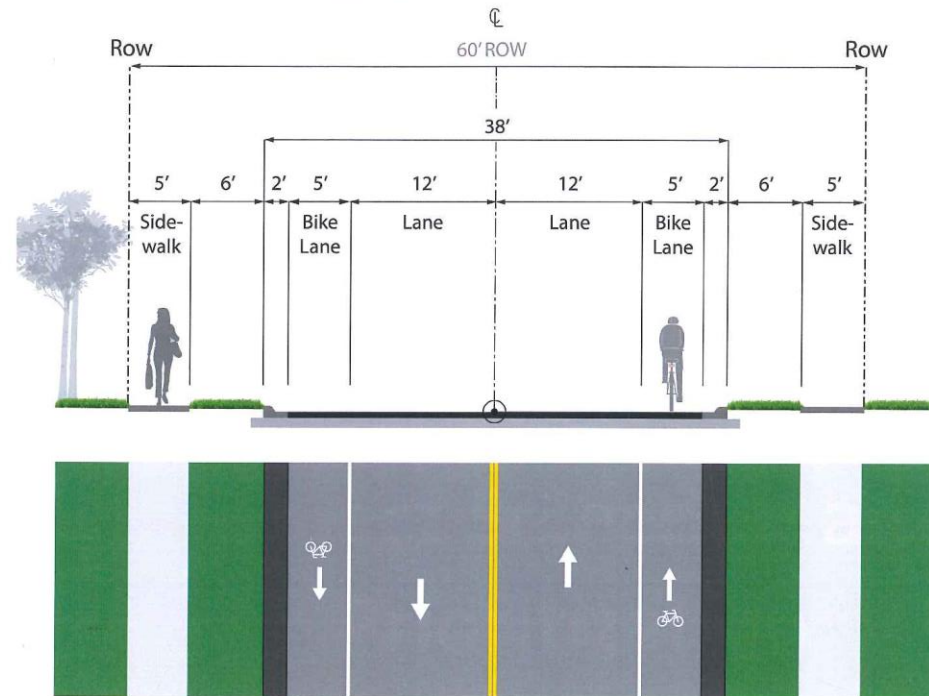
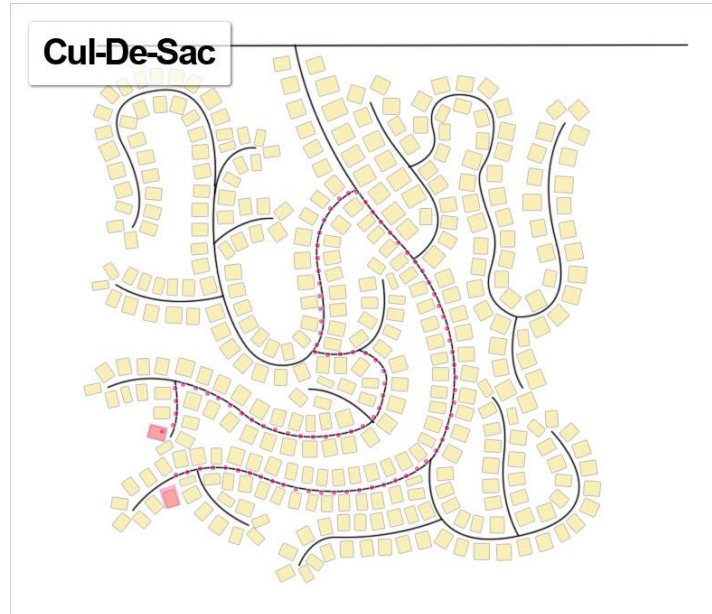


Figure 5.5: Minor Arterial/Collector - Typical Section



# Streets

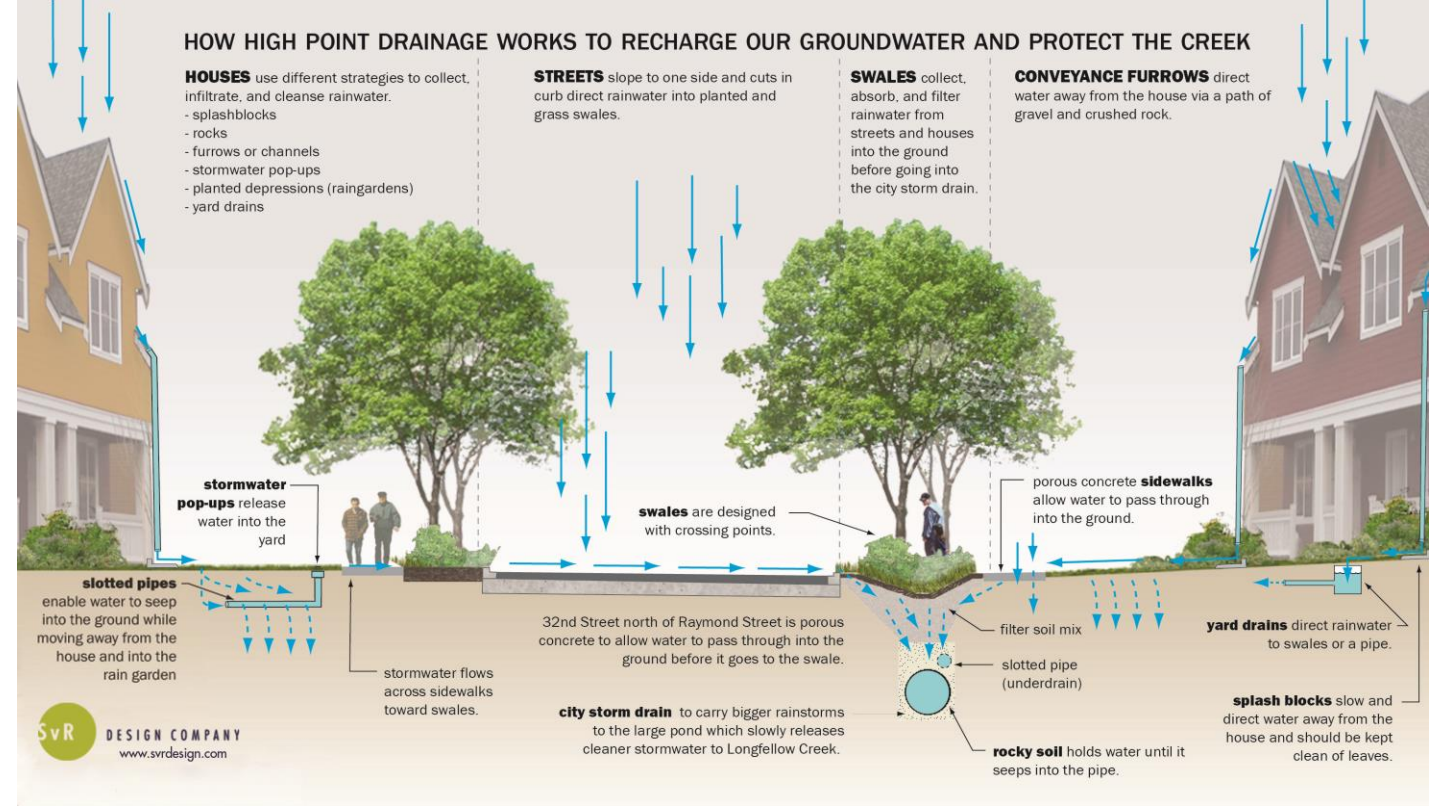
- Intersections
  - Street jogs
  - Roundabouts, for low volume intersections with little truck traffic
  - Sight visibility triangles
- Cul-de-sacs
  - Discouraged, but not prohibited
  - Shorter length, fewer houses, require pedestrian cut-throughs
- Private streets prohibited
- Alleys
  - Required for rear access
  - Prevent snout houses
- Driveways
  - Limited spacing on arterials and collectors
  - Combine City and Rural standards
- Traffic Control and Street Signs
- Sidewalks and Trails





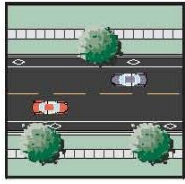
# Streets

- Parking Lots
  - Alternate paving (porous)
- Fire Lanes
- Medians
- Street Drainage Standards

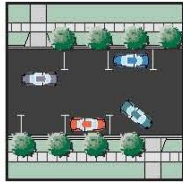


# Traffic Calming

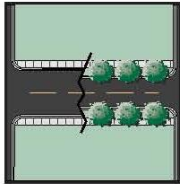
## Narrowing the street



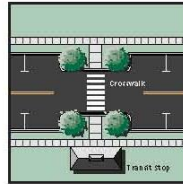
Stripe lanes



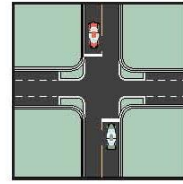
Parking



Rebuild street



Bulbout mid-block

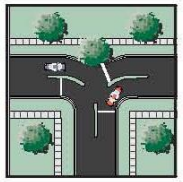


Bulbout intersection

## Deflecting the vehicle path



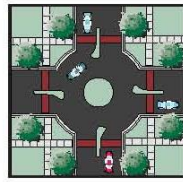
Chicane



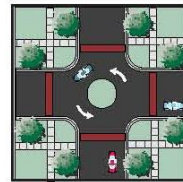
Modified intersection



Knockdown

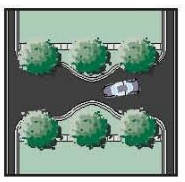


Roundabout

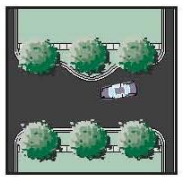


Traffic circle

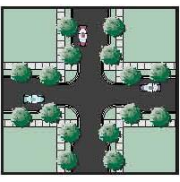
## Sharing the pavement



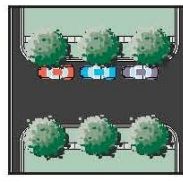
Centered mid-block yield point



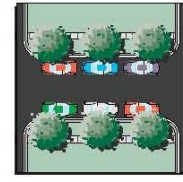
Offset yield point



Intersection yield point



On-street parking one side



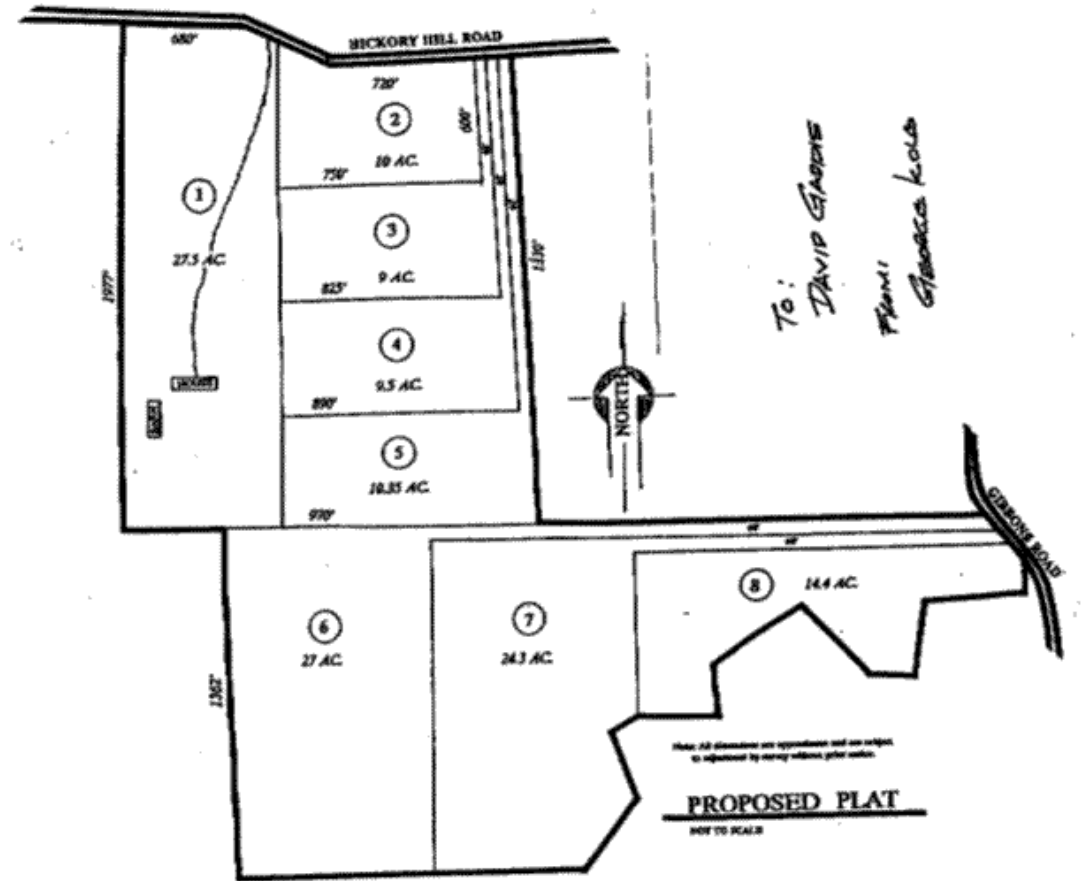
On-street parking both sides



# Context-Sensitive Design

# Blocks and Lots

- Block Perimeters, Block lengths
  - Public accessways mid-block
- Lots
  - Must be buildable
  - Flag lots
  - Corner lots
  - Lot drainage
  - Streambank buffers
  - Orientation to public parks
- Survey monuments and lot corners



# Questions?





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 7B

**TITLE:**

Receive presentation and provide feedback on the Request for Proposal for a Cultural Masterplan.

**STAFF REPRESENTATIVES:**

Sarah O'Brien, Director of Hospitality & Downtown

**BACKGROUND/HISTORY:**

Bastrop Comprehensive Plan 2036, adopted November 22, 2016, established the need to create a long-term strategy for placement of visual and performing arts assets as Goal 8.4. Two (2) supporting objectives were established to ensure Goal 8.4 was achieved:

- Objective 8.4.1 states “develop a Bastrop Art in Public Places Master Plan for the community.”
- Objective 8.4.2 states “align land-use policy and practices to make certain space is available for arts and tourism.”

On December 6, 2017, a Joint Workshop was held between the City Council and Bastrop Art in Public Places. After discussion, the City Council affirmed that BAIPP was the appropriate board to be in charge of the development of a Cultural Arts Master Plan.

**POLICY EXPLANATION:**

Bastrop was designated by the Texas Commission on the Arts as a Cultural Arts District in 2012. Since that time, Bastrop, through the Bastrop Art in Public Places (BAIPP), has been instrumental in creating a public art scene that has been mimicked across the country. The City of Bastrop collects approximately \$2,880,000 annually in hotel occupancy tax and has dedicated \$455,000 to BAIPP over the last six (6) years.

BAIPP has reviewed the attached Request for Proposal (RFP) for a Cultural Arts Master Plan at their Board Meeting on January 3, 2018. The purpose of this RFP is to seek the assistance of a consultant team to help guide the City and community partners to identify community assets and develop a plan to not only leverage existing assets, but to focus future funding for cultural arts to increase Bastrop's appeal as a tourism destination.

Bastrop Art in Public Places (BAIPP), through a Master Plan Committee, will review and evaluate all proposals with a selection recommendation for City Council consideration.

This Master Plan Committee will be comprised of:

- BAIPP Board Member
- Bastrop Opera House Representative
- School District Performing Arts Representative
- Film Representative
- Music Representative
- Historical Society Board Member
- Lost Pines Arts Center Board Member
- Arts at Large Representative
- Culinary Representative
- Parks Board Member
- Main Street Board Member
- Visit Bastrop Board Member
- City Staff Liaison – Sarah O'Brien, Director of Hospitality & Downtown

Staff is seeking input and feedback from Council on the RFQ and direction of the Master Plan process. Staff is also seeking feedback regarding the appointment of a Culinary Representative to the Master Plan Committee, which was added at the January 3<sup>rd</sup> BAIPP Board Meeting. The Comprehensive Plan was very specific about developing a long-term strategy for placement of visual and performing arts. Council has indicated that this Master Plan will help provide a long-term focus on how future Hotel Occupancy Tax (HOT) funds are spent relative to cultural arts. Restaurants do not receive HOT funds nor do they have a role in the placement of visual and performing arts.

The overall goal of this master plan is to create a common vision for the role that arts and culture should play in Bastrop, as well as to ascertain what pieces of that vision can guide policy and programming to enhance the quality of life for Bastrop residents, businesses, and visitors. A community-wide, public participation process is an essential component to creating a widely accepted Arts and Culture Master Plan.

The Consultant Team identified through the RFP, and presented to Council on March 13<sup>th</sup> for consideration, will be responsible for organizing and implementing the public participation program, asset inventory and mapping, collecting and analyzing accumulated data and historically relevant information, identifying trends and developments, and producing the final report with proposed recommendations.

**RECOMMENDATION:**

Receive presentation and provide feedback on the Request for Proposal for a Cultural Masterplan.

**ATTACHMENTS:**

- DRAFT Request for Proposal for Cultural Masterplan

**REQUEST FOR PROPOSALS**  
**FOR A**  
**CULTURAL ARTS MASTER PLAN**

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CITY OF BASTROP, TEXAS  
REQUEST FOR PROPOSALS (RFP)  
FOR A CULTURAL ARTS STRATEGIC PLAN

The City of Bastrop, Texas, through Bastrop Art in Public Places (BAIPP), is requesting proposals from Consultant teams with experience in cultural arts planning to perform a Cultural Arts Strategic Plan for visual and performing arts. Bastrop Comprehensive Plan 2036, adopted November 22, 2016, established the need to create a long-term strategy for placement of visual and performing arts assets as Goal 8.4. Two (2) supporting objectives were established to ensure Goal 8.4 was achieved. Objective 8.4.1 states "develop a Bastrop Art in Public Places Master Plan for the community." Objective 8.4.2 states "align land-use policy and practices to make certain space is available for arts and tourism." BAIPP is seeking a firm to help guide the City and community partners to identify community assets and develop a plan to not only leverage existing assets, but to focus future funding for cultural arts to increase the City's appeal as a visitor destination.

One (1) original, one (1) reproducible copy, and an electronic copy of the proposal shall be addressed to Sarah O'Brien, Director of Hospitality & Downtown, City of Bastrop, TX, 1408 Chestnut Street, Suite B, Bastrop, TX 78602. Plainly identify the respective documents. The reproducible copy is one which can readily be reproduced through a photocopier; it should be unbound and unstapled. **SEALED PROPOSALS SHALL BE CLEARLY LABELED "PROPOSAL FOR THE ARTS AND CULTURAL MASTER PLAN" AND SHALL BE RECEIVED NO LATER THAN 3:00 PM ON FEBRUARY 8, 2018.** Proposals will not be accepted by email or facsimile.

Instructions for preparation of the RFP may be downloaded from the City website at [www.cityofbastrop.org](http://www.cityofbastrop.org). Questions or comments may be addressed to Sarah O'Brien at the address above or by phone at 512-332-8996 or by email at [sobrien@cityofbastrop.org](mailto:sobrien@cityofbastrop.org).

The City of Bastrop, Texas encourages Disadvantaged Business Enterprises to participate. Bastrop is an equal opportunity employment provider and does not discriminate on the basis of race, color, national, origin, gender, religion, age, or disability in employment or the provisions of services. Bastrop reserves the right to accept or reject any or all submittals, to waive technicalities, and to take whatever action is in the best interest of the City of Bastrop and its citizens.



## SCHEDULE FOR PROPOSAL SUBMISSION:

The City will make every effort to adhere to the following schedule:

- Request for Proposal Reviewed by BAIPP Wednesday, January 3, 2018
- Request for Proposal Reviewed by City Council Tuesday, January 9, 2018
- City of Bastrop Website Posting Thursday, January 11, 2018
- Notice of RFQ in Official Newspaper Thursday, January 11, 2018  
Thursday, January 18, 2018
- Appointment of Master Plan Committee Members by BAIPP Wednesday, February 7, 2018
- Statement of Qualifications Due Thursday, February 8, 2018
- Selection Committee Rates Qualifications Tuesday, February 20, 2018
- Selection Committee Conducts Interviews Wednesday, February 28, 2018
- Council approves List of Qualified Firms Tuesday, March 13, 2018
- Project Kick-Off Monday, April 2, 2018

## BACKGROUND:

### The City of Bastrop (“the City”):

Known as the “Heart of the Lost Pines,” Bastrop, Texas, is a unique community that couples historic small-town charm with big-city amenities and an exceptional quality of life. The City covers approximately 11 square miles and is the county seat of Bastrop County. Bastrop is strategically and centrally located on State Highway 71, with convenient access to Austin-Bergstrom International Airport, and within an easy distance of three major metropolitan areas. With Austin just 30 miles to the west, Houston two hours southeast, and San Antonio one-and-a-half hours to the south, Bastrop is in a very advantageous position for cultural and economic development.

Bastrop is among the oldest towns in Texas. Originally the site served as a meeting ground for the Tonkawa and other Southwestern Indians. It also provided a vital Colorado River crossing on the Old San Antonio Road, a major part of the El Camino Real de los Tejas. The area was settled in 1804 and officially established on June 8, 1832. Bastrop founder Stephen F. Austin named the City for his longtime friend and co-worker, the Baron de Bastrop. The City takes pride in its cultural heritage. A rich harvest of classic Texas folklore and well-preserved architecture and artifacts provide a glimpse into Bastrop’s past.

Today, this dynamic city is growing. With a current population of approximately 8,600, Bastrop proudly preserves its historic past while embracing the challenges of modern-day growth and economic needs. It has been named an official Texas Main Street City by the Texas Historical Commission, a designation that helps the City preserve its past, as well as promote responsible growth. The 2010 census showed the City of Bastrop’s population increased 30.93% from the previous census in 2000. It is estimated the City has grown an additional 20.14% since 2010. The projected population for 2021 is 9,345. It is important to note that many individuals who are part of the Bastrop community do not live within the City limits, but do use City services such as the Bastrop Public Library. Austin was

named the number one place to live in the U.S. News and World Report, which will have a direct impact on the growth that Bastrop will experience throughout the next decade.

Bastrop's tranquil setting amid the natural beauty of Central Texas' Lost Pines region includes extensive Colorado River frontage and abundant recreational opportunities. The Colorado River runs through Bastrop and is perfect for kayaking, canoeing, and fishing. The El Camino Real Paddling Trail is about six miles long and runs from Fisherman's Park to a take-out point near Tahitian Village. Other nearby attractions include three golf courses, two state parks, a nature preserve, Lake Bastrop, and the world-renowned Hyatt Regency Lost Pines Resort, which draws many tourists from all over the world who were previously unaware of this charming little town. Encouraged by the extremely positive response from these visitors, the City has added several community events that attract tourists from all over the state.

Annually, Bastrop plays host to several events, such as the Patriotic Festival, Homecoming & Rodeo, Trick or Treat Trail, Veteran's Day Car Show, Juneteenth Celebration, and Lost Pines Christmas, which features a Wine Swirl, Lighted Parade, River of Lights, and historic home tours. 2018 marks the first year of the Bastrop Music Festival.

Downtown Bastrop represents a unique blending of the old and new. Nestled on the banks of the Colorado River, the historic district is filled with a variety of shops and restaurants. The historic ambiance of downtown is complemented by nearby neighborhoods containing over 130 historical sites. At the First Friday Art Walks, downtown businesses have wine and snacks for visitors, and the Lost Pines Art League hosts their featured artist of the month, with live music and entertainment provided.

Bastrop's proximity to Austin makes it easy to take advantage of the abundant recreational and leisure activities offered there, including the new NLand Surf Park — North America's first surf and wave park — as well as Formula 1 racing, Austin City Limits, and SXSW.

#### **Bastrop's Tourism Economy:**

As noted in the City's Comprehensive Plan, Bastrop has invested significant energy to position itself as a regional tourism destination. The City's inventory of attractions, events, and exhibition space continues to grow as it creates a 'critical mass' of tourism assets designed to solidify its community brand.

Approximately 41% of the City's General Fund revenue comes from sales tax. There are several identified future threats that will negatively impact the City's ability to maintain its current retail trade area including a 500,000 square foot development at SH 71 and SH 130 along with the increasing economies of neighboring Smithville and Elgin. **Increased tourism has been identified as a way to stabilize sales tax revenue, while the City increases its property tax base.** One of the primary benefits of tourism as a targeted industry is the ability to realize broad economic impacts throughout the economy. The same businesses that are supported by tourism can be enjoyed by residents. As tourism grows and sustains a larger share of retail, restaurant, and entertainment establishments, local residents have more options available to them for leisure and entertainment.

As a part of the development of the Comprehensive Plan, a literature review of about a dozen studies, which were commissioned to promote economic development, was completed to assess the recommendations and identify common themes. Tourists are drawn to Bastrop primarily for three (3) reasons: (1) natural resources, (2) family and heritage tourism; and **(3) visual and performing arts.**

This year, the City of Bastrop entered into a contractual arrangement with Visit Bastrop, a newly created Destination Marketing Organization, to market and promote the City of Bastrop and its assets as a tourist destination. Visit Bastrop received \$1,400,000 annually in Hotel Occupancy Tax (HOT) funding.

### **Cultural Context:**

Bastrop was designated by the Texas Commission on the Arts as a Cultural Arts District in 2012. Since that time, Bastrop, through the Bastrop Art in Public Places (BAIPP), has been instrumental in creating a public art scene that has been mimicked across the country. The City of Bastrop collects approximately \$2,880,000 annually in hotel occupancy tax and has dedicated \$455,000 to BAIPP over the last six (6) years.

Examples of Bastrop's public art scene include:



Sculpture Project started in FY 2015. City of Bastrop has 11 pieces in its collection valued over \$150,000.



The Bastrop Opera House



Lost Pines Art Center



Jerry Fay Wilhelm Center for Performing Arts



Deep in the Heart Art Foundry



Home to Deep in the Heart Art Foundry, the Lost Pines Art Center, the Bastrop Opera House and several Art Galleries, Bastrop has been trying to establish its self as a Cultural Arts Destination. **What the City has been missing is something to tie its cultural arts groups and assets together.**

#### THE CITY OF BASTROP ART AND PUBLIC PLACES:

Bastrop Art in Public Places (BAIPP), through a Master Plan Committee, will review and evaluate all proposals with a selection recommendation for City Council consideration.

This Master Plan Committee will be comprised of:

- BAIPP Board Member
- Bastrop Opera House Representative
- School District Performing Arts Representative
- Film Representative
- Music Representative
- Historical Society Board Member
- Lost Pines Arts Center Board Member
- Arts at Large Representative
- Parks Board Member
- Culinary Representative
- Main Street Board Member
- Visit Bastrop Board Member
- City Staff Liaison – Sarah O’Brien, Director of Hospitality & Downtown

**Goals of BAIPP:**

- Use the display of public works of art to further the Bastrop community’s sense of civic pride.
- Use the display of public works of art as an educational opportunity for the public, as well as to enhance art education with artists in the community and beyond.
- Contribute to cultural tourism.
- Support diversity through art.
- Make art accessible to all individuals, including those with special needs.
- Encourage early collaboration on civic projects with design professionals and artists.

**BAIPP’s Vision Statement:**

*To create an environment where the City of Bastrop is locally and nationally recognized as an art and cultural center.*

**BAIPP’s Mission Statement:**

*To increase awareness and appreciation of art, as well as increase civic pride through the display of art in the City of Bastrop, Texas.*

**INTRODUCTION & PROJECT BACKGROUND:**

The City of Bastrop, Texas, through Bastrop Art in Public Places (BAIPP), is requesting proposals from Consultant teams to perform a Cultural Arts Strategic Plan. Bastrop Comprehensive Plan 2036, adopted November 22, 2016, established the need to create a long-term strategy for placement of visual and performing arts assets as Goal 8.4. Two (2) supporting objectives were established to ensure Goal 8.4 was achieved:

- Objective 8.4.1 states “develop a Bastrop Art in Public Places Master Plan for the community.”

- Objective 8.4.2 states “align land-use policy and practices to make certain space is available for arts and tourism.”

BAIPP is seeking a qualified Consultant team with experience in cultural planning to develop a Cultural Arts Master Plan to help guide the City and community partners that identifies community assets and not only leverage existing assets, but focuses future funding allocations for cultural arts to increase the City’s appeal as a visitor destination. The overall goal of this master plan is to create a common vision for the role that arts and culture should play in Bastrop, as well as to ascertain what pieces of that vision can guide policy and programming to enhance the quality of life for Bastrop residents, businesses, and visitors. A community-wide, public participation process is an **essential** component to creating a widely accepted Arts and Culture Master Plan.

The Consultant Team identified through the RFP will be responsible for organizing and implementing the public participation program, asset inventory and mapping, collecting and analyzing accumulated data and historically relevant information, identifying trends and developments, and producing the final report with proposed recommendations. The Consultant Team may be asked to visit regional arts destinations. It is expected that the Consultant Team will propose realistic and creative solutions within the fiscal limitations of the City.

#### **SCOPE OF WORK:**

The following is a list of desired deliverables for inclusion in the Master Plan Report.

#### **Development of Outreach Strategy:**

- Master Contact List
- Strategy to encourage stakeholder participation
- Standard formats for public documents
- Interactive project website
- Monthly updates at BAIPP meetings
- Individual interviews with key community leaders and various boards of directors to understand history and community dynamics (12-15 total)

#### **Development of Public Participation Plan:**

- Public Forums
- Survey
- Focus Groups
- Key Person Interviews
- Youth Involvement

#### **Local Assessment:**

- Listing of organizations and individuals
- Asset inventory
- History of arts in Bastrop

- Data collection - demographics, artist data
- Ecosystem mapping
- Existing Bastrop Art in Public Places Board, City staffing and support
- Resource assessment – funding sources

**National Assessment:**

- Benchmarking and best practices
- Relevant master plans
- Trends
- Successes and failures

**Data Analysis:**

- Complete set of raw data, analysis and conclusions
- Methodology
- Computerized method for data mining
- Strength, Weaknesses, Opportunities and Threats (SWOT) Analysis

**FINAL REPORT:**

The Arts and Culture Master Plan Final Report must serve to set forth a collective vision for cultural arts enrichment development in Bastrop. A Master Plan Final Report will be required for review and approval by the BAIPP and City Council. It should guide the role of BAIPP and other local organizations to attain this vision. At a minimum, the following components should be included:

- Executive Summary of Final Report
- Results of the Public Participation Process
- Provide results on a citywide basis
- Conclusions and Recommendations must consist of, but should not be limited to:
  - Vision and Key Goals
  - Final Recommendations and Alternatives
  - Implementation Strategies
  - Action Plan with prioritized set of Goals and Projects
  - Funding Plan

These above referenced components should ensure all of the following items are addressed:

- Public participation process summary.
- Local assessment including information and data on current cultural organizations and programs, facility mapping, and planned future developments.
- National assessment including demographic comparisons, funding and development models, identification of cultural trends, and research review.
- SWOT analysis.
- Local economic impact of the arts.

- Citywide / National / International issues and trends.
- Key statistics and data points.
- Key maps or graphs of relevant information.
- Master Plan Vision Statement that unifies the individual visual and performing arts groups in Bastrop, creating a common vision for the role that arts and culture will play, to ensure future Hotel Occupancy Tax (HOT) funding can effectively leverage Bastrop's assets to increase the City's appeal as a visitor destination.
- Strategy to implement vision including a set of Key Goals.
- Alignment of goals with the City's Comprehensive Plan and Cultural Arts & Culinary District Plan.
- Short, mid, and long -term goals.
- List of potential initiatives for prioritization and implementation, including appropriate budget and recommended revenue sources.
- Organize potential initiatives by short, mid, and long-term priority.
- Implementation strategies.
- Clearly defined funding plan which provides vision, policy framework, and strategy to fund implementation of all goals.
- Identify key foundations, non-profit, and others for potential partnership.
- Definitive conclusions, recommendations, and action plan.
- Written and oral reporting to the BAIPP and City Council.
- Digital strategies.

#### **FINAL REPORT PRESENTATION:**

This task should include at a minimum the following components:

- Reproduction of the Final Report.
- Provide an electronic copy of the Final Report as well as electronic copies of all maps, graphs, and other accompanying visual materials in a format to be determined by the Agency.
- Key Images, Maps, Charts and Diagrams.
- Oral and written Final Report presentations.
- Prepare multimedia presentation of Final Report; including but not limited to, PowerPoint presentations, information boards, handouts, and brochures.
- Presentation materials must be developed for use by the City.
- Presentation of Final Report to Bastrop Art in Public Places and the City Council.

#### **PROPOSAL REQUIREMENTS & SUBMISSION DETAILS:**

Firms interested in responding to this RFP should prepare a brief and concise proposal, including the following sections:

##### **1. Introduction:**

- Present general introductory comments in a cover letter of no more than two (2) pages.
- Include a purpose statement describing your understanding of the proposed project and required services.



2. **Work Plan:**

- Formulate a work plan that clearly and systematically identifies and describes all tasks and subtasks necessary to complete the requirements set forth in the Scope of Work Section.
- Address ability to engage and communicate with a broad and diverse range of stakeholders in a government planning process.
- Demonstrate ability to understand local creative and artistic economic environments and the ability to leverage community assets for positive economic benefits.
- Demonstrate ability to facilitate various groups through the creation of a Vision Statement that unifies individual visual and performing arts groups around the creation of a common vision regarding the role that arts and culture will play in a community.

3. **Personnel and Experience:**

- Prepare an organizational chart showing the names and titles of the project manager, professional and supporting staff, sub-consultants, and other key personnel that will be assigned to the project.
- Synopsis of key personnel with relevant professional background and contact information.
- Provide company and/or team history and relevant project experience including specific project references.
- Five (5) professional references that can speak to relevant project experience.

4. **Cost Proposal:**
  - Prepare a not-to-exceed cost proposal.
  - Provide a cost breakdown for each task and subtask identified in the work plan.
5. **Project Schedule:**
  - Prepare a schedule that illustrates the estimated timeline, in monthly increments, for completing project tasks and subtasks.

Only written proposals will be considered. All materials submitted shall become a part of the proposal, and may be incorporated in a subsequent contract(s) between the City and the selected proposer. Failure to comply, other than as specifically permitted in the RFP, may disqualify a proposer from further consideration.

#### **EVALUATION & SELECTION CRITERIA:**

All proposals will be evaluated solely based on the following criteria and the ranking of the BAIPP Master Plan Committee. The proposal scoring the highest will be moved forward to the City Council. The Agency reserves the right to request additional information to clarify a submitted proposal.

#### **Project Concept and Solutions – 30%**

- Understanding of the requirements of the scope of work.
- Understanding of the broad range of issues and conditions facing Bastrop’s arts and culture community.
- Understanding of local creative and artistic economic environment.
- Understanding of Bastrop demographics and culture, including population, diversity, and economic conditions.
- Ability to meet identified schedule.

#### **Qualifications of Consultant Firm and/or Team – 30%**

- Personnel and organizational experience, resources, and technical competence to facilitate accomplishment of stated scope of work.
- Communication skills and ability to engage a broad and diverse range of stakeholders in a government planning process.
- Ability to facilitate various groups through the creation of a Vision Statement that unifies individual visual and performing arts groups around the creation of a common vision regarding the role that arts and culture will play in a community.
- Personnel and organizational involvement or a process to ensure local presence (e.g. involvement of sub-contractor).
- Ability to work in diverse communities.

#### **Demonstrated Applicable Experience – 30%**

- Demonstrated ability to complete planning projects of a comparable size.
- Demonstrated ability to create a specific strategic plan for implementation while

recognizing the economic and fiscal challenges of a municipal government agency.

- Demonstrated ability to examine best practices in other cities and multidisciplinary arts organizations.

#### **Total Evaluated Cost – 10%**

- Relation of the fee to the proposed level of effort.
- Detailed budget proposal including itemized billing structure by assigned consulting staff.

#### **Interviews**

In-person or telephone interviews may be conducted at the discretion of the BAIPP Master Plan Committee, as outlined in the proposed schedule for proposal submission.

#### **MISCELLANEOUS TERMS AND CONDITIONS:**

##### **Notification:**

The Hospitality & Downtown Department shall notify all proposers in writing of Bastrop Art in Public Places Master Plan Committee's recommendation.

##### **Contractual Arrangements:**

The proposer selected to perform the services outlined in this RFP will enter into a Contract, approved as to form by the City Attorney, directly with the City of Bastrop.

##### **Verification of Information:**

The City reserves the right to verify the information received in the proposal. If a proposer knowingly and willfully submits false information or data, the City reserves the right to reject that proposal. If it is determined that a Contract was awarded as a result of false statements or other data submitted in response to this RFP, the City reserves the right to terminate the Contract.

##### **Cost of Preparation:**

All costs of proposal preparation shall be borne by the proposer. The City shall not, in any event, be liable for any expenses incurred by the proposer in the preparation and/or submission of the proposal.

**Important Notices:**

Consultant teams who mail their proposals should allow adequate mail delivery time to ensure timely receipt of the proposals. Late proposals will not be considered for review. The City reserves the right to determine the timeliness of all proposals submitted. At the day and time appointed, all timely submitted proposals will be opened and the name of the proposer(s) announced. No other information about the proposals will be made public until a recommendation is made to City Council.

The City reserves the right to extend the deadline for submission should such action be in the best interest of the City. In the event the deadline is extended, proposer(s) will have the right to revise their proposal. Proposals may be withdrawn personally, by written request, prior to the scheduled closing time for receipt of proposals.

Submission of a proposal pursuant to this RFP shall constitute acknowledgement and acceptance of the terms and conditions set forth herein. Portions of this RFP and the contents of the proposal submitted by the successful proposer may become contractual obligations if a Contract is awarded. Failure of the successful proposer to accept these obligations may result in cancellation of the award. The City reserves the right to withdraw or cancel this RFP at any time without prior notice and may re-issue this RFP at any time.

The City of Bastrop reserves the right to reject all proposals. Failure of the Proposer to submit the above required documents with their proposal may render the proposal non-responsive and result in its rejection.

**Property of City/Proprietary Material:**

All proposals submitted in response to this RFP shall become the property of the City of Bastrop and subject to the State of Texas Public Information Act. In the event a proposer claims such an exemption, the proposer is required to state in the proposal the following: "The proposer will indemnify the City and its officers, employees and agents, and hold them harmless from any claim or liability and defend any action brought against them for their refusal to disclose copyrighted material, trade secrets or other proprietary information to any person making a request therefore."

**Modifications:**

The Scope of Work and specific tasks outlined in this RFP are subject to change due to the nature of the planning process. Any amendments, in the terms and/or conditions of resultant contract must be made by in writing and approved the City.

# Request for Proposals Cultural Arts Master Plan



# Why?

- Comprehensive Plan: 8.4.1 & 8.4.2
- FY 18 Work Plan: UB #1
- Joint Workshop: 12/6/17

The ***Vision*** of the City of Bastrop is to be a welcoming community with a compassion for our diversity, a tapestry of people, **arts**, and structures; preserving our history and character while embracing progress around our unique environment.

***Uniquely Bastrop***: Maintain and enhance our historic community feel by leveraging the unique combination of community, **cultural** and recreational assets that make Bastrop a special place to live and work.

# History

- Cultural Arts District
- BAIPP
- Bastrop as an Arts Destination



# Our Cultural Arts Community:

- BAIPP
- Lost Pines Art League & Center
- Opera House
- Deep in the Heart Art Foundry
- Jerry Fay Wilhelm Center for Performing Arts
- Live Music
- Cultural District
- Special Events
- Film Industry
- History
- Visit Bastrop





# Goals

- Common Vision
- Guide Policy & Programming
- Quality of Life
- Increase Tourism
- Stabilize Sales Tax
- Greatest return on HOT Investment



# Proposed RFP Timeline:

The City will make every effort to adhere to the following schedule:

- Request for Proposal Reviewed by BAIPP  
Wednesday, January 3, 2018
- Request for Proposal Reviewed by City Council  
Tuesday, January 9, 2018
- City of Bastrop Website Posting  
Thursday, January 11, 2018
- Notice of RFQ in Official Newspaper  
Thursday, January 11 & 18th, 2018
- **Appointment of Master Plan Committee**  
Wednesday, February 7, 2018
- Statement of Qualifications Due  
Thursday, February 8, 2018
- Selection Committee Conducts Interviews  
Wednesday, February 28, 2018
- **Council approves List of Qualified Firms**  
Tuesday, March 13, 2018

**PROJECT KICK OFF- April 2nd**



# Master Plan Committee Appointed by BAIPP

- BAIPP Board Member
- Bastrop Opera House Representative
- School District Performing Arts Rep
- Film Representative
- Music Representative
- Historical Society Board Member
- Lost Pines Arts Center Board Member
- Arts at Large Representative
- Parks Board Member
- Main Street Board Member
- Visit Bastrop Board Member
- City Staff Liaison – Sarah O'Brien,  
Director of Hospitality & Downtown





## Council Consideration...

- Visual & Performing Arts vs Culinary Arts
- Direction to staff regarding process
  - Timeline
  - Committee
  - Goals

# QUESTIONS?





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 6C

**TITLE:**

A proclamation of the City Council of the City of Bastrop, Texas, recognizing January 15, 2018 as Martin Luther King Day.

**STAFF REPRESENTATIVE:**

Lynda K. Humble, City Manager



CITY OF BASTROP

Comprehensive Monthly Financial Report  
November 2017








# Performance at a Glance



	YEAR TO DATE	REFERENCE
<b>ALL FUNDS SUMMARY</b>		
ALL FUNDS SUMMARY	POSITIVE	Page 4
GENERAL FUND REV VS EXP	POSITIVE	Page 5
PROPERTY TAXES	POSITIVE	Page 5
SALES TAXES	POSITIVE	Page 6
WATER/WASTEWATER FUND REV VS EXP	POSITIVE	Page 7
WATER/WASTEWATER REVENUES	POSITIVE	Page 7
ELECTRIC FUND REV VS EXP	POSITIVE	Page 8
ELECTRIC REVENUES	NEGATIVE	Page 8
HTOEL OCCUPANCY TAX FUND REV VS EXP	POSITIVE	Page 9
HOTEL OCCUPANCY TAX REVENUES	WARNING	Page 9
<b>PERFORMANCE INDICATORS</b>		
<b>POSITIVE</b>	= Positive variance or negative variance < 1% compared to seasonal trends	
<b>WARNING</b>	= Negative variance of 1-5% compared to seasonal trends	
<b>NEGATIVE</b>	= Negative variance of >5% compared to seasonal trends	



ECONOMIC INDICATORS	November 30, 2017 – NEWS FOR YOU
<b>ECONOMY</b>	<p>Attached is the Comprehensive Monthly Financial report for November 2017. This is just two months of FY2018, or 16.7% of the fiscal year is complete.</p> <p><b>Revenues:</b> Overall, the City has earned \$<u>4,578,414</u>. This amount is <u>13.5%</u> of the approved budget of \$<u>33,973,741</u> and is <u>2.5%</u> less than forecast through the month of November.</p> <p><b>Expense:</b> Overall, the City has spent 10% less than forecasted.</p>
<p><b>National:</b>                       Real gross domestic product (GDP) increase at an annual rate of 3% in the 3<sup>rd</sup> quarter of 2017. The personal income increased by .3% in November 2017 same with disposable personal income. The personal consumption expenditures increased .4 %.</p> <p>All of these reported by the Bureau of Economic Analysis.</p> <p><b>State Retail Sales:</b>                       State wide retail sales as of 1Q2017 is down 1.2% from 1Q2016.</p> <p><b>Texas Retail Sales:</b>                       This index is a single summary statistic that sheds light on the future of the state’s economy. The index is a composition of eight leading indicators. The index is at 127.18 which is up 3.28% from one year ago.</p>	<b>Noteworthy</b>
<b>UNEMPLOYMENT</b>	<p>The staff received their annual longevity checks at the quarterly employee luncheon held on Nov. 16<sup>th</sup>. The city pays \$3 per month to all employee’s after their first 12 months of employment. This is paid on an annual basis.</p>
<p><b>State-wide:</b>                       The state unemployment dropped from 4.0% in Sept. to 3.9% in Oct. 2017.</p> <p><b>Bastrop:</b>                       Bastrop County has an unemployment rate of 2.9% in Oct. 2017. This is a net change of -.8 since same time last year.</p>	

# COMPREHENSIVE MONTHLY FINANCIAL REPORT – Nov. 2017

## BUDGET SUMMARY OF ALL FUNDS

	FY2018 <u>Budget</u>	FY2018 <u>Forecast</u>	FY2018 <u>YTD</u>	<u>Variance</u>
<u>Revenues:</u>				
General	\$ 10,712,030	\$ 1,211,648	\$ 1,321,542	9.1%
Designated	47,450	4,075	4,288	5.2%
Innovation	256,500	42,750	42,980	0.5%
Debt Service	2,565,113	115,227	114,376	-0.7%
Water/Wastewater	5,121,640	819,782	831,347	1.4%
Water/Wastewater Debt	2,007,586	334,598	287,557	-14.1%
Impact Fees	896,439	149,407	54,366	-63.6%
Vehicle & Equipment Replacement	561,371	91,895	92,840	1.0%
Electric	7,323,696	1,171,365	1,058,479	-9.6%
Hotel/Motel Tax	2,882,000	538,085	513,470	-4.6%
Hospitality & Downtown	1,034,788	164,497	162,958	-0.9%
Art in Public Places	75,041	12,506	12,801	2.4%
Library Board	20,150	1,692	704	-58.4%
Cemetery	90,700	15,116	14,410	-4.7%
Hunter's Crossing PID	379,237	23,204	66,296	185.7%
<b>TOTAL REVENUES</b>	<b>\$ 33,973,741</b>	<b>\$ 4,695,847</b>	<b>\$ 4,578,414</b>	<b>-2.5%</b>
<u>Expense:</u>				
General	\$ 10,712,030	\$ 1,661,887	\$ 1,491,532	-10.3%
Designated	612,000	34,500	29,662	-14.0%
Innovation	664,500	51,084	49,543	-3.0%
Debt Service	2,354,274	3,500	2,419	-30.9%
Water/Wastewater	6,679,564	821,782	781,876	-4.9%
Water/Wastewater Debt	1,440,212	-	-	0.0%
Impact Fees	730,021	45,250	2,500	-94.5%
Vehicle & Equipment Replacement	82,000	17,000	102,715	504.2%
Electric	7,908,734	1,243,290	1,085,216	-12.7%
Hotel/Motel Tax	3,369,730	636,701	527,229	-17.2%
Hospitality & Downtown	1,027,522	141,470	119,135	-15.8%
Art in Public Places	94,050	8,250	692	-91.6%
Library Board	22,386	3,732	2,721	-27.1%
Cemetery	131,177	23,196	20,071	-13.5%
Hunter's Crossing PID	415,750	15,376	19,635	27.7%
<b>TOTAL EXPENSES</b>	<b>\$ 36,243,950</b>	<b>\$ 4,707,018</b>	<b>\$ 4,234,946</b>	<b>-10.0%</b>
Surplus/(Shortfall)	\$ (2,270,209)	\$ (11,171)	\$ 343,468	-3174.6%

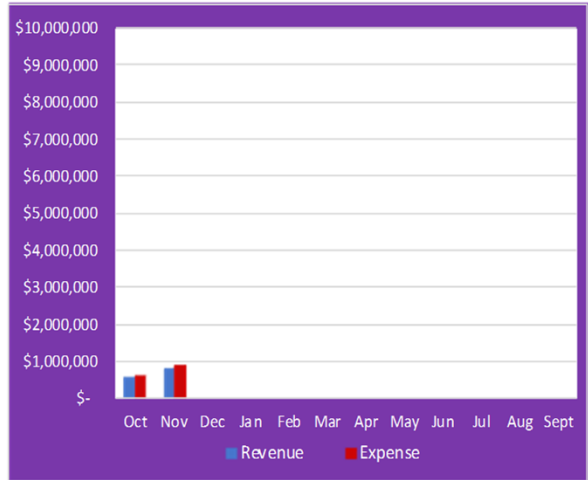
<b>POSITIVE</b>	= Positive variance or negative variance < 1% compared to forecast
<b>WARNING</b>	= Negative variance of 1-5% compared to forecast
<b>NEGATIVE</b>	= Negative variance of >5% compared to forecast

# COMPREHENSIVE MONTHLY FINANCIAL REPORT – Nov. 2017

## OVERALL FUND PERFORMANCE

### GENERAL FUND REVENUES VS EXPENSES

Month	FY2018 Revenue	FY2018 Expense	Monthly Variance
Oct	\$ 547,821	\$ 589,749	\$ (41,928)
Nov	773,721	901,783	\$ (128,062)
Dec			\$ -
Jan			\$ -
Feb			\$ -
Mar			\$ -
Apr			\$ -
May			\$ -
Jun			\$ -
Jul			\$ -
Aug			\$ -
Sept			\$ -
<b>Total</b>	<b>\$ 1,321,542</b>	<b>\$ 1,491,532</b>	<b>\$ (169,990)</b>
Cumulative Forecast	\$ 1,211,648	\$ 1,661,887	\$ (450,239)
Actual to Forecast \$	\$ 109,894	\$ 170,355	\$ 280,249
Actual to Forecast %	9.07%	10.25%	



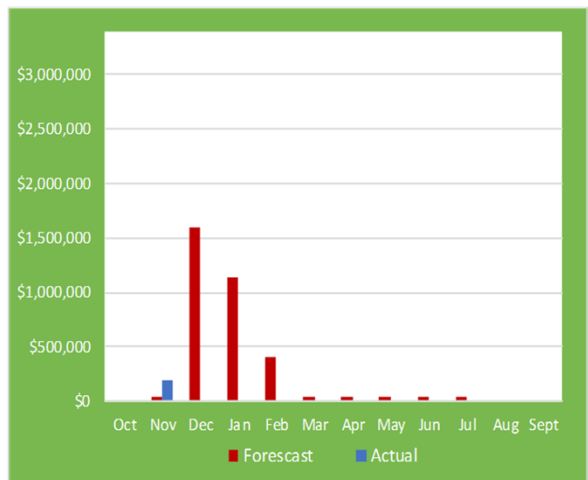
**POSITIVE**

Cumulatively overall, the General Fund is better than forecasted for this time of year. Revenues are 10% higher than forecasted and expenses are 10% lower than expected. This would be due to vacancies and forecasting assumptions.

## REVENUE ANALYSIS

### PROPERTY TAX REVENUE

Month	FY2018 Forecast	FY2018 Actual	Monthly Variance
Oct	\$ -	\$ -	\$ -
Nov	33,336	190,830	\$ (157,494)
Dec	1,600,131		\$ -
Jan	1,133,426		\$ -
Feb	400,033		\$ -
Mar	33,336		\$ -
Apr	33,336		\$ -
May	33,336		\$ -
Jun	33,336		\$ -
Jul	33,336		\$ -
Aug	-		\$ -
Sept	-		\$ -
<b>Total</b>	<b>\$ 3,333,606</b>	<b>\$ 190,830</b>	<b>\$ (157,494)</b>
Actual to Forecast %			5.72%



**POSITIVE**

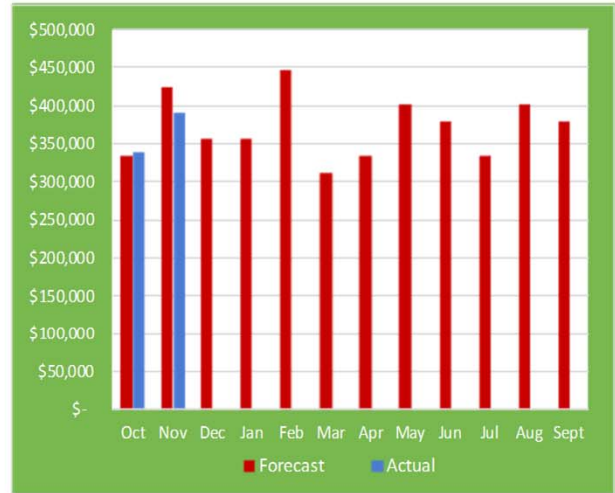
Property tax represents 31% of the total General Fund revenue budget. As you can see from the forecast, they are generally collected from December to February. The forecast was based on FY17 actuals. This indicates that tax payers are paying earlier this year.

# COMPREHENSIVE MONTHLY FINANCIAL REPORT – Nov. 2017

## REVENUE ANALYSIS

### SALES TAX REVENUE

Month	FY2018 Forecast	FY2018 Actual	Monthly Variance
Oct	\$ 334,264	\$ 338,511	\$ 4,247
Nov	423,401	388,767	\$ (34,634)
Dec	356,548		\$ -
Jan	356,548		\$ -
Feb	445,685		\$ -
Mar	311,980		\$ -
Apr	334,264		\$ -
May	401,117		\$ -
Jun	378,832		\$ -
Jul	334,264		\$ -
Aug	401,117		\$ -
Sept	378,832		\$ -
<b>Total</b>	<b>\$ 4,456,852</b>	<b>\$ 727,278</b>	<b>\$ (30,387)</b>



% of budget

16.32%

**POSITIVE**

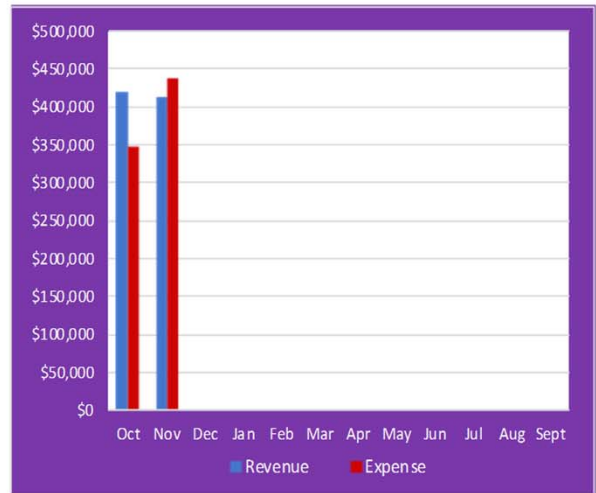
Sales Tax is 42% of the total budgeted revenue for General Fund. The Actual amounts for Oct. and Nov. are estimated due to the State Comptrollers' two month lag in payment of these earned taxes.

# COMPREHENSIVE MONTHLY FINANCIAL REPORT – Nov. 2017

## OVERALL FUND PERFORMANCE

### WATER/WASTEWATER FUND REVENUES VS EXPENSES

Month	FY2018 Revenue	FY2018 Expense	Monthly Variance
Oct	\$ 419,499	\$ 345,905	\$ 73,594
Nov	411,848	435,971	\$ (24,123)
Dec			\$ -
Jan			\$ -
Feb			\$ -
Mar			\$ -
Apr			\$ -
May			\$ -
Jun			\$ -
Jul			\$ -
Aug			\$ -
Sept			\$ -
<b>Total</b>	<b>\$ 831,347</b>	<b>\$ 781,876</b>	<b>\$ 49,471</b>
Cumulative Forecast	\$ 819,782	\$ 821,782	\$ (2,000)
Actual to Forecast \$	\$ 11,565	\$ 39,906	\$ 51,471
Actual to Forecast %	1.41%	4.86%	



### POSITIVE

Water and wastewater revenues are 1.4% higher than forecasted for this time of year. We are continuing to add homes in Pecan Park and commercial in our service area. The expense budget is 4.8% lower than forecasted due to vacancies and timing of expenditures.

## REVENUE ANALYSIS

### WATER/WASTEWATER REVENUE

Month	FY2018 Forecast	FY2018 Actual	Monthly Variance
Oct	\$ 409,891	\$ 419,499	\$ 9,608
Nov	409,891	411,848	\$ 1,957
Dec	409,891		\$ -
Jan	409,891		\$ -
Feb	359,155		\$ -
Mar	359,155		\$ -
Apr	409,891		\$ -
May	460,628		\$ -
Jun	511,364		\$ -
Jul	460,628		\$ -
Aug	460,628		\$ -
Sept	460,628		\$ -
<b>Total</b>	<b>\$ 5,121,641</b>	<b>\$ 831,347</b>	<b>\$ 11,565</b>
% of Budget			16.23%



### POSITIVE

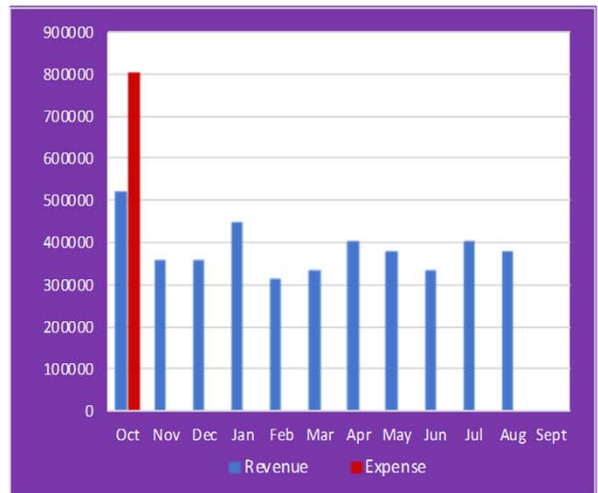
The water and wastewater revenue is on track to be slightly over budgeted revenue. The department set 9 new residential meters this month.

# COMPREHENSIVE MONTHLY FINANCIAL REPORT – Nov. 2017

## OVERALL FUND PERFORMANCE

### ELECTRIC FUND REVENUES VS EXPENSES

Month	FY2018 Revenue	FY2018 Expense	Monthly Variance
Oct	\$ 575,828	\$ 575,543	\$ 285
Nov	482,650	509,673	\$ (27,023)
Dec			\$ -
Jan			\$ -
Feb			\$ -
Mar			\$ -
Apr			\$ -
May			\$ -
Jun			\$ -
Jul			\$ -
Aug			\$ -
Sept			\$ -
<b>Total</b>	<b>\$ 1,058,478</b>	<b>\$ 1,085,216</b>	<b>\$ (26,738)</b>
Cumulative Forecast	\$ 1,171,365	\$ 1,243,290	\$ (71,925)
Actual to Forecast \$	\$ (112,887)	\$ 158,074	\$ 45,187
Actual to Forecast %	-9.64%	12.71%	



### POSITIVE

The Electric utility fund had revenue this month that was 9.6% below forecast, however the actual expenditures were 12.7% under budgeted forecast which is a 3.1% net positive. We will continue to fine tune the forecasting model.

## REVENUE ANALYSIS

### ELECTIC FUND REVENUE

Month	FY2018 Forecast	FY2018 Actual	Monthly Variance
Oct	\$ 585,682	\$ 575,828	\$ (9,854)
Nov	585,682	482,650	\$ (103,032)
Dec	657,559		\$ -
Jan	477,867		\$ -
Feb	521,805		\$ -
Mar	513,805		\$ -
Apr	477,867		\$ -
May	585,682		\$ -
Jun	729,436		\$ -
Jul	801,316		\$ -
Aug	729,436		\$ -
Sept	657,559		\$ -
<b>Total</b>	<b>\$ 7,323,696</b>	<b>\$ 1,058,478</b>	<b>\$ (112,886)</b>
% of budget			14.45%



### NEGATIVE

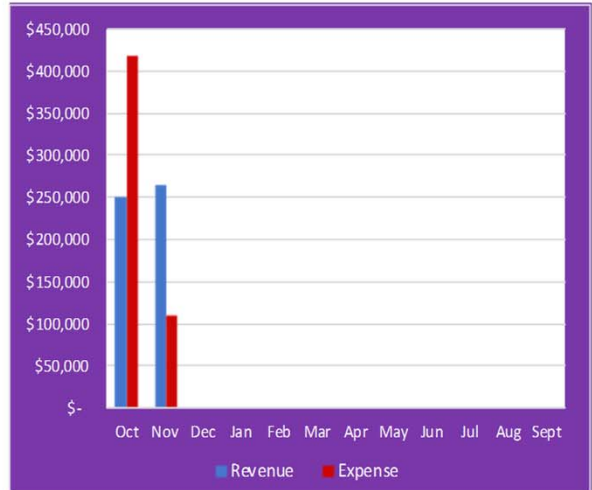
The Electric utility revenue is 9.6% below forecasted revenue. We project that this will be made up in hotter months but will continue to monitor. Two new commercial meters were set this month.

# COMPREHENSIVE MONTHLY FINANCIAL REPORT – Nov. 2017

## OVERALL FUND PERFORMANCE

### HOTEL OCCUPANCY TAX FUND REVENUES VS EXPENSES

Month	FY2018 Revenue	FY2018 Expense	Monthly Variance
Oct	\$ 250,340	\$ 416,596	\$ (166,256)
Nov	263,130	110,633	\$ 152,497
Dec			\$ -
Jan			\$ -
Feb			\$ -
Mar			\$ -
Apr			\$ -
May			\$ -
Jun			\$ -
Jul			\$ -
Aug			\$ -
Sept			\$ -
<b>Total</b>	<b>\$ 513,470</b>	<b>\$ 527,229</b>	<b>\$ (13,759)</b>
Cumulative Forecast	\$ 538,085	\$ 636,701	\$ (98,616)
Actual to Forecast \$	\$ (24,615)	\$ 109,472	\$ 84,857
Actual to Forecast %	-4.57%	20.76%	16.19%



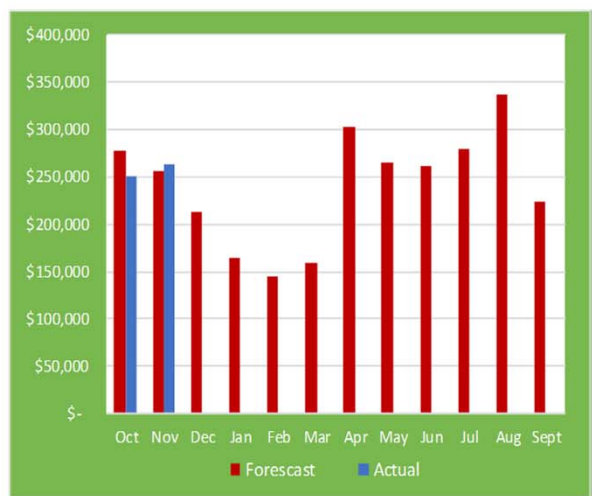
POSITIVE

The Hotel Occupancy Tax fund is overall in a positive position. The revenue is 4.6% lower than forecasted but the expenses are 20.8% lower than forecasted as well. Visit Bastrop is paid on a quarterly basis.

## REVENUE ANALYSIS

### HOTEL OCCUPANCY TAX REVENUE

Month	FY2018 Forecast	FY2018 Actual	Monthly Variance
Oct	\$ 277,390	\$ 250,340	\$ (27,050)
Nov	255,196	263,130	\$ 7,934
Dec	213,377		\$ -
Jan	164,985		\$ -
Feb	145,030		\$ -
Mar	158,970		\$ -
Apr	301,938		\$ -
May	265,141		\$ -
Jun	261,039		\$ -
Jul	279,344		\$ -
Aug	336,103		\$ -
Sept	223,487		\$ -
<b>Total</b>	<b>\$ 2,882,000</b>	<b>\$ 513,470</b>	<b>\$ (19,116)</b>
% of Budget			17.82%



WARNING

The Hotel Occupancy Tax revenue is 4.6% lower than forecasted. This month we moved from negative status to warning. We will continue to monitor this fund closely.



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 9

**TITLE:**

## **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.*





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 10A

**TITLE:**

Consider action to approve City Council minutes from the November 29, 2017, December 6, 2017 (Joint meeting with BAIPP), December 6, 2017 (Joint meeting with Main Street) and December 12, 2017 meetings.

**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 City Council minutes from the November 29, 2017, December 6, 2017 (Joint meeting with BAIPP), December 6, 2017 (Joint meeting with Main Street) and December 12, 2017 meetings.

**ATTACHMENTS:**

- November 29, 2017, DRAFT Special Called Meeting Minutes.
- December 6, 2017, DRAFT Special Joint Meeting with BAIPP Minutes.
- December 6, 2017, DRAFT Special Joint Meeting with Main Street Minutes.
- December 12, 2017, DRAFT Regular Meeting Minutes.

**MINUTES OF SPECIAL COUNCIL MEETING  
BASTROP CITY COUNCIL  
November 29, 2017**

The Bastrop City Council met in a Special Council Meeting on Wednesday, November 29, 2017, at 6:30 p.m. at Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were Mayor Schroeder, Mayor Pro Tem Schiff and Council Members, Jones, Ennis, Nelson and Peterson.

**CALL TO ORDER**

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

Mayor Schroeder explained the purpose of the meeting and provided some background information and gave a brief history of the Chicken Sanctuary, the City's ordinance. Mayor Schroeder provided instruction as to how the meeting would be conducted.

Mayor Schroeder called on citizens who had signed up to speak. Equal time was allotted both for and against. All citizens who wished to speak did. At 8:25 p.m., Mayor Schroeder concluded the public comments. Mayor Schroeder asked each Council Member to address the citizens regarding this issue.

Council Member Peterson: Thanked all citizens for coming out. He hopes that the Council will move quickly to resolve these issues.

Mayor Pro Tem Schiff: Mr. Schiff stated that there are too many roosters. Expressed his desire to continue with ongoing methods of control. He also stated that the wild animal ordinance does not apply to feral chickens and if chickens are outside of the sanctuary area they need to be dealt with.

Council Member Ennis: Mr. Ennis expressed his fondness of the chickens. He feels it is an amazing situation and favors the sanctuary, but feels it needs assistance. He also expressed his desire to see no harm come to the chickens.

Council Member Nelson: Mr. Nelson would like to see the City adhere to the ordinance as he is in favor of retaining the sanctuary. He does feel the feral chicken issues need to be addressed. Council should act now and not delay a response to the problems brought up tonight.

Council Member Jones: Ms. Jones requested that City Manager Humble review and present to Council options that are available. She would request that the City remove the chickens ASAP from the Pecan Street Inn, Ms. Leisure's property, and the Johnsons home. She would ask the DMO to look at a possible special event such as a chicken roundup and remove to a different location or if possible include an adoption event.

Mayor Schroeder: Mayor Schroeder stated that what she is hearing from everyone is that you would like the City to keep the sanctuary, but that the sanctuary needs some fine tuning. I feel the ordinance needs to be defined and provided some clarity. I will ask that City Manager Humble address the roosters outside of the sanctuary, clarify the ordinance, and come back to Council

with an update and options available. Mayor Schroeder thanked all in attendance and welcomed the feedback and communication.

**ADJOURNMENT**

Mayor Schroeder adjourned the meeting at 8:50 p.m.

APPROVED:

ATTEST:

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

\_\_\_\_\_  
Deputy City Secretary, Traci Chavez

DRAFT

**MINUTES OF JOINT WORKSHOP WITH BASTROP, TX CITY  
COUNCIL AND BASTROP ART IN PUBLIC PLACES  
DECEMBER 6, 2017**

The Bastrop City Council and the Bastrop Art in Public Places met in a Joint Workshop Meeting on Wednesday, December 6, 2017, at 6:00 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present for the Bastrop City Council were: Mayor Schroeder, Mayor Pro Tem Schiff, and Council Members Ennis, Nelson and Peterson. Officers present were: City Manager Lynda Humble and City Secretary Ann Franklin. Members present for the Bastrop Art in Public Places were: Marlene Outlaw, Glenda Dayton, Matt Hart, Andrea Hasche, Diana Yens, Edward Skarnulis, Jo Albers and Anne Beck. Staff present: Main Street Director, Sarah O'Brien.

**CALL TO ORDER**

- a. Mayor Schroeder called the meeting of the Bastrop City Council to order with a quorum being present at 6:00 p.m. Council Member Jones was absent.
- b. Matt Hart called the meeting of the Bastrop Art in Public Places to order with a quorum being present at 6:00 p.m. Board Member Lynette Philpot was absent.

**WORK SESSION**

- 2B. Discuss Council's Identified Focus Areas and List of Priorities as it relates to Bastrop Art in Public Places and provide direction.  
**Presentation was made by City Manager Lynda Humble and Main Street Director Sarah O'Brien. Direction was given to Bastrop Art in Public Places to be the vehicle to develop a master plan.**
- 2A. Receive and participate in information regarding the 2017 Bastrop Art in Public Places annual report to Council.  
**Presentation was made by City Manager Lynda Humble and Main Street Director Sarah O'Brien.**
- 2C. Discuss the Culinary & Cultural Arts Strategic Plan Report and next steps.  
**This item was withdrawn.**

**ADJOURNMENT**

**Mayor Schroeder adjourned the Bastrop City Council meeting at 7:15 p.m. without objection.**

**Matt Hart adjourned the Bastrop Art in Public Places meeting at 7:15 p.m. without objection.**

APPROVED:

ATTEST:

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Mayor Connie B. Schroeder

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City Secretary Ann Franklin

**MINUTES OF JOINT WORKSHOP WITH  
BASTROP, TX CITY COUNCIL AND MAIN STREET PROGRAM  
ADVISORY BOARD  
DECEMBER 6, 2017**

The Bastrop City Council and Main Street Program Advisory Board met in a Joint Workshop Meeting on Wednesday, December 6, 2017, at 7:30 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present for the Bastrop City Council were: Mayor Schroeder, Mayor Pro Tem Schiff, and Council Members Ennis and Nelson. Officers present were: City Manager Lynda Humble and City Secretary Ann Franklin. Members present for the Main Street Program Advisory Board were: Terry Moore, Steve Bridges, Jennifer Long, Dick Smith, Shanda Hernandez and Jeanette Condray; Organization Co-Chair, Shawn Pletsch and Economic Vitality Co-Chair, Bonnie Coffey. Staff present: Main Street Director, Sarah O'Brien.

**CALL TO ORDER**

- a. Mayor Schroeder called the meeting of the Bastrop City Council to order with a quorum being present at 7:31 p.m. Council Members Jones and Peterson were absent.
- b. Chair Dick Smith called the meeting of the Main Street Program Advisory Board to order with a quorum being present at 7:31 p.m. Board Members Michelle Adams and Naseem Khonsari were absent.

**WORK SESSION**

- 2A. Receive and participate in information regarding the Main Street Program and the Main Street Advisory Board.  
**Presentation was made by City Manager Lynda Humble and Main Street Director Sarah O'Brien.**
- 2B. Discuss Council's Identified Focus Areas and List of Priorities as it relates to the Bastrop Main Street Program.  
**Recommendation was made for Main Street Program Advisory Board to coordinate with Bastrop Art in Public Places regarding the bridge.**

**ADJOURNMENT**

**Mayor Schroeder adjourned the Bastrop City Council meeting at 8:37 p.m. without objection.**

**Chair Dick Smith adjourned the Main Street Program Advisory Board meeting at 8:37 p.m. without objection.**

APPROVED:

ATTEST:

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Mayor Connie B. Schroeder

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City Secretary Ann Franklin

**MINUTES OF REGULAR COUNCIL MEETING  
BASTROP CITY COUNCIL  
December 12, 2017**

The Bastrop City Council met in a Regular Meeting on Tuesday, December 12, 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 and Council Members Ennis, Nelson and Peterson. Officers present were City Manager Lynda Humble, City Secretary Ann Franklin, and City Attorney Alan Bojorquez.

**CALL TO ORDER**

At 6:30 p.m. Mayor Schroeder called the meeting to order with a quorum being present. Mayor Pro Tem Schiff and Council Member Jones were absent.

**PLEDGE OF ALLEGIANCE**

Cadet Commanding Officer, Kayla Simon; Cadet Seaman, Alex Holder; and Seaman, Riley Dunn, Bastrop High School Navy Junior Reserve Officers Training Corps (NJROTC), led the Pledge of Allegiance.

**INVOCATION**

Reverend Bob Long gave the invocation.

**PRESENTATIONS**

## 4A. Mayor's Report

**Sarah O'Brien announced that Bastrop made the top ten finalists for "Small Business Revolution".**

**Terry Moore – "It's Time Texas" is a partnership between the YMCA and the City of Bastrop. It is about driving a local effort to make healthy easier in the community. The "Happy Healthy New Year Bash will be held on January 13, 2018, three (3) hour event held at the Bastrop Convention Center, 9:00 a.m. – Noon. This is a three (3) month challenge that begins on January 8, 2018, citizens will be encouraged to sign up at the January 13<sup>th</sup> event and throughout the three (3) months. The end game is to help the community become healthier and stronger. The winning community in each size category will receive funds to go towards future community health efforts.**

**A MINUTE WITH THE MAYOR Transparency - The Council has spent an enormous amount of time and effort to make sure everything it does is transparent. The agendas are posted with backup material on the Friday prior to the meeting and meetings are live streamed. All sitting Councilmembers have published phone numbers and email addresses. There are "Work Session" items on the agenda, almost everything that Council votes on has been on a prior Council agenda as a "Work Session" item.**

**ACTIVITIES OF MAYOR SCHROEDER SINCE THE LAST COUNCIL MEETING:**

- November 29
  - o Free Range Chicken Meeting
- December 1
  - o First Friday Art Walk
  - o A Christmas Carol Rag at the Bastrop Opera House

- December 2
  - Snow Day at Fisherman's Park
- December 4-7
  - Emergency Management Training
- December 6
  - Joint Work Session Council and BAIPP
  - Joint Work Session Council and Main Street
- December 7
  - KVUE "My Home Town" Interview
- December 8
  - TEDC Sales Tax Workshop
  - Rendezvous Ball
- December 9
  - Historic Home Tour
  - Lighted Christmas Parade
  - Library Open House
- December 11
  - Robotics Showcase (EDC sponsored)

**UPCOMING EVENTS:**

- December 13
  - Quarterly Community Support Meeting
  - TML Region 10 Meeting
- December 16
  - Sip, Shop and Swirl
- December 18
  - BEDC Board Meeting
- December 19
  - BEDC Open House
- January 3
  - Chamber Luncheon
- January 4
  - Farm Street Opry
- January 5
  - First Friday Art Walk

- 4B. Councilmember's Report  
**Council Member Peterson – The Lighted Parade was very nice, people from out of town attended.**

**Council Member Nelson  
December 7<sup>th</sup>**

- **Attended the Parks Board Meeting  
Rode in the Lighted Parade, the parade was outstanding.**

**Council Member Ennis**

**Thanked the staff for the work put into the Lighted Parade, it was a great experience.**

## 4C. City Manager's Report

**Notice to Citizens: By now the utility bills should have been received, but some have not. The due date is normally the 15<sup>th</sup> of each month. But, there have been technical challenges in getting the bills out this month. Due to this difficulty, the due date has been extended to December 22<sup>nd</sup> and cut-offs will be January 2<sup>nd</sup>. Apologies for the confusion.**

**WORK SESSION/BRIEFINGS**

## 5A. Receive presentation regarding Park Land Dedication at Bob Bryant Park and Extension of the Boys &amp; Girls Club Contract.

**Presentation was made by Managing Director of Public Works & Leisure Services Trey Job and City Attorney Alan Bojorquez.**

## 5B. Receive presentation on proposed update to Subdivision ordinance, Part 2.

**This item was withdrawn.**

## 5C. Provide update on The Villages at Hunters Crossing and compliance with Conditional Use Permit (CUP).

**Presentation was made by Planning Department Assistant Director Jennifer Bills.**

**STAFF AND BOARD REPORTS - NONE****CITIZEN COMMENTS**

**Rhonda Vandiver – Ms. Vandiver expressed her dissatisfaction with the actions of the City towards her.**

**CONSENT AGENDA**

**A motion was made by Council Member Ennis to approve Items 8A, 8B, 8C, 8D and 8E listed on the Consent Agenda after being read into the record by City Secretary, Ann Franklin. Seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

## 8A. Consider action to approve minutes from the November 28, 2017 meeting.

## 8B. Consider action to approve Resolution No. R-2017-98 of the City Council of the City of Bastrop, Texas approving the 2018 Council Meeting Schedule, attached as Exhibit A; and providing an effective date.

## 8C. Consider action to approve Resolution No. R-2017-103 of the City Council of the City of Bastrop, Texas adopting the Budget Planning Calendar for the Fiscal Year 2019, attached as Exhibit A; repealing all resolutions in conflict; and providing an effective date.

## 8D. Consider action to approve the second reading of Resolution No. R-2017-96 of the City Council of the City of Bastrop, Texas, approving the terms of an economic development performance agreement between the Bastrop Economic Development Corporation and



Seton Family of Hospitals; approving the terms of an agreement for construction of stormwater drainage improvements with Seton Family of Hospitals and 71 Retail Partners, LP, in an amount exceeding ten thousand dollars (\$10,000); repealing all resolutions in conflict; providing severability; and providing an effective date.

- 8E. Consider action to approve the second reading of Resolution No. R-2017-97 of the City Council of the City of Bastrop, Texas, approving the expenditure of Bastrop Economic Development funds for the extension of the public road known as Agnes Street as an infrastructure improvement project in an amount exceeding ten thousand dollars (\$10,000); repealing all resolutions in conflict; and providing an effective date.

#### **ITEMS FOR INDIVIDUAL CONSIDERATION**

- 9A. Consider action to approve the first reading of ordinance No. 2017-29 of the City Council of the City of Bastrop, Texas, amending the Code of Ordinances to provide for creating and enacting Chapter 1, Article 1.19, of the Bastrop Code of Ordinances; creating a Youth Advisory Council and providing for the Council's Organization, Membership, Responsibilities, and Resources; and providing for findings of fact, enactment, effective date, repealer, severability, codification, and proper notice and meeting.

**Presentation was made by City Manager Lynda Humble; Megan Brandon, Social Studies Research Methods Teacher and students, Colorado Collegiate Academy.**

**A motion was made by Council Member Ennis to approve the first reading of Ordinance No. 2017-29 and to include on the January 9, 2018, agenda for a second reading with the following amendments, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

**The amendment was to include in the ordinance language that states the recommendations for appointments will be made by a Bastrop Independent School District representative.**

- 9B. Consider action to approve Resolution No. R-2017-104 of the City Council of the City of Bastrop, Texas adopting the Bastrop Election Calendar for the May 5, 2018 and possible run-off election on June 9, 2018, attached as Exhibit A, and providing an effective date.

**Presentation was made by City Secretary Ann Franklin.**

**A motion was made by Council Member Nelson to approve Resolution No. R-2017-104, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

**Mayor Schroeder recessed the Council meeting at 7:32 p.m.**

**Mayor Schroeder called the meeting back to order at 7:36 p.m.**

- 9C. Consider action to approve the first reading of Ordinance No. 2017-30 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 12, titled "Traffic and Vehicles", Article 12.12, titled "Golf Carts" and regulating the operation of golf carts on public streets; providing for a penalty for the violation of this ordinance; providing for repealing, savings, and severability clauses; and move to include on the January 9, 2018 agenda for a second reading.

**Presentation was made by Public Safety Director/Chief of Police Steve Adcock.**

**A motion was made by Council Member Nelson to approve the first reading of Ordinance No. 2017-30 and to include on the January 9, 2018, agenda for a second reading, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9D. Consider action to approve the first reading of Ordinance No. 2017-31 of the City Council of the City of Bastrop, Texas, amending the Code of Ordinances by amending Chapter 3, by adding article 3.21, "Streets: Public Right-of-Way Management" and adding sections to provide for definitions, municipal authorization, registration, compensation and fees; provide for administration and enforcement; provide for construction obligations; permit required; provide for construction obligations; permit required; provide for conditions of public right-of-way occupancy; provide for insurance requirements and indemnity; providing for improperly installed facilities; provide for restoration of property; provide for revocation or denial of permit; provide for appeal from denial of permit; provide for inspections; provide for abandoned facilities; provide that underground installation preferred; provide for courtesy and proper performance; provide for signage; providing for graffiti abatement; providing for alternate means or method; waiver; provide for legal action; provide for a design manual; provide for prohibited or restricted areas for wireless facilities in the right-of-way; provide for preferred locations; provide for order of preference regarding attachment to existing facilities; provide for placement requirements; provide for concealment or camouflage required when possible; provide for general requirements; provide for electrical supply; provide for installation and inspections; provide for requirements in regard to removal, replacement, maintenance and repair; provide for requirements upon abandonment; provide for general provisions; provide for insurance, indemnity, bonding and security deposits; provide for design manual updates; provide for administrative hearing – request for exemption; and providing for the following: findings of fact, enactment, repealer, severability, codification, effective date, and proper notice & meeting and move to include on the January 9, 2018 City Council agenda for a second reading.

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

**A motion was made by Council Member Peterson to approve the first reading of Ordinance No. 2017-31 and to include on the January 9, 2018, agenda for a second reading, seconded by Council Member Nelson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9E. Hold public hearing and consider action to approve the first reading of Ordinance No. 2017-32 of the City Council of the City of Bastrop, Texas amending the Code Ordinances, Chapter 14 titled "Zoning", Section 37 titled "Exterior Construction Requirements", providing a repealing clause; providing a severability clause; providing a savings clause; and providing for an effective date; and move to include on the January 9, 2018, agenda for a second reading.

**Presentation was made by Planning Department Assistant Director, Jennifer Bills.**

**Public hearing was opened.**

**Public hearing was closed.**

**A motion was made by Council Member Peterson to approve the first reading of Ordinance No. 2017-32 and to include on the January 9, 2018, agenda for a second reading, seconded by Council Member Nelson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9F. Consider action to approve Resolution No. R-2017-105 of the City Council of the City of Bastrop, Texas, approving the Final Plat known as The Colony 1A, Section 1, Phase A, being 23.965 acres out of the Jose Manuel Bangs Survey, located west of FM 969 and south of the future extension of Sam Houston Drive, within the extra-territorial jurisdiction of Bastrop, Texas, attached as Exhibit A; repealing all conflicting resolutions; and providing an effective date.

**Presentation was made by Planning Department Assistant Director Jennifer Bills and Engineering Director Wesley Brandon.**

**A motion was made by Council Member Ennis to approve Resolution No. R-2017-105, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9G. Consider action to approve Resolution No. R-2017-106 of the City Council of the City of Bastrop, Texas, approving the Final Plat known as The Colony MUD 1A, Section 2A, being 15.377 acres out of the Jose Manuel Bangs Survey Abstract 5, located west of FM 969, within the extra territorial jurisdiction of Bastrop, Texas, attached as Exhibit A, repealing all conflicting resolutions; and providing an effective date.

**Presentation was made by Planning Department Assistant Director Jennifer Bills.**

**A motion was made by Council Member Nelson to approve Resolution No. R-2017-106, seconded by Council Member Ennis, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9H. Consider action to approve Resolution No. R-2017-107 of the City Council of the City of Bastrop, Texas, approving the Final Plat known as The Colony 1A, Section 2B, being 8.312 acres out of the Jose Manuel Bangs Survey, located west of FM 969 and north of the future extension of Sam Houston Drive, within the extra-territorial jurisdiction of Bastrop, Texas, attached as Exhibit A, repealing all conflicting resolutions; and providing an effective date.

**Presentation was made by Planning Department Assistant Director Jennifer Bills.**

**A motion was made by Council Member Ennis to approve Resolution No. R-2017-107, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9I. Consider action to approve Resolution No. R-2017-108 of the City Council of the City of Bastrop, Texas, approving the Final Plat known as Pecan Park, Section 6B, being 14.00 acres out of the Mozea Rousseau Survey, Abstract 56, located south of the extension of Childers Drive, within the city limits of Bastrop, Texas, attached as Exhibit A, repealing all conflicting resolutions; and providing an effective date.

**Presentation was made by Planning Department Assistant Director Jennifer Bills and Engineering Director Wesley Brandon.**

**A motion was made by Council Member Nelson to approve Resolution No. R-2017-108, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9J. Hold public hearing and consider action to approve Resolution No R-2017-109 of the City Council of the City of Bastrop, Texas, granting a variance to Bastrop Code of Ordinances Article 4.02.004 Sale of Alcoholic Beverages, Distance of premises from a church, school, or hospital, on property located at 1006 Main Street, within the city limits of Bastrop, Texas, establishing an effective date.

**Presentation was made by Planner and GIS Coordinator Allison Land.**

**Public hearing was opened.**

**Public hearing was closed.**

**A motion was made by Council Member Ennis to approve Resolution No. R-2017-109, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9K. Hold public hearing and consider action to approve the first reading of Ordinance No. 2017-28 of the City Council of the City of Bastrop, Texas, approving an amendment to the Bastrop Code of Ordinances, Chapter 4, Titled "Business Regulations", Article 4.02, Titled "Sale of Alcoholic Beverages" and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting and move to include on the January 9, 2018, agenda for a second reading.

**Presentation was made by Planner and GIS Coordinator Allison Land.**

**Public hearing was opened.**

**Public hearing was closed.**

**A motion was made by Council Member Ennis to approve the first reading of Ordinance No. 2017-28 and to include on the January 9, 2018, agenda for a second reading, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9L. Consider action to approve Resolution No. R-2017-88 of the City Council of the City of Bastrop, Texas awarding a contract for services associated with operating, supporting, staffing and providing a public pool to the YMCA of Austin – Bastrop Branch, at a cost of Thirty-Thousand and 00/100 Dollars (\$30,000.00), as attached as Exhibit A; authorizing the City Manager to execute all necessary documents for the contract; providing for a repealing clause; and establishing an effective date.

**Presentation was made by Managing Director of Public Works & Leisure Services Trey Job**

**A motion was made by Council Member Nelson to approve Resolution No. R-2017-88, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9M. Consider action to approve Resolution No. R-2017-112 of the City Council of the City of Bastrop, Texas authorizing a twenty-five (25) year lease agreement between the City of

Bastrop, Texas and the Bastrop Community Senior Center, Inc. for the Bastrop Activity Center located at 1209 Linden Street, Building A, attached as Exhibit A in consideration for Ten and 00/100 Dollars per year and assistance to the City when property is required to be a shelter; authorize the City Manager to execute all necessary documents; providing a repealing clause; and providing an effective date.

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

**A motion was made by Council Member Ennis to approve Resolution No. R-2017-112, seconded by Council Member Nelson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9N. Consider action to approve Resolution No. R-2017-113 of the City Council of the City of Bastrop, Texas confirming appointments by the Mayor to the Historic Landmark Commission and Planning and Zoning Commission, as required in Section 3.08 of the City's Charter, as outlined in Exhibit A; and establishing an effective date.

**Presentation was made by Mayor Schroeder.**

**A motion was made by Council Member Nelson to approve Resolution No. R-2017-113, seconded by Council Member Peterson, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

**The Resolution appointed:**

**Dianna Rose to complete the term of Place 5 on the Historic Landmark Commission, term ending 2019.**

**Cheryl Lee to complete the term of Place 1 on the Planning and Zoning Commission, term ending 2019.**

- 9O. Consider action to approve Resolution No. R-2017-114 of the City Council of the City of Bastrop, Texas, ratifying the purchase of 0.041acre tract adjacent to the cemetery property, Bastrop County property I.D. 123510, Farm Lot 67 E M St., approving a purchase price of Three Thousand Four Hundred and 00/100 Dollars (\$3,400.00), authorizing execution of documentation, and providing for a repealer, severability, and an effective date.

**Presentation was made by City Manager Lynda Humble and Chief Financial Officer Tracy Waldron.**

**A motion was made by Council Member Peterson to approve Resolution No. R-2017-114, seconded by Council Member Ennis, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

- 9P. Consider action to approve Resolution No. R-2017-115 of the City Council of the City of Bastrop, Texas, assigning voting rights by proxy by the City of Bastrop, Texas to Noe Reyes, Esquire, for the Pine Forest Property Owner's Association 2018 Annual Meeting; authorizing the City Manager to execute all necessary documentation; providing for a repealing clause; and providing an effective date.

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

**A motion was made by Council Member Peterson to approve Resolution No. R-2017-115, seconded by Council Member Ennis, motion was approved on a 3-0 vote. Mayor Pro Tem Schiff and Council Member Jones were absent.**

**EXECUTIVE SESSION - NONE**

**ADJOURNMENT**

**Adjourned at 9:04 p.m. without objection.**

APPROVED:

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

ATTEST:

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

DRAFT



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 10B

**TITLE:**

Consider action to approve the second reading of ordinance No. 2017-29 of the City Council of the City of Bastrop, Texas, amending the Code of Ordinances to provide for creating and enacting Chapter 1, Article 1.19, of the Bastrop Code of Ordinances; creating a Youth Advisory Council and providing for the Council's Organization, Membership, Responsibilities, and Resources; and providing for findings of fact, enactment, effective date, repealer, severability, codification, and proper notice and meeting.

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager

**BACKGROUND/HISTORY:**

Mrs. Megan Brandon, a 9<sup>th</sup> Grade Social Studies Research Methods Teacher at Colorado River Collegiate Academy, has four (4) classes working with a program called Generation Citizens. St. Edwards and University of Texas college students serve as democracy coaches. Generation Citizens is an action-civics curriculum where students select a community issue, research it, and come up with a potential solution. These students are some of the first in the state and central U.S. to take part in this program. To date, this program has only been available in Boston, New York, San Francisco, and Connecticut.

Mrs. Brandon's third period class identified few opportunities for youth activities and leadership in Bastrop. Their identified solution to help solve this issue is a Youth Advisory Council, which they presented to Council for consideration on May 9, 2017. City Council was supportive of this concept.

**POLICY EXPLANATION:**

Since the May 9, 2017 Council meeting, Mrs. Brandon's class has worked diligently on the bylaws for this organization. This class will be present their recommendations for by-laws at the December 12<sup>th</sup> Council meeting. In addition, Dr. Kristi Lee, Executive Director of Communications and Community Services for Bastrop Independent School District, will coordinate and provide appointment nominations to the YAC for the Mayor's consideration for the January 9<sup>th</sup> meeting. This 12-member board will serve as a conduit to the youth of the Bastrop community.

**FUNDING SOURCE:**

N/A

**RECOMMENDATION:**

Consider action to approve the second reading of ordinance No. 2017-29 of the City Council of the City of Bastrop, Texas, amending the Code of Ordinances to provide for creating and enacting Chapter 1, Article 1.19, of the Bastrop Code of Ordinances; creating a Youth Advisory Council and providing for the Council's Organization, Membership, Responsibilities, and Resources; and

providing for findings of fact, enactment, effective date, repealer, severability, codification, and proper notice and meeting.

**ATTACHMENTS:**

- Final version of Ordinance 2017-32
- Attachment "A": Chapter 1 General provisions
- Mrs. Brandon's Class Presentation





**CITY OF BASTROP**

**ORDINANCE No. 2017-32**

**YOUTH ADVISORY COUNCIL**

**AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, CREATING AND ENACTING CHAPTER 1, ARTICLE 1.19, OF THE BASTROP CODE OF ORDINANCES; CREATING A YOUTH ADVISORY COUNCIL AND PROVIDING FOR THE COUNCIL'S ORGANIZATION, MEMBERSHIP, RESPONSIBILITIES, AND RESOURCES; AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, EFFECTIVE DATE, REPEALER, SEVERABILITY, CODIFICATION, AND PROPER NOTICE AND MEETING.**

**WHEREAS,** the Bastrop City Council ("City Council") has the authority to establish a Youth Advisory Council in which young community members become more involved in community issues and learn about local government; and

**WHEREAS,** the City Council desires to establish the Youth Advisory Council to provide such insight and community outreach; and

**WHEREAS,** the City is authorized by Tex. Loc. Gov't Code § 51.001 to adopt, appeal or amend any ordinance that is for the good government, peace, or order of the municipality, and for the trade and commerce of the municipality, and is necessary or proper for carrying out a power granted by law to the municipality; and

**WHEREAS,** the City has the full power of local self-government as recognized by Tex. Loc. Gov't Code § 51.072; and

**WHEREAS,** the City Council finds this Ordinance to be reasonable and prudent, and necessary for developing better community goals and outreach among Bastrop's youth.

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

**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**

Article 1.19 has been added to the City's Code of Ordinances ("Code"), and after such addition, shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. The entire attachment shall be inserted into the Code.

### **SECTION 3. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon passage.

### **SECTION 4. REPEALER**

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

### **SECTION 5. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### **SECTION 6. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

### **SECTION 7. PROPER NOTICE & 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 & ACKNOWLEDGED** on First Reading on this, the 12<sup>th</sup> day of December 2017.

**READ & APPROVED** on the Second Reading on this, the 9<sup>th</sup> day of January 2018.

**APPROVED:**

*by:* \_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Alan Bojorquez, City Attorney

**Chapter 1—General Provisions**

**ARTICLE 1.19: YOUTH ADVISORY COUNCIL**

**1.19.1. Formation.**

There is hereby created a Youth Advisory Council.

**1.19.2. Membership.**

- (a) **Eligibility.** The Council shall consist of twelve (12) students. To be eligible to serve, the students must be: (a) between the 9<sup>th</sup>-12<sup>th</sup> grades; (b) either attend Bastrop Independent School District (BISD) or be registered home school students within the school district boundaries; and (c) maintain at least a 3.0 grade point average (GPA).
- (b) **Appointment & Removal.** In accordance with Section 3.08 of the City Charter, the Mayor shall appoint eligible students to the Council. The Mayor shall select from a slate or pool of potential members provided to the Mayor annually by Bastrop ISD. Membership may be terminated either voluntarily or involuntarily. For voluntary termination of membership, a member may submit a written resignation. A member who has resigned is eligible to reapply for future Council membership. A member may be involuntarily removed from Council by the Mayor if the Mayor determines the member: (1) behaved in a way that jeopardized the safety, credibility, or integrity of the Council; and/or (2) failed to attend four (4) consecutive general meetings without prior notice. A member may be put up for review in order to determine whether or not their membership will be terminated. Any person whose membership is involuntarily terminated may then reapply for future Council membership after one calendar year has passed since their removal.
- (c) **Terms of Office.** Members shall have a one (1) year term of office. Vacancies on the Council may be filled by appointment of the Mayor for the unexpired term. Nothing in this Section or Division shall be construed as creating a property interest on behalf of the Members in continued occupancy of a position on the Council.
- (d) **Officers:** Within the Council, there shall be the following officer positions and accompanying duties: President, who will guide and lead the Council; Vice-President, who has interim duties when President is absent; Secretary, who is responsible for notes/minutes and scheduling of meetings; Parliamentarian, who is ensured with keeping the peace, order, and efficiency of the Council. All officer positions shall be elected by a majority vote of Council members. The duration of each position shall be for the Council year for which they are elected.

- (e) Voting: A quorum for all meetings of the Council shall be nine (9) Members. On all matters, a simple majority vote is required for passage.
- (f) Comportment: Members shall not act in any way that would jeopardize the safety, credibility, or integrity of the Council, or the City of Bastrop.

**1.19.3. Purpose and Responsibilities.**

- (a) The Council shall promote the interests of, and receive input from Bastrop’s youth.
- (b) The Council shall research what communities outside of Bastrop are doing to involve the youth in the development of the community, to expand and build upon Bastrop’s own community outreach.
- (c) The Council shall promote the involvement of Council to other communities.

**1.19.4. Meetings.**

The Council shall conduct regular meetings once a month, as scheduled by the Secretary. Meetings shall primarily be conducted at City Hall. Other meeting times and locations can be selected by the members, as deemed necessary and appropriate. Because the Council is purely an advisory body, compliance with the Texas Open Meetings Act is not required.

**1.19.5. Information.**

The Council shall serve as a conduit for soliciting, compiling, and submitting youth input on community activities to the City Council. The Council shall be subject to the Texas Public Information Act and Texas Records Retention Act.



# Youth Advisory Council Update

10th Grade SUSO



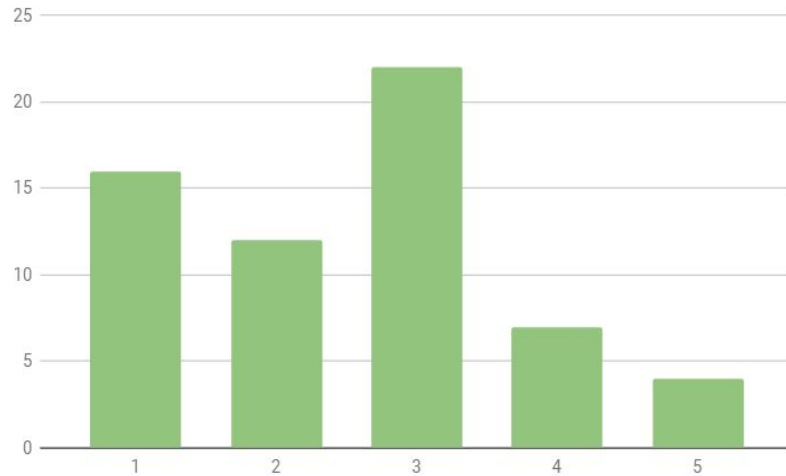
# Who We Are

- 10<sup>th</sup> Grade Students from Colorado River Collegiate Academy.
- Members of the *Speak up! Speak out!* Team.
- Former members of the *Generation Citizen* program.



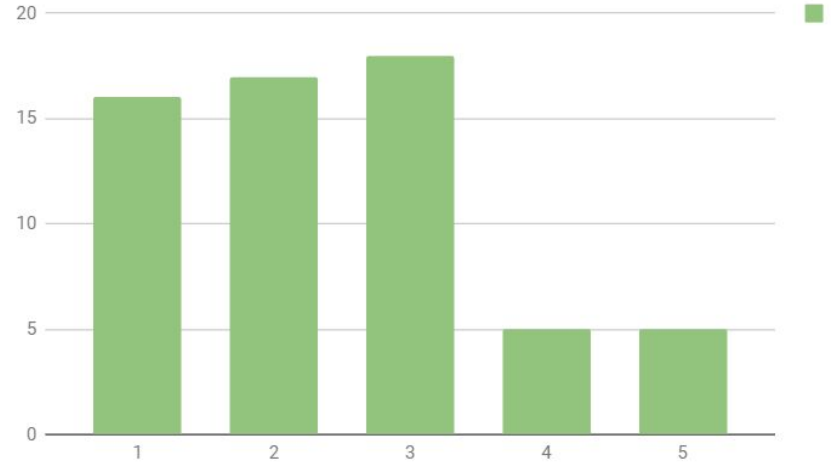
## 1 Strongly Disagree - 5 Strongly Agree

I know where to look for leadership opportunities



Most students clarified they were not involved with leadership positions because they are uneducated on where they should look for leadership opportunities.

I am involved with the community of Bastrop

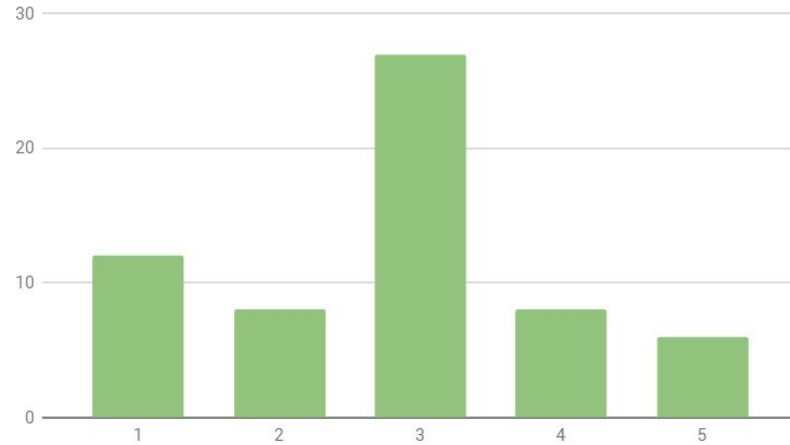


In this survey, the 9-12th grade students mostly disagreed in being involved within the Bastrop community. Evidently, this shows that our community is uneducated on where they should look for these opportunities, regardless of the amount community opportunities.



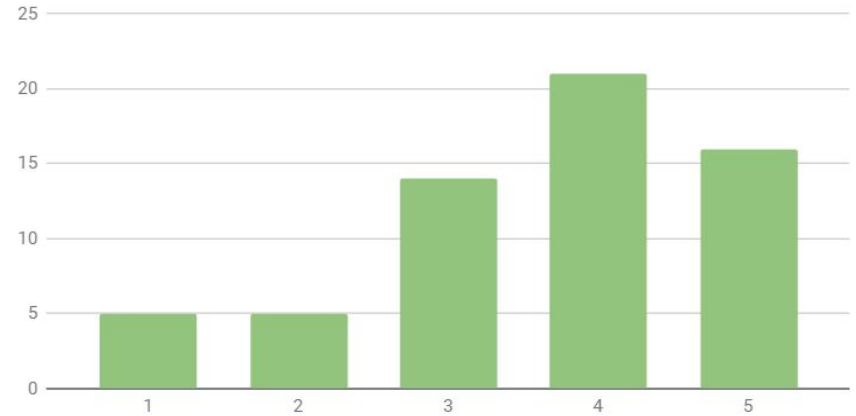
## 1 Strongly Disagree - 5 Strongly Agree

I feel that Bastrop has enough youth activities



Students here had mixed feelings on Bastrop having enough youth activities. The majority felt neutral. Other students either felt like there strongly was or strongly wasn't, because they weren't educated enough on where to find youth activities.

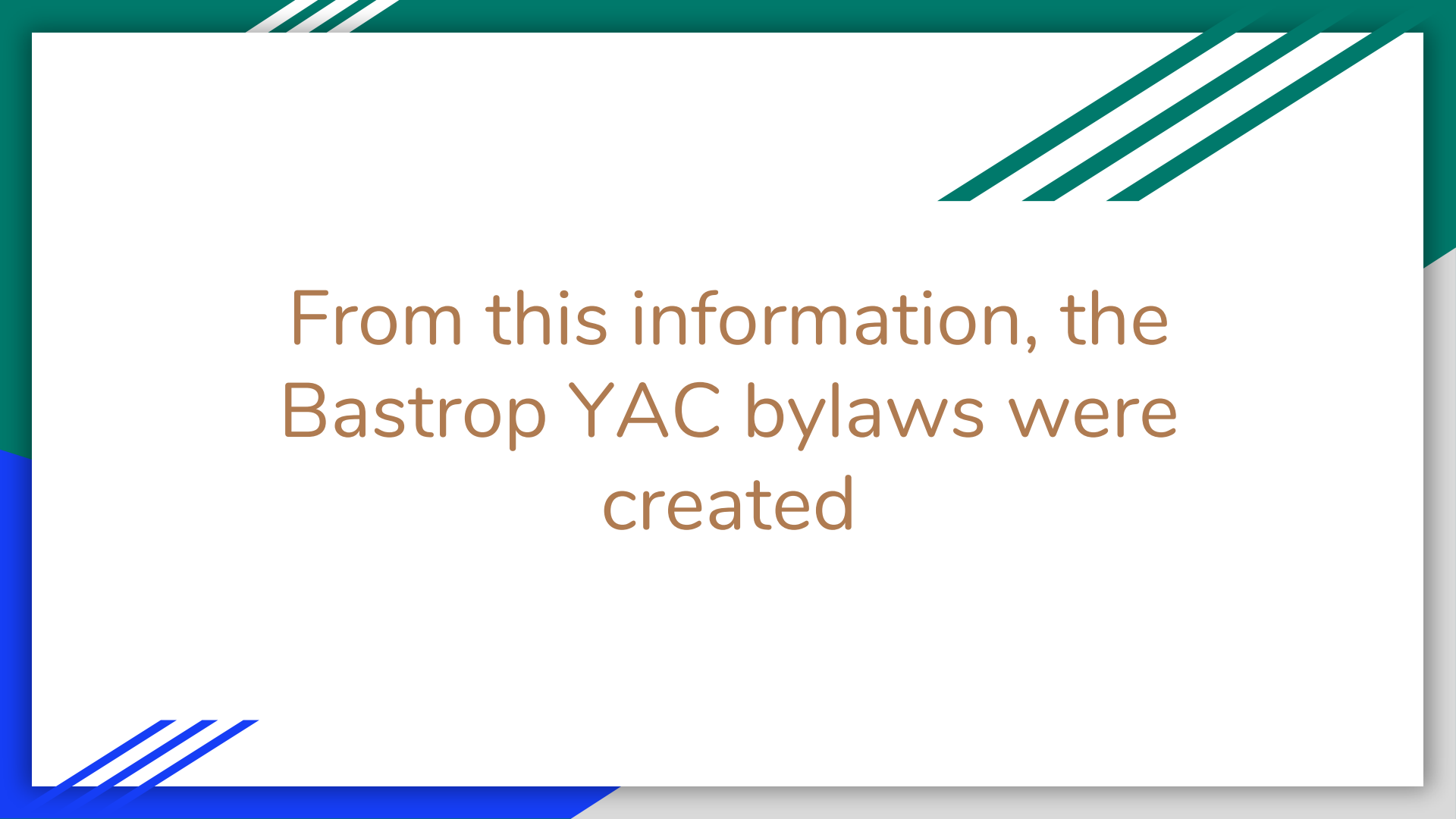
High school students can benefit from learning about local government.



In this survey, students felt that they would strongly benefit from learning about local government. As of now, the only way to learn about local government is to take a high school class. With the addition of a YAC, the students would benefit even more.

# Interviews

- Xuan Xuan
  - 9th Grader
- Miranda
  - 10th Grader
- Sydney
  - 11th Grader
- Common Theme:
  - Not enough youth activities in Bastrop.
  - Not knowing where to look for youth activities.
- What do people want in a YAC:
  - Ability to help community
  - Connect and help outside of school.
  - Learn about local government.



From this information, the  
Bastrop YAC bylaws were  
created

# Bylaws in a Nutshell

## **The Bastrop Youth Advisory Council:**

- Promote involvement within the community.
- Must live within the Bastrop Independent School District or within the district boundaries.
- Members must be between the grades of 9 through 12
- Are maintaining a 3.0 average.
- Will offer multiple officer positions

# What's in the Bylaws

## **Purpose:**

- Promote interest/receive input from the youth in the community.
- Research what other communities are doing to involve the youth in the development of the community.
- Promote the involvement of YAC to other communities.

## **Membership:**

- Members must attend Bastrop Independent School District or be a registered home school student within the school district boundaries.
- Grades 9-12, 3.0 GPA or higher.
- Members will be appointed in accordance with the City Charter.

# What's in the ByLaws? (cont.)

## **Officers and Duties:**

- President guides and leads the council.
- Vice President- takes place of the president when absent.
- Secretary- takes notes and schedules meetings.
- Parliamentarian- keeps the peace and ensures that the council is on task.
- Officers will be elected by majority vote.

## **Members:**

- Consists of 12 students.
- A quorum will consist of nine of the filled Board positions.

# What's in the Bylaws (cont.)

## Termination of Membership

- Voluntary
  - Must submit a written resignation.
  - Is allowed to reapply for future YAC membership.
- Involuntary
  - Behaves in a way that would jeopardizes the credibility and integrity of the Bastrop YAC.
  - Fails to attend 4 consecutive general meetings without prior notice.
  - A person may be put up for review of whether or not to terminate a membership
  - Can reapply for future YAC membership after one calendar year.



Any  
Questions?





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 10C

**TITLE:**

Consider action to approve the second reading of Ordinance No. 2017-30 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 12, titled "Traffic and Vehicles", Article 12.12, titled "Golf Carts" and regulating the operation of golf carts on public streets; providing for a penalty for the violation of this ordinance; providing for repealing, savings, severability clauses, and effective date.

**STAFF REPRESENTATIVE:**

Steve Adcock, Public Safety Director

**BACKGROUND/HISTORY:**

Staff has received several calls on inquiring about the use of golf carts at special events to transport people to and from the event. The City currently has no ordinance allowing the use of a golf cart. Under the Transportation Code Sec. 551.404, a municipality may allow an operator to operate a golf cart on a public highway inside the city limits and on a road with a posted speed limit of 35mph or below.

**POLICY EXPLANATION:**

By creating this ordinance, it will give the City Manager or his/her designee authority to approve a permit to operate a golf cart at certain events.

**FUNDING SOURCE:**

N/A

**RECOMMENDATION:**

Consider action to approve the second reading of Ordinance No. 2017-30 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 12, titled "Traffic and Vehicles", Article 12.12, titled "Golf Carts" and regulating the operation of golf carts on public streets; providing for a penalty for the violation of this ordinance; providing for repealing, savings, severability clauses, and effective date.

**ATTACHMENTS:**

- Final version of Ordinance No. 2017-30

CITY OF BASTROP, TX  
ORDINANCE NO. 2017-30

**GOLF CART ORDINANCE**

**AN ORDINANCE OF THE CITY OF BASTROP, TEXAS AMENDING THE CODE OF ORDINANCES, RELATED TO CHAPTER 12, TITLED “TRAFFIC AND VEHICLES”, ARTICLE 12.12, TITLED “GOLF CARTS” AND REGULATING THE OPERATION OF GOLF CARTS ON PUBLIC STREETS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES.**

**WHEREAS,** under Texas Law, it is generally an offense to operate golf carts on public streets; and

**WHEREAS,** the City Council of the City of Bastrop (“City Council”) seeks to authorize the operation of golf carts on public streets in certain situations; and

**WHEREAS,** the City Council finds that the use of golf carts as transportation over public streets is reasonable and prudent in certain situations and in accordance with the safeguards specified in this ordinance; and

**WHEREAS,** the City Council is authorized to allow limited operation of golf carts on public streets in accordance with Texas Transportation Code §§ 551.403 and .404; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TX:**

**1. FINDINGS OF FACT**

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

**2. AMENDMENT**

Chapter 12, Article 12.12 of the City of Bastrop Code of Ordinances is hereby enacted, and shall be read in accordance with *Attachment “A”* which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on *Attachment A*.

**3. REPEALER**

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are

hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

#### **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

#### **5. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

#### **6. EFFECTIVE DATE**

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.

#### **7. PROPER NOTICE & 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**READ & ACKNOWLEDGED** on First Reading on the 12th day of December, 2017.

**READ & APPROVED** on the Second Reading on the 9<sup>th</sup> day of January, 2018.

**APPROVED:**

*by:* \_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Alan Bojorquez, City Attorney

# Bastrop Code of Ordinances

## Chapter 12: TRAFFIC AND VEHICLES

### Article 12.12: GOLF CARTS

#### Sec. 12.12.001 – General

- (a) **Purpose.** The purpose of this Article is to provide a convenient and safe means of travel within the City during special events and other times of increased pedestrian and vehicular traffic in the City. Golf carts, if used properly, can be an effective way to travel for short distances within the City, especially during times of increased congestion. However, to ensure the public safety and welfare, the operation of golf carts must comply not only with normal regulations regarding vehicles, but should comply with special safety regulations detailed in this Article that are intended to protect the operator, passengers, pedestrians and other individuals operating motor vehicles on the roadways.
- (b) **Definitions.** The following words, terms, and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) **Driver** means the person driving and having physical control over the golf cart.
  - (2) **Driver's License** means an authorization issued by a State for the operation of a motor vehicle. The term includes: (1) a temporary license or instruction permit; and (2) an occupational license.
  - (3) **Golf cart** shall have the meaning assigned by the Texas Transportation Code §502.001(18), as amended, and means a motor vehicle commonly referred to as a golf cart, which must have an attainable top speed not greater than 25 miles per hour on a paved level surface and which is manufactured primarily for transporting persons on a golf course and in compliance with those federal motor vehicle safety standards for low-speed vehicles. Specifically excluded from this definition are those motorized conveyances commonly referred to as all-terrain vehicles ("ATVs"), off-road vehicles, four-wheelers, Mules, Gators and design-altered golf carts which have been altered to allow them to travel at a speed greater than 25 miles per hour.
  - (4) **Owner** means the person who has a property interest in or title to the golf cart.
  - (5) **Parking Area** means those areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of motor vehicles, usually in places referred to as parking lots.

- (6) **Public Safety Personnel** means any employee or officer of a governmental law enforcement agency or the City of Bastrop or its Department(s).
- (7) **Public Street** means the public roadways of the City of Bastrop by whatever name, e.g. road, alley, avenue, highway, route, boulevard, etc. within the corporate boundaries of Bastrop that:
- i. Has a posted speed limit of 35 miles per hour or less;
  - ii. Provides for no more than one lane of vehicular traffic per direction;
- (8) **Sidewalk** means the portion of a street that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.
- (9) **Slow-Moving-Vehicle-Emblem** means a triangular emblem that conforms to standards and specifications adopted by the Director of the Texas Department of Transportation under Section 547.104 of the Texas Transportation Code and is displayed in accordance with Section 547.703 of the Texas Transportation Code.
- (10) **Traffic Way** is any land way open to the public as a matter of right or custom for moving persons or property from one place to another. The traffic way includes all property, both improved and unimproved, between the property lines of a roadway system.

#### **Sec. 12.12.002 - Operation of Golf Carts On Public Streets**

- (a) No person, other than public safety personnel, may operate a golf cart on a public street, parking area and/or traffic way unless they first obtain a registration permit and affix a registration decal to the golf cart.
- (b) The owner of a golf cart being operated on a public street must:
- (1) obtain a registration permit from the City;
  - (2) affix a registration decal to the golf cart;
  - (3) maintain current financial responsibility for the golf cart, as required of other passenger vehicles in Section 601.051 of the Texas Transportation Code; and
  - (4) ensure that the golf cart has the following equipment, which must continuously remain in good working and operational order:
    - i. two (2) headlamps;
    - ii. two (2) tail lamps;
    - iii. side reflectors (two (2) front, amber in color and two (2) rear, red in color);

- iv. rearview mirror(s), capable of a clear, unobstructed view of at least two hundred feet (200') to the rear;
- v. parking break; and
- vi. slow-moving vehicle emblem(s) having a reflective surface designed to be clearly visible in daylight or at night from the light of standard headlamps at a distance of at least 500 feet and shall be mounted base down on the rear of the vehicle at a height from three to five feet above the road surface and shall be maintained in a clean reflective condition.

**Sec. 12.12.003 – Registration Permit Required**

- (a) No person shall operate, cause to be operated or allow the operation of a golf cart on any authorized public streets, parking areas and traffic ways unless a valid registration permit has been issued for the golf cart or otherwise allowed by law.
- (b) Application for a permit authorizing the operation of a golf cart shall be made in writing and filed with the City Manager or his/her designee by a person who owns, leases, or otherwise uses a golf cart. Said application shall set forth the following:
  - (1) The name, address, telephone number and state driver's license number, of the applicant;
  - (2) The street address where the golf cart is kept, including the particular suite or apartment number, if applicable;
  - (3) The particular event, festival, or public celebration necessitating the use of the golf cart or other reason why the applicant needs to use the golf cart on public streets;
  - (4) The year, make, model, color, vehicle identification number or serial number if no vehicle identification number has been issued to the golf cart, electric or gasoline; and
  - (5) Certification that the golf cart complies with the requirements of this Ordinance;
  - (6) Statement that all operators are required to be licensed pursuant to Texas Transportation Code §§521.001(3) and 521.021, as amended, and that all equipment required herein is installed and will be kept operational during the permit period;
  - (7) Statement that the registration permit holder, as well as any user of the golf cart, shall indemnify and hold harmless the City of Bastrop, Texas for any and all civil liability associated with said registration, and waives any and all rights to sue or allow subrogation by an insurance company; and

- (8) Other information which the City Manager or his/her designee may require.
- (c) The City Manager or his/her designee shall issue a registration permit for use of a golf cart on city streets when an applicant submits the completed written application within 10 working days of an event occurring in the City that is:
- (1) Open to the public;
  - (2) Attendance is publicly encouraged by the City through advertisements or notices on City property or the City's website;
  - (3) Likely to increase pedestrian and vehicular traffic congestion in the City; and
  - (4) Operation of the golf cart on public streets will not interfere with public safety.
- (d) The City Manager or his/her designee may issue a registration permit for use of a golf cart on city streets when an applicant submits the completed written application and the City Manager or his/her designee concludes that use of the golf cart will not interfere with public safety and will provide the operator and potential passengers with a safe and convenient means of travel for a specified purpose.
- (e) If a registration permit application is approved by the City Manager or his/her designee a \$20 permit fee must be submitted prior to the registration decal being issued.
- (f) The registration permit decal shall be affixed on the left side of the golf cart, it may not be damaged, altered, obstructed or otherwise made illegible and may only be placed upon the golf cart for which it was issued.
- (g) A permit issued to a golf cart shall become invalid if the golf cart is altered in a manner that fails to comply with any requirement of this Ordinance.
- (h) Registration Permits/Decals must include the dates and times the operation of the golf cart is allowed. A registration permit may not be valid for longer than 7 calendar days. The registration permit/decal is only valid for the dates and time periods listed on the permit/decal.
- (i) Lost or stolen Permit/Decals are the responsibility of the Owner. If no record can be found of a previous application, or the receipt of a Permit/Decal, the City may direct the applicant to reapply, and also resubmit any and all fees necessary before a replacement Permit/Decal is issued.
- (j) A permit may be revoked at any time by the City, or its designee(s), if there is any evidence that the permit holder cannot safely operate a golf cart on any authorized public streets, parking areas and traffic ways of the City in compliance with this Ordinance.



- (k) Failure to comply with any of the requirements or regulations described herein constitutes evidence that the permit holder cannot safely operate a motorized golf cart on the street within the City of Bastrop.

#### **Sec. 12.12.004 – Operational Regulations for All Golf Carts**

- (a) The driver of a golf cart on public street, if permitted, must have a valid driver's license and comply with all applicable federal, state and local laws and ordinances.
- (b) Except for Public Safety Personnel, golf carts shall not be operated on any sidewalk, pedestrian walkway, jogging path, park trail or any location normally used for pedestrian traffic.
- (c) The number of occupants in a golf cart shall be limited to the number of persons for whom factory seating is installed and provided on the golf cart.
- (d) No person may stand or ride in the lap of the driver and/or other passenger of a golf cart while it is moving.

#### **Sec. 12.12.005 Liability**

- (a) Nothing in this Article shall be construed as an assumption of liability by the City of Bastrop for any injuries (including death) to persons, pets or property which may result from the operation of a golf cart by an authorized driver; and
- (b) Owners are fully liable and accountable for the action of any individual that they provide permission to operate and drive said golf cart, both on personal and/or any authorized public streets, parking areas and traffic ways. This described liability responsibility especially applies to personal injuries (including death) or property damage resulting from golf cart drivers who are minors under the age of twenty-one (21) with or without a current and valid driver's license.

#### **Sec. 12.12.006 – Public Safety Personnel**

Public Safety Personnel may operate a golf cart on any public street, parking area and traffic way without any further restrictions when the golf cart is used in the performance of his/her duties or on official business of the City or on City owned property and City leased property, including but not limited to, a parade, a festival or other special events.

#### **Sec. 12.12.007 – Criminal Offense**

Any person, firm, entity or corporation who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City of Bastrop from filing suit to enjoin the violation. Bastrop retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**Sec. 12.12.008 – Civil Penalties**

In addition to criminal misdemeanors for traffic violations, pursuant to Texas Law, the owner, driver and/or permit holder of the golf cart may be subject to the following civil penalties:

(a) For the first offense, a fee of not less than \$25.00;

(b) For the second and any subsequent offense, a fee of not less than \$50.00.



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 10D

**TITLE:**

Consider action to approve the second reading of Ordinance No. 2017-31 of the City Council of the City of Bastrop, Texas, amending the Code of Ordinances by amending Chapter 3, by adding article 3.21, "Streets: Public Right-of-Way Management" and adding sections to provide for definitions, municipal authorization, registration, compensation and fees; provide for administration and enforcement; provide for construction obligations; permit required; provide for construction obligations; permit required; provide for conditions of public right-of-way occupancy; provide for insurance requirements and indemnity; providing for improperly installed facilities; provide for restoration of property; provide for revocation or denial of permit; provide for appeal from denial of permit; provide for inspections; provide for abandoned facilities; provide that underground installation preferred; provide for courtesy and proper performance; provide for signage; providing for graffiti abatement; providing for alternate means or method; waiver; provide for legal action; provide for a design manual; provide for prohibited or restricted areas for wireless facilities in the right-of-way; provide for preferred locations; provide for order of preference regarding attachment to existing facilities; provide for placement requirements; provide for concealment or camouflage required when possible; provide for general requirements; provide for electrical supply; provide for installation and inspections; provide for requirements in regard to removal, replacement, maintenance and repair; provide for requirements upon abandonment; provide for general provisions; provide for insurance, indemnity, bonding and security deposits; provide for design manual updates; provide for administrative hearing – request for exemption; and providing for the following: findings of fact, enactment, repealer, severability, codification, effective date, and proper notice & meeting.

**STAFF REPRESENTATIVE:**

Wesley Brandon, Director of Engineering and Development

**BACKGROUND/HISTORY:**

Senate Bill (SB) 1004, which passed in the last legislative session, became effective on September 1, 2017. This legislation grants special rules for wireless companies to place network nodes (different size boxes with wireless technology attached to utility poles) in the public right-of-way. The bill also limits the City's right to regulate the location of the nodes and assess rental and permit fees.

The new bill does, however, allow cities to adopt right-of-way management ordinances to regulate the placement and appearance of these facilities. The regulations can include restricted or concealed placement within certain areas ("design districts"), such as residential areas, city parks, and historic districts.

This ordinance would adopt regulations for various aspects of network nodes, as well as a design manual that would detail the permitting, fees, and other design requirements to receive approval to install facilities within the public right-of-way.

**POLICY EXPLANATION:**

By creating this ordinance, it will grant the City of Bastrop the authority to properly regulate the placement, design, construction, and maintenance of network nodes within the public right-of-way.

**FUNDING SOURCE:**

N/A

**RECOMMENDATION:**

Consider action to approve the first reading of Ordinance 2017-31 amending the Code of Ordinances by amending Chapter 3, by adding article 3.21, "Streets: Public Right-of-Way Management" and adding sections to provide for definitions, municipal authorization, registration, compensation and fees; provide for administration and enforcement; provide for construction obligations; permit required; provide for construction obligations; permit required; provide for conditions of public right-of-way occupancy; provide for insurance requirements and indemnity; providing for improperly installed facilities; provide for restoration of property; provide for revocation or denial of permit; provide for appeal from denial of permit; provide for inspections; provide for abandoned facilities; provide that underground installation preferred; provide for courtesy and proper performance; provide for signage; providing for graffiti abatement; providing for alternate means or method; waiver; provide for legal action; provide for a design manual; provide for prohibited or restricted areas for wireless facilities in the right-of-way; provide for preferred locations; provide for order of preference regarding attachment to existing facilities; provide for placement requirements; provide for concealment or camouflage required when possible; provide for general requirements; provide for electrical supply; provide for installation and inspections; provide for requirements in regard to removal, replacement, maintenance and repair; provide for requirements upon abandonment; provide for general provisions; provide for insurance, indemnity, bonding and security deposits; provide for design manual updates; provide for administrative hearing – request for exemption; and providing for the following: findings of fact, enactment, repealer, severability, codification, effective date, and proper notice & meeting and move to include on the January 9, 2018 City Council agenda for a second reading.

**ATTACHMENTS:**

- Informational Packet regarding Small Cell Nodes
- Final version of Ordinance 2017-31
- Attachment "A" and Design Manual

**ORDINANCE NO. 2017-31**

**AN ORDINANCE OF THE CITY OF BASTROP, TEXAS AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 3, BY ADDING ARTICLE 3.21, "STREETS: PUBLIC RIGHT-OF-WAY MANAGEMENT" AND ADDING SECTIONS TO PROVIDE FOR DEFINITIONS, MUNICIPAL AUTHORIZATION, REGISTRATION, COMPENSATION AND FEES; PROVIDE FOR ADMINISTRATION AND ENFORCEMENT; PROVIDE FOR CONSTRUCTION OBLIGATIONS; PERMIT REQUIRED; PROVIDE FOR CONSTRUCTION OBLIGATIONS; PERMIT REQUIRED; PROVIDE FOR CONDITIONS OF PUBLIC RIGHT-OF-WAY OCCUPANCY; PROVIDE FOR INSURANCE REQUIREMENTS AND INDEMNITY; PROVIDING FOR IMPROPERLY INSTALLED FACILITIES; PROVIDE FOR RESTORATION OF PROPERTY; PROVIDE FOR REVOCATION OR DENIAL OF PERMIT; PROVIDE FOR APPEAL FROM DENIAL OF PERMIT; PROVIDE FOR INSPECTIONS; PROVIDE FOR ABANDONED FACILITIES; PROVIDE THAT UNDERGROUND INSTALLATION PREFERRED; PROVIDE FOR COURTESY AND PROPER PERFORMANCE; PROVIDE FOR SIGNAGE; PROVIDING FOR GRAFFITI ABATEMENT; PROVIDING FOR ALTERNATE MEANS OR METHOD; WAIVER; PROVIDE FOR LEGAL ACTION; PROVIDE FOR A DESIGN MANUAL; PROVIDE FOR PROHIBITED OR RESTRICTED AREAS FOR WIRELESS FACILITIES IN THE RIGHT-OF-WAY; PROVIDE FOR PREFERRED LOCATIONS; PROVIDE FOR ORDER OF PREFERENCE REGARDING ATTACHMENT TO EXISTING FACILITIES; PROVIDE FOR PLACEMENT REQUIREMENTS; PROVIDE FOR CONCEALMENT OR CAMOUFLAGE REQUIRED WHEN POSSIBLE; PROVIDE FOR GENERAL REQUIREMENTS; PROVIDE FOR ELECTRICAL SUPPLY; PROVIDE FOR INSTALLATION AND INSPECTIONS; PROVIDE FOR REQUIREMENTS IN REGARD TO REMOVAL, REPLACEMENT, MAINTENANCE AND REPAIR; PROVIDE FOR REQUIREMENTS UPON ABANDONMENT; PROVIDE FOR GENERAL PROVISIONS; PROVIDE FOR INSURANCE, INDEMNITY, BONDING AND SECURITY DEPOSITS; PROVIDE FOR DESIGN MANUAL UPDATES; PROVIDE FOR ADMINISTRATIVE HEARING – REQUEST FOR EXEMPTION; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, AND PROPER NOTICE & MEETING.**

**WHEREAS,** the City of Bastrop finds that the right-of-way, including but not limited to the streets, sidewalks, and utilities located therein are vital to the everyday life of its citizens, visitors and businesses; and

**WHEREAS,** the City of Bastrop finds that there is limited available space in the right-of-way for the many competing uses of said space; and

**WHEREAS,** the City of Bastrop is charged with conserving the limited physical capacity of the public rights-of-way which are held in public trust by the City for the benefit of its citizens, visitors, and businesses; and

**WHEREAS,** the following regulations are necessary to assist in the management of facilities placed in, or over the public rights-of-way and in order to minimize the congestion, inconvenience, visual impact and other adverse effects that can occur during construction in the rights-of-way, and to manage costs to the citizens resulting from the placement of facilities within the public rights-of-way; and to govern the use and occupancy of the public rights-of-way; and

**WHEREAS,** Chapter 284 states “to the extent this state has delegated its fiduciary responsibility to municipalities as managers of a valuable public asset, the public right-of-way, this state is acting in its role as a landowner in balancing the needs of the public and the needs of the network providers by allowing access to the public right-of-way to place network nodes in the public right-of-way strictly within the terms of this chapter”; and

**WHEREAS,** Chapter 284 states “[i]t is the policy of this state, subject to state law and strictly within the requirements and limitations prescribed by this chapter, that municipalities: (1) retain the authority to manage the public right-of-way to ensure the health, safety, and welfare of the public; and (2) receive from network providers fair and reasonable compensation for use of the public right-of-way and for collocation on poles”; and

**WHEREAS,** orderly use and management of the rights-of-way is required for economic development; and

**WHEREAS,** Chapter 284 allows the City to adopt a design manual to govern the installation and construction of network nodes and new node support poles in the public rights-of-way, which include additional installation and construction details that do not conflict with Chapter 283 (“Design Manual”); and

**WHEREAS,** network providers are required to comply with a Design Manual if it is in place on the date that a permit application is filed; and

**WHEREAS,** the following regulations are necessary to preserve and protect the health, safety and welfare of the City of Bastrop, Texas and its citizens, visitors, travelers, and businesses.

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

**Section 1:** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

**Section 2:** Chapter 3, Article 3.21 of the City of Bastrop Code of Ordinances is hereby amended, and after such amendment, shall read in accordance with *Attachment “A”*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on *Attachment A*.

**Section 3:** To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any

provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

**Section 4:** Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

**Section 5:** The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

**Section 6:** 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.

**Section 7:** 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

READ and APPROVED on First Reading on the 12<sup>th</sup> day of December 2017.

READ and ADOPTED on Second Reading on the 9th day of January 2018.

**APPROVED:**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Alan Bojorquez, City Attorney

# **Bastrop Code of Ordinances**

## **Chapter 3: Building Regulations**

### **Article 3.21: Streets, Rights-of-Way and Public Property**

**Section 3:** The Code of Ordinances of the City of Bastrop, Texas, is hereby amended by amending Chapter 3 titled "Business Regulations", to read as follows:

#### **CHAPTER 3 – BUILDING REGULATIONS**

#### **ARTICLE 3.21.074 – STREETS, RIGHTS-OF-WAY AND PUBLIC PROPERTY**

##### **Sec. 3.21.074 – Authority; scope; governing law; venue.**

- (a) This chapter applies to all users that place facilities in, on or over public rights-of-way; provided; however, that it does not apply to construction by the City of Bastrop.
- (b) This chapter shall be construed under and in accordance with the laws of the State of Texas and Code of Ordinances to the extent that such Code is not in conflict with or in violation of the Constitution and laws of the United States or the State of Texas. All obligations of the parties hereunder are performable in Bastrop County, Texas.

##### **Sec. 3.21.075. - Definitions.**

In this chapter the following words and phrases shall have the following meanings unless the context indicates otherwise.

*AASHTO* means American Association of State Highway and Transportation Officials.

*Abandon* and its derivatives means the facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that have been left by User in an unused or non-functioning condition for more than one-hundred-twenty (120) consecutive calendar days unless, after notice to Provider, Provider has established to the reasonable satisfaction of the City that the applicable facilities, or portion thereof, is still in active use.

*ADA* means Americans with Disabilities Act, as amended.

*Alley* shall have the same meaning as street or right-of-way, depending upon context.



*Ancillary* means secondary, supporting, or subordinate.

*Antenna* means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

*Applicable codes* means: (i) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and (ii) local amendments to those codes to the extent not inconsistent with this chapter

*Applicant* means a person submitting an application, proposal or notice to the City for a license, franchise, permit or notice to install facilities or equipment or work in the Right-of-Ways.

*Application* or *proposal* are synonymous for the purposes of this chapter. An "application" or "proposal" means the process by which the applicant submits a request and indicates a desire to be granted a license, permit or franchise for all, or a part, of the city. An "application" or "proposal" includes all written documentation, and official statements and representations, in whatever form, made by an applicant to the city. A casual inquiry by a company concerning right-of-way use will not be considered an application or proposal and submissions will not be considered an application or proposal unless they meet the requirements of this Chapter.

*Assignment of an authorization* or *transfer of an authorization* means any transaction or action which effectively or actually transfers the authorization or franchise or changes operational or managerial control from one (1) person or entity to another.

*Authorization* or *Agreement to use the Right-of-Way* means a grant of authority allowing a person to occupy any portion of a street, right-of-way, or easement owned or controlled by the City, and may be for a limited period of time or for a specific purpose.

*Certificated telecommunications provider* means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the commission to offer local exchange telephone service or a person who provides voice service.

*City* means the City of Bastrop Texas. As used throughout, the term "city" also includes the designated agent of the city.

*City Council* or *Council/Franchising Authority* means the City Council for the City of Bastrop, Texas or its lawful successor.

*Collocate* and *collocation* mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to an existing pole, structure, device or appurtenance, as allowed by state or federal law, municipal authorization or other legal authorization.

*Commission* means the Public Utility Commission of Texas.

*Communications network* means a component or facility that is, wholly or partly, physically located within a public right-of-way and that is used to provide video programming, cable, voice, or data services.

*Consumer price index* means the annual revised consumer price index for all urban consumers for Texas, as published by the Federal Bureau of Labor Statistics.

*Concealment or Camouflaged* means any Wireless Facility or Pole that is covered, painted, disguised, or blended in to its environment or otherwise hidden or kept from sight such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to, hidden beneath a façade, blended with surrounding area, designed or painted to match the supporting area, or disguised with artificial tree branches.

*DAS or Distributed Antenna System* shall be included as a type of Network Node and have the same meaning as “Network Node.”

*Decorative Pole or Decorative Streetlight* means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

*Decorative Traffic Signal Pole* means a traffic signal pole other than standard galvanized supports, that is painted or powder coated with specially designed colors for aesthetic purposes and on which no appurtenance or attachments are allowed other than those necessary for traffic control and operations.

*Direction of the City* means all ordinances, laws, rules, resolutions, and regulations of the city that are not inconsistent with this article and that are now in force or may hereafter be passed and adopted.

*Disaster emergency or disaster or emergency* means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city, state or federal governmental authorities.

*Easement* may include any public easement or private easement or other compatible use, depending upon usage, whether created by dedication or by other means, for uses which include electric, gas, telecommunications, cable or public utility purposes.

*Facilities* means any and all of the wires, cables, fibers, duct spaces, manholes, poles, conduits, underground, and overhead passageways and other equipment, structures, plants, and appurtenances and all associated physical equipment placed in, on, or under the public rights-of-

way.

*FCC or Federal Communications Commission* means the Federal administrative agency, or lawful successor, authorized to regulate interstate communications by radio, television, wire, satellite, and cable on a national level.

*Fiber Optic or Fiber Optic Cable* means a communication transmission medium that uses light to send data, high quality video and sound.

*Franchise or Franchise Agreement* means the initial authorization, or subsequent renewal granted by the city in order for a person to construct, operate, and maintain a system in all, or part, of the city right-of-way.

*Franchise expiration* means the date of expiration, or the end of the term, of a franchised user, as provided under a franchise, permit or license agreement.

*Franchise fee* means the user fee or charge that the city requires as payment for using the streets, rights-of-way, public ways, and easements of the city.

*Gross receipts* means any and all compensation which is derived by the User from the operation of the system, and which is attributable to the systems operations within the city as allowed by law.

*Highway right-of-way* means right-of-way adjacent to a state or federal highway.

*Historic district* means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

*Law* means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance

*Local* means within the geographical boundaries of the City of Bastrop, Texas.

*Local exchange telephone service* has the meaning assigned by Section 51.002, Texas Utilities Code.

*Mayor* means the Mayor for the City of Bastrop, Texas.

*Macro Tower* means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Texas Local Government Code Section 284.103 and that supports or is capable of supporting antennas.

*Micro Network Node* means a network node that is not larger in dimension than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and that has an exterior antenna, if any, not longer than eleven (11) inches.

*Municipally Owned Utility Pole* means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

*Municipal Park* means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

*MUTCD* means Manual of Uniform Traffic Control Devices

*Network Node* means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term: (i) includes: (a) equipment associated with wireless communications; (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and (b) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and (ii) does not include: (a) an electric generator; (b) a pole; or (c) a macro tower.

*Network Provider* means: (i) a wireless service provider; or (ii) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider: (a) network nodes; or (b) node support poles or any other structure that supports or is capable of supporting a network node.

*Node Support Pole* means a pole as defined by Chapter 284 of the Texas Local Government Code.

*Park* has the same meaning as “Municipal Park.”

*Permit* means a document issued by the City authorizing installation, removal, modification and other work for User’s equipment or facilities in accordance with the approved plans and specifications.

*Pole* means a service pole, municipally owned pole, node support pole, or other utility pole, and shall include network node support pole.

*PROWAG* means the Public Rights of Way Accessibility Guidelines.

*Person* means a natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity who owns or controls facilities. From context within sections of this Chapter, it refers to persons using, applying or seeking to use the right-of-way.

*Provider* has the same meaning as “Network Provider.”

*Public rights-of-way* means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airwaves above a public right-of-way with regard to wireless telecommunications.

*Public Right-of-Way Management Ordinance* means this Article 3.21, of the City of Bastrop Code of Ordinances and includes all other ordinances that comply with Chapters 283 and 284 of the Texas Local Government Code or other state laws referencing Right-of-Way Management ordinances or regulations.

*Service Pole* means a pole, other than a Municipally Owned Utility Pole, owned or operated by a municipality and located in a Public Right-of-Way, including: (i) a pole that supports traffic control functions; (ii) a structure for signage; (ii) a pole that supports lighting, other than a Decorative Pole; and (iv) a pole or similar structure owned or operated by a municipality and supporting only Network Nodes.

*Small Cell* shall be included as a type of Network Node and have the same meaning as “Network Node.”

*State* means the State of Texas.

*Street* means only the portion of the right-of-way with a specially prepared surface used for vehicular travel, which surface may be concrete, asphalt or other material commonly used to prepare a surface for vehicular travel, and is limited to the area between the inside of the curb (when there is a curb) to the inside of the opposite curb, and does not include the curb area or the area between the two parallel edges of the surface used for vehicular travel where there is no curb. A Street is generally part of, but less than, or smaller in width than the size or width of the right-of-way. A Street does not include the curb, sidewalk, or ditch, if any is present either at time of permitting or if added later. Streets shall be understood to be synonymous with alleys and the definition includes alleys.

*SWPPP* shall mean Storm Water Pollution Prevention Plan.

*TAS* means Texas Accessibility Standards.

*Thoroughfare* shall have the same meaning as “Street.”

*TMUTCD* means Texas Manual of Uniform Traffic Control Devices.

*Traffic Signal* means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

*Transport Facility* means each transmission path physically within Right-of-Way, extending with a physical line from a Network Node directly to the network, for the purpose of providing backhaul for Network Nodes.

*U.S.C.* means United States Code.

*User* means a person or organization that owns, places or uses facilities occupying the whole or a part of a public street or right-of-way, depending on the context. User does not refer

to City unless specified.

*Utility Pole* means a pole that provides: (i) electric distribution with a voltage rating of not more than 34.5 kilovolts; or (ii) services of a telecommunications provider, as defined by section 51.002 of the Texas Utilities Code.

*Visibility triangle or sight distance triangle* means the triangular area adjacent to the intersection of any two or more public streets, public alleys or driveways within which no obstruction may be placed which would block the sight lines for vehicular, pedestrian or bicyclist traffic, as defined in the current edition of the AASHTO Policy on Geometric Design of Highways and Streets. The visibility triangle shall not contain any visual or physical impediments or obstructions to the vertical view up to seven feet in height above the adjacent roadway.

*Voice service* means voice communications services provided through wireline facilities located at least in part in the public right-of-way, without regard to the delivery technology, including Internet protocol technology. The term does not include voice service provided by a commercial mobile service provider as defined by 47 U.S.C. Section 332(d).

*Wireless Service* means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a Network Node.

*Wireless Service Provider* means a person that provides Wireless Service to the public.

*Wireless facilities* mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code chapter 284.

### **Section 3.21.076 Municipal Parks**

Municipal Parks designated for recreation and covered by this Ordinance include all parks and trails designated by the City Council in the Code of Ordinances including but not limited to:

- (a) Bark Park;
- (b) Bob Bryant Park;
- (c) Ferry Park;
- (d) Fisherman’s Park;
- (e) Hunter’s Crossing Park;
- (f) Jewell Hodges Park;
- (g) Kerr Community Park;
- (h) Mayfest Park;
- (i) June Hill Pape Riverwalk Trail; and
- (j) El Camino Real Paddling Trail.

### **Section 3.21.077 Review of Applications**

- (a) Review of Applications. The City shall review applications for network nodes, node support poles and transport facilities in light of their conformity with applicable law and

City Code and shall issue such permits on nondiscriminatory terms and conditions subject to the following requirements:

- (1) Within 30 days of receiving an application for a network node or node support pole, or 10 days for a transport facility, the City shall determine and notify the Applicant whether the application is complete; or if incomplete, the City must specifically identify the missing information in such notification. There shall be no fee charged for completion and resubmittal of an application.
  - (2) The City shall make its final decision to approve or deny a complete application no later than (i) 21 days after receipt of a complete application for a transport facility, (ii) 60 days after receipt of a complete application for a network node; and (iii) 150 days after receipt of a completed application for a new node support pole.
  - (3) The City shall advise the Applicant in writing of its final decision, and, if denied, the basis for that denial, including specific provisions of City Code or applicable law on which the denial was based, and send the documentation to the Applicant on or before the day the City denies the application. The Applicant may cure the deficiencies identified by the City and resubmit the application within 30 days of the denial without paying an additional application fee. The City shall approve or deny the revised application within 90 days of receipt of the amended application. The subsequent review by the City shall be limited to the deficiencies cited in the original denial.
  - (4) An applicant seeking to collocate network nodes may, at the Applicant's discretion, file a consolidated application and receive permits for up to 30 network nodes. Provided however, the City's denial of any node within a single application shall not affect other nodes submitted in the same application. The City shall grant permits for any and all nodes in a single application that it does not deny, subject to the requirements of this Section.
- (B) Review of Eligible Facilities Requests. Notwithstanding any other provision of this Chapter, the City shall approve and may not deny applications for eligible facilities requests within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

**Sections 3.21.078-3.21.082 – Reserved.**

## **ARTICLE II. RIGHT-OF-WAY REQUIREMENTS**

### **Sec. 3.21.083. - Municipal authorization required; Registration; Compensation and fees.**

- (a) This article does not constitute or create authority to place, reconstruct, or alter facilities in, on, or over the public rights-of-way, and said authority must be obtained by separate instrument in accordance with this section or by operation of other laws.
- (b) Authorization Required

- (1) Municipal Authorization or Agreement shall be required, except when clearly preempted by state law. Any person with a current, unexpired consent, franchise, agreement or other authorization from the city (grant) to use the public rights-of-way that is in effect at the time this ordinance takes effect shall continue to operate under and comply with that grant until the grant expires or until it is terminated by mutual agreement of the city and the person, or is terminated as otherwise provided for in law.

(c) Registration Required

- (1) In order for the city to know which persons own facilities in the public rights-of-way within the city, each such person who owns facilities shall register with the city and provide the following information at a minimum:
  - (i) person's name,
  - (ii) the current name, address, and telephone number(s) of a contact employed by and with decision-making authority for the person and who is available twenty-four (24) hours per day,
  - (iii) furnish the city with a city planning department street map marked in such a manner as to evidence which streets the person has placed facilities. The information may be required to be furnished digitally,
  - (iv) insurance information as required by Section 3.21.087 "Insurance;" and
  - (v) any required bonds.
- (2) Registration shall be updated annually in accordance with section 3.21.083 "Municipal Authorization required; Registration; Compensation and fees."
- (3) Registration shall be a prerequisite to issuance of a construction permit. Each person shall update and keep current his/her registration with the city at all times.
- (4) Any person who does not maintain registration requirements with the City may not receive notices or updates, including any notices regarding abandonment of right-of-way.
- (5) Failure to maintain registration requirements. In addition to all other legal penalties, including criminal penalties, failure to register or to maintain and update registration information may result in removal of facilities.
- (6) Registration requirements may be met by fulfilling franchise requirements addressing the topics of this section.



(d) Compensation and Fees

- (1) Municipal right-of-way use shall be compensated as required by the state constitution, state law, municipal authorization, franchise, license or other agreement.
- (2) The City may structure due dates on payments in such a manner so as to be administratively efficient.
- (3) Application fees, as allowed by state law, for work or installations in the right-of-way shall be the fees set by the City Council. Such fees may be set by ordinance, resolution, in the budget or by any other lawful means.

Failure to pay application fees, or failure of any payment to properly process shall result in the denial or withdrawal of a permit.

**Sec. 3.21.084. - Administration and enforcement.**

- (a) The City Secretary shall administer and enforce compliance with this article.
- (b) A person shall report information related to the use of the public rights-of-way that the City Secretary requires in the form and manner reasonably prescribed by the City Council.

**Sec. 3.21.085. - Construction obligations; permit required.**

- (a) Any person seeking to place facilities on, in or over the public rights-of-way shall first file an application for a building permit with the city and shall abide by the terms and provisions of this article pertaining to use of the public rights-of-way.
- (b) A person is subject to reasonable police power regulation of the city to manage its public rights-of-way in connection with the construction, expansion, reconstruction, maintenance, repair of facilities or other work in the public rights-of-way, pursuant to the city's rights as a custodian of public property, based upon the city's historic rights under state and federal laws. Such regulations include, but are not limited to, the following:
  - (1) At the city's request, a person shall furnish the city accurate and complete information relating to the construction, reconstruction, removal, maintenance, and repair of facilities performed by the person in the public rights-of-way.
  - (2) A person shall be required to place certain facilities within the public rights-of-way underground absent a compelling demonstration by the person that, in any specific instance, this requirement is not reasonable, feasible, or equally applicable to other similar users of the public rights-of-way.

- (3) A person shall perform excavations and other construction in the public rights-of-way in accordance with all applicable city requirements, including the engineering division detailed standards for public right-of-way construction (detailed standards), as may be revised from time to time in accordance with the city's police powers, and the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the public right-of-way. The city may waive the requirement of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the city by the person. All excavations and other construction in the public rights-of-way shall be conducted so as to minimize interference with the use of public and private property and all facilities placed underground shall be locatable with above ground instruments. A person shall follow all reasonable construction directions given by the city in order to minimize any such interference.
- (4) A person lawfully authorized to place facilities in the public rights-of-way must obtain a permit, as reasonably required by applicable city codes, prior to any excavation, construction, installation, expansion, repair, removal, relocation, or maintenance of the person's facilities. A construction permit is not required for routine maintenance so long as the work does not require excavation of the public rights-of-way or does not block traffic lanes or sidewalks; however, any construction standards in the detailed standards shall remain applicable regardless of whether or not a permit is required. A permit is not required when so provided by state law, but in such cases the provisions regarding required notice apply. An approved lane, sidewalk or trail closure plan is required if a traffic lane, sidewalk or trail will be closed due to right-of-way work, regardless of whether or not a permit is required. Once a permit is issued, person shall give to the city a minimum of 48 hours' notice (which could be at the time of the issuance of the permit) prior to undertaking any of the above listed activities on its facilities in, on, or under the public rights-of-way. The failure of the person to request and obtain a permit from the city prior to performing any of the above listed activities in, on, or over any public right-of-way, except in an emergency as provided for in subsection (11) below, will subject the person to a stop-work order from the city and enforcement action pursuant to this Code. If the person fails to act upon any permit within thirty (30) calendar days of issuance, the permit shall become invalid, and the person will be required to obtain another permit, unless extended for good cause by the city.
- (5) When a person completes construction, expansion, reconstruction, removal, excavation or other work, the person shall promptly restore the public rights-of-way in accordance with applicable city requirements. A person shall replace and properly relay and repair the surface, base, irrigation system, and landscape treatment of any public rights-of-way that may be excavated or damaged by reason of the erection, construction, maintenance, or repair of the person's facilities within ten (10) calendar days after completion of the work in

accordance with existing standards of the city in effect at the time of the work, unless extended by the city for good cause.

- (6) Upon failure of a person to perform any such repair or replacement work, and five days after written notice has been given by the city to the person, and in the event repairs have not been initiated during such five-day (5) period, the city may repair such portion of the public rights-of-way as may have been disturbed by the person, its contractors, or agents. Upon receipt of an invoice from the city, the person will reimburse the city in accordance with the detailed standards within thirty (30) calendar days from the date of the city invoice.
- (7) Should the city reasonably determine, within two (2) years from the date of the completion of the repair work, that the surface, base, irrigation system, or landscape treatment requires additional restoration work to meet standards at the time of the excavation of the city, a person shall perform such additional restoration work to the satisfaction of the city, subject to all city remedies as provided herein.
- (8) Notwithstanding the foregoing in subsection (7) above, if the city determines that the failure of a person to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts, after emergency notice has been provided, to the extent reasonable under the circumstances and the person failed to respond within the reasonable time specified by the city. A person shall promptly reimburse the city for all costs incurred by the city within thirty (30) calendar days from the date of the city invoice.
- (9) A person shall furnish the city with the application for the construction permits, construction plans and maps showing the location and proposed routing of new construction or reconstruction at least ten business days unless otherwise extended by the City before beginning construction or reconstruction that involves an alteration to the surface or subsurface of the public rights-of-way by the city. A person may not begin construction until the location of new facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in writing by the city, which approval will not be unreasonably withheld or delayed, taking due consideration of the surrounding area and alternative locations for the facilities and routing.
- (10) If the Mayor declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, a person shall remove or abate the person's facilities by the deadline provided in the Mayor's request. The person and the city shall cooperate to the extent possible to assure continuity of service. If the person, after notice, fails or refuses to act, the city may remove or abate the facility, at the sole cost and expense of the person, without paying compensation to the person and without the city incurring liability for damages.

- (11) Except in the case of customer service interruptions and imminent harm to property or person (emergency conditions), a person may not excavate the pavement of a street or public rights-of-way without first complying with city requirements. The Mayor shall be notified as promptly as possible regarding work performed under such emergency conditions, and the person shall comply with the requirements of city standards for the restoration of the public rights-of-way.
- (12) On an annual basis, no later than January 31 of each year, the user shall provide updates to the department or personnel designated by the Mayor showing any new facilities from the previous year in the format required by the City.
- (13) The City may require reasonable bonding requirements of a person, as are required of other entities that place facilities in the public rights-of-way. The Mayor may waive or reduce the bonding requirements in a nondiscriminatory, competitively neutral manner, taking into consideration both that the person has furnished the city with reasonable documentation to evidence adequate financial resources substantially greater than the bonding requirements, and has demonstrated in prior right-of-way construction activity, prompt resolution of any claims and substantial compliance with all required applicable building codes and ordinances.
- (14) In determining whether any requirement under this section is unreasonable or unfeasible, the Mayor shall consider, among other things, whether the requirement would subject the person or persons to an unreasonable increase in risk or service interruption, or to an unreasonable increase in liability for accidents, or to an unreasonable delay in construction or in availability of its services, or to any other unreasonable technical or economic burden or result in discriminatory treatment by a person.
- (15) For installation of any proposed pole applicant shall provide engineered drawings, geotechnical drawings, geotechnical study or studies, and evidence of ADA and PROWAG compliance, sectional detail showing depth of anchor, scaled dimensional drawings of the proposed pole, as well as any other proposed equipment associated with the proposed installation, and shall indicate spacing from existing curb, driveways, sidewalk, light poles, and any other poles or appurtenances.
- (16) If requested by City, all applications shall include a current before and a proposed after street view image. The after-image needs to include any proposed poles and all proposed attachments, and any associated or ancillary equipment, whether attached or standalone. Once work is done or the installation is complete, photographs accurately depicting the location of the installation or the work shall be submitted to the City. This requirement may be waived for underground installation.

- (17) If the project is within the State right-of-way or railroad right-of-way, the applicant must provide evidence of a permit or permission from the State or railroad.
- (18) If a City pole or poles or light structure or structures will be used or will be in the area of the proposed construction, the pole or poles or light structure or structures will be identified. No electric meter shall be mounted on a City pole or light structure unless the City grants written permission.
- (19) Provider / Applicant shall use a maximum two-hundred-forty (240) voltage when connecting to any City infrastructure and provide key to meter upon installation.
- (20) All plans shall reflect that no facilities to be installed will obstruct an existing or planned sidewalk, trail, walkway, bicycle lane or lane of vehicular traffic.
- (21) If requested by City, Engineering plans shall be provided with a maximum scale of one (1) inch equals forty (40) feet.
- (22) If requested by City, all plans shall include detail of the location of all right-of-way and utility easements which applicant plans to use.
- (23) If requested by City, all plans shall include detail of all existing city utilities in relationship to applicant's proposed route.
- (24) All plans shall include detail of what applicant proposes to install, such as network nodes, poles, pipes, size, number of inner-ducts, valves, or other facilities.
- (25) All plans shall include detail of plans to remove and replace asphalt or concrete in streets.
- (26) All plans shall include drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, network nodes, micro-network nodes, or other facilities, including depth located in public right-of-way.
- (27) All plans shall include details of handhole and/or manhole applicant plans to use or access.
- (28) All plans shall include complete legend of drawings submitted by applicant.
- (29) If paper copies are required, five (5) sets of engineering plans shall be submitted with permit application.
- (30) The application shall include the name, address and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will

be available at all times during construction. Such information shall be required prior to the commencement of any work.

- (31) The application shall include the construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way, and the dates and times work will occur, all of which (methods, dates, times, and other applicable information) are subject to approval of the Mayor.
- (32) The application shall include a statement that the requirements of Sections 3.21.083 “Municipal Authorization required; Registration; Compensation and fees” and 3.21.087 “Insurance requirements” are met.
- (33) The applications shall include a traffic control plan designed to the latest edition of the TMUTCD, which shall specify the traffic control measures to be provided, and shall be required any time work will require traffic lane closures, bicycle lane closures, trail closures, or sidewalk closures, regardless of whether a permit is required. Said traffic control plan must be approved by the Mayor. If the traffic control plan is not approved, no lane closure is allowed.
- (34) The application may require a SWPPP, and a trench safety plan based on the proposed scope of work regardless of whether or not a permit is required.
- (35) The application shall show that no projecting attachments are less than eight (8) feet above the ground, if not projecting toward the street. If an attachment is projecting toward the street, the attachment shall be installed no less than sixteen (16) feet above the ground.
- (36) Any proposed work that involves the installation of facilities that will utilize radio frequencies shall not cause harmful interference with City public safety radio system, traffic signal light system, City traffic observation video cameras, or other City communications systems or components. The right-of-way user shall provide evidence that the proposed installation will be compatible with said City systems and will not cause any harmful interference with the City public safety radio system, traffic signal light system or other City communications systems or components. No installation shall be allowed to be installed or to remain in the right-of-way that causes any such interference.
- (37) The plans shall demonstrate that all federal and state laws and city ordinances will be obeyed, and that all sections of this Chapter, including Article II “Design Manual” will be complied with as applicable.
- (38) Information signs which shall be a minimum size of eighteen inches (18”) by twenty-four inches (24”) stating the identity of the person doing the work, telephone number and permittee’s identity and telephone number shall be placed at the location where construction is to occur forty-eight (48) hours prior

to the beginning of work in the right-of-way and shall continue to be posted at the location during the entire time the work is occurring. An informational sign will be posted on public right-of-way five hundred (500) feet before the construction location commences and each five hundred (500) feet thereafter, unless other posting arrangements are approved or required by the Mayor. Additionally, if the work to be permitted will require restricting access to private residences, or will affect adjacent and nearby residences (single family or multi-family) because of noise, odors, dust or other activity which may affect the peaceful enjoyment of residential properties, then User shall, not later than seventy-two (72) hours prior to the commencement of construction activity, notify all affected residents by letter or door hanger. Such notice shall be in a format approved by the Mayor.

- (39) Erosion control measures (e.g. silt fence) and advance warning signs, markers, cones and barricades and existing utility locate markers must be in place before work begins.
- (40) Permittee shall be responsible for storm water management erosion control that complies with city, state and federal guidelines. Requirements shall include, but not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and high erosion areas will require wire backed silt fencing. Upon request permittee may be required to furnish documentation submitted or received from federal or state government.
- (41) Permittee or contractor or subcontractor will notify the Mayor immediately of any damage to other utilities, either city or privately owned.
- (42) Permittees are responsible for the workmanship and any damages by contractors or subcontractors. A responsible representative of the permittee will be available to City staff at all times during construction.
- (43) Installation of facilities must not interfere with city utilities, in particular gravity dependent facilities.
- (44) New facilities must be installed to a depth approved by the Mayor.
- (45) All directional boring shall have locator place bore marks and depths while bore is in progress. The boring method and bore pit locations shall be identified prior to the commencement of boring operations. Locator shall place mark at each stem with paint dot and depth at least every other stem.
- (46) Permittee will be responsible for verifying the location, both horizontal and vertical, of all facilities. When required by the Mayor, permittee shall verify locations by pot holing, hand digging or other method approved by the Mayor prior to any excavation or boring.

- (47) Placement of all manholes and/or hand holes must be approved in advance by Mayor. Handholes or manholes will not be located in sidewalks, unless approved by the Mayor.
- (48) Locate flags shall not be removed from a location while facilities are being constructed.
- (49) Construction which requires pumping of water or mud shall be contained in accordance with City of Bastrop ordinances and federal and state law and the directives of the Mayor.
- (50) All facilities installed in the right-of-way shall be in colors that blend with the surroundings, or if on a Service Pole or Municipally owned Pole shall match the color and finish of the pole, and must be approved by the City.
- (51) All facilities installed in the right-of-way shall be capable of being identified through a GIS shape file or other means as acceptable to the Mayor. Said identification shall be provided at the time of application and shall be visible on the facilities when installed and must follow all applicable City ordinances.
- (52) Above ground wires shall be located on only one side of the right-of-way unless approved by the Mayor.
- (53) The right-of-way user or contractor must obtain any needed permits for electrical work and provide engineered drawings for conduit size, circuit size, calculations for Amperage, or any other required information. Provider shall be responsible for obtaining any required electrical power service to any installation. Any such electrical supply must be separately metered and must match City infrastructure voltage.
- (54) Right-of-way users shall complete construction as expeditiously as possible and lane closures or work that inconveniences the traveling public shall be minimized. Lane closures shall not be outside the hours of 9:00 A.M. to 3:30 P.M. on weekdays or last longer than four (4) hours, unless a different period of time is shown on the permit and approved by the City.
- (55) Right-of-way work shall be completed in the amount of time shown on the permit; but if no completion time is shown on the permit the work shall be complete in not more than thirty (30) calendar days.
- (56) All right-of-way work and facilities installed shall be done in a good workman like manner; shall meet all applicable codes; shall be maintained and kept in good repair and shall be aesthetically pleasing.



- (57) All efforts shall be made to avoid or minimize negative visual impact to the surrounding area and to enhance the safety requirement for vehicles and pedestrians, particularly in areas where children or other vulnerable members of the population may be located.
  - (58) Installations which require ancillary ground equipment with a footprint of twenty-five (25) square feet or more shall be spaced at least three-hundred (300) feet apart.
  - (59) All location/route markers setting out location of utilities shall be flush with the ground. Above ground location/route markers shall not be allowed.
  - (60) The plans shall demonstrate that all federal and state laws and city ordinances will be obeyed, and that all sections of this Chapter, including Article II “Design Manual” will be complied with as applicable. Construction in right-of-way adjacent to a school shall be required to follow all state law requirements, including the requirements in the Educational Code regarding work on school grounds, including but not limited to chapters 21 and 22, as applicable.
  - (61) All requirements for installation continue, as applicable, for as long as facilities remain in the right-of-way.
- (c) All construction and installation in the right-of-way shall be in accordance with the permit for the facilities. The City Secretary shall be provided access to the work and to such further information as he or she may reasonably require to ensure compliance with the permit.
  - (d) A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the Mayor or City Secretary at all times when construction or installation work is occurring.
  - (e) All construction or installation work authorized by permit must be completed in the time specified in the construction permit. If the work cannot be completed in the specified time periods, the permittee may request an extension from the Mayor. The Mayor will use best efforts to approve or disapprove a request for permit time extension as soon as possible.
  - (f) A copy of any permit or approval issued by federal or state authorities for work in federal or state or railroad right-of-way located in the City of Bastrop shall be required, if requested by the Mayor.
  - (g) A request for a permit must be submitted at least ten (10) working days before the proposed commencement of work in the request, unless waived by the Mayor.

- (h) Requests for permits will be approved or disapproved by the Mayor within a reasonable time upon receiving all the necessary information. The Mayor will use best efforts to approve or disapprove a request for permit as soon as possible.
- (i) The Mayor or the applicant can request a pre-construction meeting with the permittee and their construction contractor.
- (j) Permit applications are required for construction on new, replacement or upgrading of the company's facilities in the right-of-way either aerial or underground.
- (k) The failure of a person to request and obtain a permit from the City prior to performing any of the above listed activities in, or over any right-of-way, except in an emergency, will subject the person to a stop-work order from the City and enforcement action pursuant to the City's Code of Ordinances.
- (l) If the person receiving the permit fails to act upon the permit within thirty (30) days of issuance, the permit shall become invalid, and the person will be required to obtain another permit.
- (m) If the Applicant or User proposes any installation, maintenance, repair, replacement or any other work in the Right-of-Way that would result in a change as to the ADA or PROWAG requirements, the Applicant or User proposing such change is responsible for all costs, labor and other actions needed to maintain ADA and PROWAG compliance. If any Right-of-Way work will affect ADA or PROWAG requirements, a permit shall be required, even if not otherwise required. Applicant must certify that the Right-of-Way will be ADA compliant when the installation, maintenance, repair, replacement or other work is complete. If any action by Applicant will affect ADA or PROWAG requirements, Applicant or User must show how such work will be ADA or PROWAG compliant.
- (n) If State or Federal law provides that a permit is not required for certain work to be done, then a person proposing to do such work shall be required to provide notice two (2) working days prior to performing such work.

**Sec. 3.21.086. - Conditions of public rights-of-way occupancy.**

- (a) In the exercise of governmental functions, the City has first priority over all other uses of the public rights-of-way. The City reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachments, restructuring, or changes in aerial facilities in, across, along, over, or under a public street, alley, or public rights-of-way occupied by a person, and to change the curb, sidewalks, or the grade of streets or rights-of-way.
- (b) The City shall assign the location in or over the public rights-of-way among competing users of the public rights-of-way with due consideration to the public health and safety considerations of each user type, and to the extent the City can demonstrate that there

is limited space available for additional users, may limit new users, as allowed under state or federal law.

- (c) If the City authorizes abutting landowners to occupy space under the surface of any public street, alley, or public rights-of-way, the grant to an abutting landowner shall be subject to the rights of the previously authorized user of the public rights-of-way. If the City closes or abandons a public right-of-way that contains a portion of a User's facilities, the City shall close or abandon such public right-of-way subject to the rights of the User, provided the User has a current registration.
- (d) If the City gives written notice, a Right-of-Way User shall, at its own expense, temporarily or permanently, remove, relocate, change, or alter the position of user's facilities that are in the public rights-of-way within one-hundred-twenty (120) days, unless a different schedule is approved by the Mayor. For projects expected by the City to take longer than 120 days to remove, change or relocate, the City will confer with the User before determining the alterations to be required and the timing thereof. The City shall give notice whenever the City has determined that removal, relocation, change, or alteration is reasonably necessary for the construction, operation, repair, maintenance, or installation of a city governmental public improvement in the public rights-of-way. This section shall not be construed to prevent a Right-of-Way User's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall it be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with the person.
- (e) If the User fails to relocate facilities in the time allowed by the City in this section, the User may be subject to liability to the City for such delay and as set forth in this Code, now or hereafter enacted. Additionally, the User may be denied any new permits until the relocation is complete.
- (f) Notwithstanding anything in subsection (d) above, the Mayor and a person may agree in writing to different time frames than those provided above if circumstances reasonably warrant such a change.
- (g) Any right-of-way user trimming trees shall be required to remove trimmings within 24 hours; provided, however, if any trimmings affect right-of-way use, said trimmings must be removed immediately. If said trimmings are not removed, the City may remove the trimmings or have them removed, and upon receipt of a bill from the city, the person shall promptly reimburse the City for all costs incurred within thirty (30) calendar days. Users shall not be responsible for tree trimming or removal, except as to the work required to construct, maintain, or restore utility service.
- (h) Users shall temporarily remove, raise, or lower its aerial facilities to permit the moving of houses or other bulky structures, if the City gives written notice of not less than 48 hours. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. The person may

require prepayment or prior posting of a bond from the party requesting the temporary move.

- (i) To the extent applicable, directions of the City shall be followed, including but not limited to “Standard Details” and “Standards for Right-of-Way Easement Construction” as those requirements currently exist or as may be amended, updated or supplemented from time to time.
- (j) To the extent applicable, all of the requirements or conditions for construction and occupancy of the right-of-way shall continue during the entire time that the installed facilities remain in the Right-of-Way.

**Sec. 3.21.087. - Insurance requirements.**

- (a) Insurance required.
  - (1) A person shall obtain and maintain insurance in the amounts reasonably prescribed by the City with an insurance company licensed to do business in the State of Texas reasonably acceptable to the city. As a condition of registration and prior to construction, an applicant must provide, and users must maintain, acceptable proof of liability insurance in the total amount of six million dollars (\$6,000,000); one million dollars (\$1,000,000) primary plus five million dollars (\$5,000,000) umbrella or other provisions as acceptable to the City Secretary. The City reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the City Secretary determines that changes in statutory law, court decisions, or the claims history of the industry or the person require adjustment of the coverage.
  - (2) The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards and Worker’s Compensation as required by law.
  - (3) Each policy must include a cancellation provision in which the insurance company is required to notify the City in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits.
  - (4) For purposes of this section, the City will accept certificates of self-insurance issued by the State of Texas or letters written by the person in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, for the City to accept such letters, the person must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the city, based on financial information requested by and furnished to the city.

- (b) A person shall furnish, at no cost to the city, copies of certificates of insurance evidencing the coverage required by this section to the city, unless the City requires another form of legally binding proof of insurance. If the City requests a deletion, revision or modification, a person shall exercise reasonable efforts to pay for and to accomplish the change.
- (c) An insurance certificate shall contain the following required provisions:
  - (1) Name the City and its officers, employees, board members, and elected representatives as additional named insureds for all applicable coverage;
  - (2) Provide for 30 days' notice to the City for cancellation, nonrenewal, or material change; and
  - (3) Provide that notice of claims shall be provided to the Mayor by certified mail.
- (d) All persons utilizing the right-of-way shall file and maintain proof of insurance with the Mayor. An insurance certificate obtained in compliance with this section is subject to City approval. The City may require the certificate to be changed to reflect changing liability limits. A person shall immediately advise the city attorney of actual or potential litigation that may develop which may affect an existing carrier's obligation to defend and indemnify.
- (e) An insurer has no right of recovery against the city. The required insurance policies shall protect the person and the city. The insurance shall be primary coverage for losses covered by the policies.
- (f) The policy clause "other insurance" shall not apply to the City if the City is an insured under the policy.
- (g) Person shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the City for payment of a premium or assessment. Insurance policies obtained by a person must provide that the issuing company waives all right of recovery by way of subrogation against the City in connection with damage covered by the policy.

**Sec. 3.21.088. - Indemnity.**

- (a) To the extent authorized by law, each person placing facilities in the public rights-of-way shall agree to, promptly defend, indemnify, and hold the City harmless from and against all damages, costs, losses, or expenses (i) for the repair, replacement, or restoration of city's property, equipment, materials, structures and facilities which are damaged, destroyed, or found to be defective as a result of the person's acts or omissions, (ii) from and against any and all claims, demands, suits, causes of action, and judgments for (a) damage to or loss of the property of any person (including, but not limited to the person, its agents, officers, employees, and subcontractors, city's

agents, officers, and employees, and third parties); and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to the agents, officers, and employees of the person, person's subcontractors and city, and third parties), arising out of, incident to, concerning, or resulting from the negligent or willful act or omissions of the person, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this article.

- (b) This indemnity provision shall not apply to any liability resulting from the negligence or willful misconduct of the city, its officers, employees, agents, contractors, or subcontractors.
- (c) The provisions of this indemnity are solely for the benefit of the City and is not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

**Sec. 3.21.089. - Improperly installed facilities.**

- (a) Any person doing work in the City right-of-way shall properly install, repair, upgrade and maintain facilities.
- (b) Facilities shall be considered to be improperly installed, repaired, upgraded or maintained if:
  - (1) The installation, repairs, upgrade or maintenance endangers people or property;
  - (2) The facilities do not meet the applicable City codes and ordinances;
  - (3) The facilities are not capable of being located using standard practices;
  - (4) Underground facilities that are installed less than twenty-four (24) inches in depth;
  - (5) Facilities, or construction in regard to placement of said facilities, that remains incomplete or hazardous after construction work is finished or time for completion has passed, including but not limited to holes in paved areas or ground, handholes or manholes that are improperly sealed, and broken equipment or any other incomplete or hazardous condition.
  - (6) The facilities are not located in the proper place at the time of construction in accordance with the approved permit or directions provided by the City Secretary;
  - (7) The facilities were not properly and timely relocated in accordance with the requirements of this Chapter; or

- (8) The facilities are unsightly, dangerous or in violation of any City adopted Codes.
- (c) Facilities will be considered improperly installed if said facilities cause any interference with City public safety radio system, traffic signal light system, City traffic observation video cameras or other communications components.

**Sec. 3.21.090. - Restoration of property.**

- (a) Users of the right-of-way shall restore property affected by construction of facilities to a condition that is equal to or better than the condition of the property prior to the performance of the work. Restoration must be approved by the Mayor.
- (b) Restoration must be to the reasonable satisfaction of the Mayor and the property owner. The restoration shall include, but not be limited to:
  - (1) Replacing all ground cover with the type of ground cover damaged during work or better either by sodding or seeding, as directed by Mayor;
  - (2) Installation of all manholes and handholes, as required;
  - (3) Backfilling and compacting all bore pits, potholes, trenches or any other holes shall be filled in daily, unless other safety requirements are approved by the Mayor;
  - (4) Leveling of all trenches and backhoe lines;
  - (5) Restoration of excavation site to City specifications; and
  - (6) Restoration of all landscaping, ground cover, and sprinkler systems.
- (c) All locate flags and markings shall be removed during the clean-up progress by the permittee or contractor at the completion of the work.
- (d) Restoration must be made in a timely manner as specified by approved City schedules and to the satisfaction of Mayor. If restoration is not satisfactory and performed in a timely manner all work in progress, except that related to the problem, including all work previously permitted but not complete may be halted and a hold may be placed on any permits not approved until all restoration is complete.
- (e) If a person fails to restore property as set out in this section, the City shall give five (5) days written notice to the person at the address shown on the permit. If the person does not initiate repairs during the five-day period, or fails to complete the repairs within thirty (30) days, thereafter the City may elect to repair such portion of the right-of-way as may have been disturbed by the person, its contractors, or agents at the cost

of the person performing the right-of-way work. These time periods may be shortened or waived in cases of a threat to public health, safety or welfare. Upon receipt of an invoice from the City, the person will reimburse the City for the costs so incurred no later than thirty (30) calendar days from the date of the City invoice.

- (f) Should the City reasonably determine, within two (2) years from the date of the completion of the repair work, that any of the said restoration work failed to meet the existing standards of the City, the person shall perform such additional restoration work to the satisfaction of the City, subject to all City remedies.
- (g) Notwithstanding any of the above sections, if the City determines that the failure of the person to properly repair or restore the right-of-way constitutes a threat to the public health, safety or welfare, the City may undertake emergency repairs and restoration efforts. The City may attempt to provide emergency notice to the person responsible, but is not obligated to do so. The right-of-way user shall promptly reimburse the City for all costs incurred by the City within thirty (30) calendar days from the date of the City invoice.

**Sec. 3.21.091. - Revocation or denial of permit.**

- (a) If any of the provisions of this Article are not followed, a permit may be revoked by the Mayor. If a person has not followed the terms and conditions of this article in work done pursuant to a prior permit, new permits may be denied or additional terms required.
- (b) If a permit is denied upon initial submission for incompleteness or for an issue which is capable of correction, the applicant may complete or correct the application and resubmit the application. Applications not resubmitted within thirty-one (31) calendar days shall be considered withdrawn.

**Sec. 3.21.092. - Appeal from denial or revocation of permit.**

- (a) An Applicant may appeal a denial or revocation of permit to the City Secretary. Appeal shall be filed with the city secretary within five (5) calendar days from the date of the decision being appealed.
- (b) A denial or revocation will be upheld unless a person can show that there is an error and that the person was following all of the requirements of this Article and all right-of-way engineering requirements.

**Sec. 3.21.093. Inspections**

The City may perform inspections of any right-of-way work, including installations, maintenance, modifications or any other right-of-way work, whether such work is subject to permit requirements or allowed to be done without a permit. The City may perform visual inspections of any right-of-way work located in the right-of-way as the City deems appropriate without notice. If the inspection requires physical contact with right-of-way work, the City may



provide the right-of-way user with notice prior to said inspection. Right-of-way user may have a representative present during such inspection. In the event of an emergency, the City may, but is not required to, notify the right-of-way user prior to the inspection. The City may take any needed action to remediate an emergency. The City shall notify the right-of-way user as soon as practical after said remediation.

**Sec. 3.21.094. - Abandoned Facilities.**

(a) Duty to Remove.

A person that has placed facilities in the right-of-way shall remove said facilities and related equipment when such facilities are Abandoned regardless of whether or not it receives notice from the City. If removal of facilities would cause damage, particularly in regard to underground facilities, this requirement may be waived by the City.

(b) Time for Removal

- (1) The City may notify the person that said facilities must be removed immediately when necessary to ensure public health, safety, and welfare.
- (2) If immediate removal is not required, the removal must be completed within the time set forth in the written Notice to Remove from the City and if no time is set out, then within ninety (90) days for the facilities and related equipment being Abandoned.
- (3) If the facilities are not removed after the ninety (90) day notice to remove, the City may remove the facilities thirty (30) days after notice of a final finding of abandonment.
- (4) When a person removes, or Abandons permanent structures in the Right-of-Way, the person shall notify the City Secretary in writing of such removal or Abandonment and shall file with the City Secretary the location and description of each facility and ground equipment removed or Abandoned.
- (5) The City Secretary may require the person to complete additional remedial measures necessary for public safety and the integrity of the Right-of-Way.
- (6) If in the judgment of the City, removal of underground facilities would cause damage, this requirement may be waived

(c) Deemed Abandoned

Facilities may be deemed abandoned as set out in this Chapter. Additionally, facilities may be deemed abandoned if:

- (1) A person does not relocate facilities as set out in 3.21.086 “Conditions of public right-of-way occupancy.”

- (2) A person does not correct or abate improperly installed facilities as set out in 3.21.089 “Improperly Installed Facilities.”
- (3) A person fails to maintain the registration requirements set forth in Section 3.21.083 “Municipal Authorization required; Registration; Compensation and fees.”
- (4) A person utilizing the right-of-way cannot be found or contacted.
- (5) A person utilizing the right-of-way fails to pay the required compensation.
- (6) A person utilizing the right-of-way fails to comply with the requirements of this Chapter after being given due notice of any deficiencies. The notice requirement shall only apply to persons who have maintained the required Registration as set out in 3.21.083 “Municipal Authorization; Registration; Compensation and fees” and are capable of being contacted.

**Sec. 3.21.095. - Underground installation preferred.**

- (a) The underground placement of Facilities is encouraged.
- (b) Facilities shall be installed underground where existing utilities are already underground.
- (c) Underground conduits and ducts shall be installed in the Public Rights-Of-Way between the adjacent property line and curb line unless otherwise directed by the City.
- (d) Conduits and ducts shall be installed parallel with the curb line and cross the Public Rights-of-Way perpendicular to the Public Rights-Of-Way centerline unless otherwise directed by the City.
- (e) Ducts and conduits shall be installed by trenchless excavation or directional boring whenever commercially economical and practical. Trenchless excavation shall be used to place Facilities under paved Public Rights-Of-Way centerline unless otherwise directed by the City.

**Sec. 3.21.096. - Courtesy and Proper Performance.**

User shall make citizen satisfaction a priority in using the Right-of-Way. User shall train its employees to be customer service-oriented and to positively and politely interact with citizens when dealing with issues pertaining to its facilities and related ground equipment in the Right-of-Way. User’s employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of interaction with the public. If, in the opinion of the City Secretary, User is not interacting in a positive and polite manner with citizens, the City Secretary may request User to take all remedial steps to conform to these standards.

**Sec. 3.21.097. - Signage.**

- (a) User shall post and maintain legible identification showing its name, location identifying information, and emergency telephone number in an area on a cabinet of a facility that is visible to the public. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g. RF ground notification signs) or the Mayor.
- (b) Except as required by Laws or by the Utility Pole owner, User shall not post any other signage or advertising on the facilities or equipment.

**Sec. 3.21.098. - Graffiti Abatement.**

As soon as practical, but not later than fourteen (14) calendar days from the date User receives notice thereof, User shall remove all graffiti on any of its facilities and related ground equipment located in the Right of Way. The foregoing shall not relieve the User from complying with any City graffiti or visual blight ordinance or regulation.

**Sec. 3.21.099. Alternate means or method; waiver.**

- (a) A person may file a request with the City Council to use alternate means or methods in right-of-way construction or maintenance. In determining whether any requirement under this section may be waived or if an alternate method or means may be used, the City Council may consider all reasonable factors, including but not limited to:
  - (1) whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable increase in risk;
  - (2) whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable increase of service interruption;
  - (3) whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable increase in potential for liability for accidents;
  - (4) whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable delay in construction;
  - (5) whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable delay in availability of services; or
  - (6) to any other unreasonable technical or economic burden.
- (b) There shall be no right to receive permission to use an alternative means or method and denial by the City Council shall be final.

**Sec. 3.21.100. - Legal action.**

The City may institute all appropriate legal action to prohibit any person from knowingly using the public rights-of-way unless person has complied with the terms of this article.

**Reserved- Section 3.21.101 through 3.21.171.**

**PART III. – DESIGN MANUAL**

**Sec. 3.21.172. – Purpose.**

This Design Manual is for maintenance of, siting and criteria for the installation of Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment and applies to any and all maintenance, siting, installations, collocations, or other placement of, in, over or under the Public Rights-of-Way of Network Nodes, Node Support Poles, Micro Network Nodes, Distributed Antenna System(s), microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284 of the Local Government Code or installed pursuant to an Agreement to use the Right-of-Way or Authorization or installed as may otherwise be allowed by state law. The City enacts these design requirements and guidelines in order to meet its fiduciary duty to its citizens, and to give assistance and guidance to Network Providers in the safe, aesthetically pleasing, efficient, and timely installation of facilities.

**Sec 3.21.173. - Prohibited or Restricted Areas for Wireless Facilities in the Right-of-Way.**

(a) Prohibited: Municipal Parks and Residential Areas.

A Network Provider may not install a new Node Support Pole in the following locations:

- (1) in a Municipal Park, unless permission is given by the City Council; or
- (2) in right-of-way that:
  - (a) contains a street that is equal to or less than fifty (50) feet wide at average width, measuring vehicular traveled portion only as set out in the definition of “Street” and the measurement does not include intersection and refers only to the main traveled portion measured at mid-block or mid-point between intersections; and
  - (b) is adjacent to developed or undeveloped single-family residential lots, other multifamily residential area or land that is designated for residential use by zoning or deed restrictions.

(b) Restricted: Historic District

- (1) A Network Provider must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in an area of the City designated as a Historic District, as defined under Article 14.03 of the City Code.
- (2) Concealment Required
  - (a) As a condition for approval of Network Nodes or Node Support Poles in a Historic District, Concealment measures are required for Network Nodes or Node Support Poles or related ground equipment or any portion of the Nodes, poles, or equipment, including but not limited to the possibility of concealing the nodes as lighting fixtures.
  - (b) Said Concealment measures shall minimize the impact to the aesthetics in a Historic District/
- (3) Network Provider shall comply with and observe all applicable City, State, and federal laws and requirements, including historic preservation laws and requirements.
- (d) Collocation will not be allowed on decorative traffic signal poles or decorative poles/ decorative streetlight poles in any area of the City.
- (e) Historic Landmarks.
 

Network Provider is discouraged from installing a Network Node or Node Support Pole within 300 feet of a historic site or structure or Historic Landmark recognized by the City, State or Federal government (*see, for example, and not limited to* §442.001(3) of the Texas Government Code, and 16 U.S.C. §470), as of the date of the submission of the permit.
- (f) Designated Areas
  - (1) The City Council may designate an area as a Historic District at any time.
  - (2) Historic District
 

Any area that meets the definition of Historic District under Article 14.03 of the City Code shall be considered to be a Historic District. An area does not need to be designated by this Ordinance to be considered to be within a Historic District. Such designation does not require a zoning case. Any area declared to be a Historic District by City Council or any area that meets the definition of Historic District shall be subject to all requirements and protections for a Historic District.
- (g) Defense

- (1) It shall be a defense to any of the above requirements prohibiting or restricting location of facilities in a Park, Residential area, Historic District, or collocating on a decorative pole that the Network Provider obtained advance written approval or waiver of restrictions from the City before collocating new Network Nodes or installing new Node Support Poles or ground equipment in a prohibited or restricted location. In any prosecution for such prohibition or violation of any restrictions, it shall be an affirmative defense to have an Agreement with the City that approved such location or waived the applicable restriction.
- (2) If an Agreement is granted to locate in a prohibited location, the Network Provider shall be required, as a condition for approval of new Network Nodes or new Node Support Poles in a prohibited location, to install reasonable design or concealment measures for the new Network Nodes or new Node Support Poles. Therefore, any request for installations in a prohibited location, must be accompanied with concealment measures in the permit applications.
- (3) The City requests that a Network Provider explore the feasibility of using certain camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in all locations of the City. In particular, the City would like the nodes to be concealed as lighting fixtures, when feasible.

(h) Private Deed Restrictions and Property Owners Association Rules.

A Network Provider installing a Network Node or Node Support Pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

- (i) Each Permit Application shall designate if the requested area for installation is within a Residential area, a Municipal Park, or a Historic District.
- (ji) No interference with traffic.

Nodes will not be allowed to be installed in the area for vehicular or pedestrian travel or in a manner that will interfere with vehicle traffic or pedestrian travel.

**Sec. 3.21.174. - Preferred Location.**

The following locations, in the order listed, are the preferred locations for installation of poles or wireless facilities:

- (1) Industrial areas;

- (2) Areas designated by the City as a Highway Rights-of-Way Area, provided that such areas are not adjacent to a Municipal Park, Residential Area, Historic District, or any prohibited area set out above.
- (3) Retail and Commercial areas, provided such areas are not in a prohibited location, such as a Historic District.

**Sec. 3.21.175. - Order of Preference regarding attachment to facilities.**

- (a) The following shall be the order of preference for the attachment of Network Nodes to existing facilities, beginning with most preferred location and ending with least preferred location. In addition to the preference set out by the City, existing facilities may be owned by third parties and may not be available for attachment of facilities or may require authorization from other parties.
- (b) Order of preference from most preferable to least preferable.
  - (1) Most preferable - Existing telephone or electrical lines between existing utility poles. Micro Network Nodes may only be lashed on existing telephone or electrical lines between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on Utility Poles, Node Support Poles or Service Poles.
  - (2) Preferable - Existing Utility Poles (electric poles or telephones poles), or non-decorative utility owned street light poles shall be the preferred support facility for Network Nodes and related ground equipment.
  - (3) Less preferable - New Node Support Poles. Though adding new poles is not desirable, collocation on existing Municipal Poles shall generally be less preferred over new poles. New poles shall not be installed in prohibited areas and shall only be allowed in restricted areas to the extent all requirements are followed or a waiver is granted. Any new poles shall be camouflaged to the extent allowed by law as set out in this Chapter.
  - (4) Least preferable - Municipal Service Poles, which shall require an Agreement with the City. Municipal Service Poles includes (in order of preference):
    - (a) Non-decorative City street lights. Micro Network Nodes shall:
      - (i) Be encased in a separate conduit than the street light cables;
      - (ii) Have an electric power connection separate than the street lights
      - (iii) Have a separate access point than the street light structure;

- (iv) Be attached in a City approved manner; and
  - (v) Follow all requirements in the Agreement with the City and as required by the City.
- (b) Non-decorative Traffic signal structures – Network Nodes may only be attached to traffic signal structures when such installation will not interfere with the integrity of the facility and will not interfere with the safety of the public. Any installation of Network Node facilities on any traffic signal structures shall:
- (i) Be encased in a separate conduit than the traffic light electronics.
  - (ii) Have a separate electric power connection than the traffic signal structure;
  - (iii) Have a separate access point than the traffic signal structure
  - (iv) Not be placed on traffic signal mast arms;
  - (v) Not be placed in an area where the view of traffic from a traffic video camera could be obstructed;
  - (vi) Be placed on the side of the signal pole that does not face the direction of traffic for which the traffic signal faces;
  - (vii) Be attached in a City approved manner; and
  - (viii) Follow all requirements in the Agreement with the City and as required by the City
- (c) Other municipal service pole use is discouraged and the use of decorative street light poles or decorative traffic signal structures is prohibited.
- (c) Ground equipment should be minimal and the least intrusive.

Ground equipment must not block existing or future pedestrian travel ways or be within visibility angles.

**Sec. 3.21.176. - Placement Requirements.**

- (a) A Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:



- (1) obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
  - (2) obstruct the legal use of a public right-of-way by other utility providers;
  - (3) violate nondiscriminatory applicable codes;
  - (4) violate or conflict with the municipality's publicly disclosed public right-of-way management ordinance or this Design Manual.
  - (5) violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) or the Public Rights of Way Accessibility Guidelines (PROWAG).
- (b) Network Node facilities shall be installed in accordance with section 3.21.083 and all other applicable requirements of this Chapter.
  - (c) Right-of-Way.

**Sec. 3.21.177. - Design, Concealment or Camouflage Required.**

- (a) Reasonable Design, Concealment, or Camouflage is required by the City when Wireless facilities are allowed, as set forth above, in Historic Districts.
- (b) It is the City's preference that all new node support poles be concealed or camouflaged, except those located in an area zoned or predominantly industrial.
- (c) Companies shall submit their proposal for camouflage with the permit application.

**Sec. 3.21.178. - General Requirements.**

- (a) Confirmation of non-interference with City Safety Communication Networks.
  - (1) The Network Provider shall provide analysis that the proposed network node shall not cause any harmful interference with City public safety radio system, traffic signal light system, or other City safety communications components.
  - (2) It shall be the ongoing responsibility of the Network Provider to evaluate, prior to making application for permit and while Network Nodes remain in the Right-of-Way, the compatibility between the existing City infrastructure and Provider's proposed Network Node. A Network Node shall not be installed in a location that causes any harmful interference.
  - (3) Network Nodes shall not be allowed on City's public safety radio infrastructure.
- (b) Size Limits. Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but

not limited to Chapter 284, Sec. 284.002, size of a Micro Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, maximum pole height, with each application and with each request for a permit for each location.

- (i) Micro Network Node dimensions – Maximum Length: 24 inches (24”); Maximum Width fifteen (15) inches (15”); Maximum Height twelve (12) inches (12”).
- (ii) Network Node: three feet (3’) in height, two feet (2’) in width and one foot (1’) in depth.
- (iii) Pole Height Not higher than ten feet (10’) above the average height of utility poles within 500 linear feet of a new pole or fifty-five feet (55’), whichever is least.
- (iv) Ground equipment, separate from the pole, may not be higher than three feet six inches (3’6”) from grade, wider than three feet six inches (3’6”).
- (v) When not otherwise set out in this ordinance or in a Municipal Authorization, the size limits shall not be greater than size limits set forth for structures or equipment in Chapter 284 of the Local Government Code, where applicable. These size limits shall not be exceeded unless specific City permission has been granted through a franchise or license or specific authorization is claimed through a different state statute.
- (vi) Size limits may be reduced when necessary for public health, safety or welfare.

If Chapter 284 of the Texas Local Government Code is found to be repealed, struck down, pre-empted or invalid, in whole or in part, then the standards required by the City, either in the Municipal Authorization or an amendment to the Municipal Authorization or the directives of the City or this Article shall apply.

- (c) Concealment.

The Network Node facilities shall be concealed or enclosed in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible.

- (d) New Node Support Pole Spacing and Placement.

- (1) New node support poles shall be at a minimum three-hundred (300) feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area, unless a lesser distance is approved by the Mayor.
- (2) New poles shall be placed a minimum of five (5) feet from a street curb or travel lane and eighteen (18) inches from a sidewalk to minimize the potential of being struck by a motor vehicle or bicycle.

- (3) New poles shall be placed on breakaway anchor bolt supports or bases to minimize the impact severity to motor vehicles that strike the pole.

- (e) Minimize Ground Equipment Concentration.

In order to minimize negative visual impact to the surrounding area, the City's designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment already occupies a footprint of twenty-five (25) square feet or more.

- (f) Allowed Colors.

Colors shall meet the requirements set out in Section 3.21.085 (b)(50) .

- (g) If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved by the Mayor and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Network Provider shall remove the Network Node facilities, Node Support Poles or ground equipment.

- (h) If Chapter 284 of the Texas Local Government Code is found to be repealed, struck down, pre-empted or invalid, in whole or in part, then the standards required by the City, either in the Municipal Authorization or an amendment to the Municipal Authorization or the directives of the City or this Article shall apply.

- (i) Ground Equipment.

- (1) Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284.102 (1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way the maximum line of sight required to add to safe travel of vehicular and pedestrian traffic and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within two-hundred-fifty 250 feet of a street corner or a street intersection.

- (2) Ground Equipment near Municipal Parks. For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the Network Provider shall not install Ground Equipment in a Right-of-Way that is within a Park or within two-hundred-fifty (250) feet of the boundary line of a Park, unless approved by the Mayor.

- (3) In accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City's designee may deny a request for a proposed Location if the Network Provider

installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of twenty-five (25) square feet or more.

- (4) Ground equipment shall not be installed in such a manner as to interfere with a visibility triangle.
  - (5) Ground equipment must not block existing or future pedestrian travel ways, sidewalks, or trails
- (j) Municipal Service Poles
- (1) An Agreement shall be required for all installations on Municipal Service Poles and all such installations shall be in accordance with the Agreement.
  - (2) Installations on all Service Poles shall have an industry standard individual pole load analysis, including wind loads, completed by a Professional Engineer registered in Texas and submitted to the municipality with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load. All applications for permits to collocate or attach to any Service Pole must have included in its permit application a completed industry standard pole load analysis performed and sealed by an engineer licensed by the State of Texas that indicates that the Service Pole to which the network node is to be attached will safely support the load. Such analysis shall also address safety of pole and attachments in regard to wind loads, collision with motor vehicle, supporting weight of the Node, interference with City communications systems, and all other pertinent information.
  - (3) Height of attachments:
    - (i) All attachments on all Service Poles shall be at least eight 8 feet above grade; and
    - (ii) If an attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground; and
    - (ii) Meet all applicable requirements of State law and this Chapter.
  - (4) Installations on any Traffic signal structure must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with the agreement with the City. Installation of Network Node facilities on any traffic signal structures shall:
    - (i) Be encased in a separate conduit than the traffic signal light electronics;

- (ii) Be placed on the side of the signal pole that does not face the direction of traffic that the signal is controlling.
  - (iii) Have a separate electric power connection from the traffic signal structure;
  - (iv) Be placed a minimum of two feet (2') from any signal system device;
  - (v) Have a separate access point than the traffic signal structure;
  - (vi) Be attached in a City approved manner;
  - (vii) Follow all requirements in the Agreement with the City and all other requirements by City; and
  - (viii) Meet all other requirements of State law and this Chapter;
- (5) Installations on Street signage structures: Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with the Agreement with the City. Installation of Network Node facilities on any street signage structures that has electrics shall:
- (i) Be encased in a separate conduit than any City signage electronics;
  - (ii) Have a separate electric power connection than the signage structure;
  - (iii) Have a separate access point than the signage structure;
  - (iv) Be attached in a City approved manner;
  - (v) Follow all requirements in the Agreement with the City and all other requirements of the City; and
  - (vi) Meet all other requirements of State law and this Chapter.

(k) Certification

- (1) Application: Network Node provider will furnish a certification that the proposed Network Node will be placed into active commercial service by or for a Network Provider not later than the 60th day after the date the construction and final testing of the Network Node is completed.
- (2) Within sixty (60) days after construction is complete, Network Node provider will furnish a certification that the proposed Network Node is in active commercial service by or for a Network Provider and will furnish such certification with its Registration as required by section 3.21.083, annually thereafter.

**Sec. 3.21.179. - Electrical Supply.**

- (a) Network Provider shall be responsible for obtaining any required electrical power service to the Micro Network Node, Network Node facilities, Node Support Poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the Micro Network Node, Network Node facilities, Node Support Poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure, or for any other cause beyond the control of the City.
- (b) Network Provider shall not allow or install generators or back-up generators in the Right-of-Way.

**Sec. 3.21.180. - Installation and Inspections.**

- (a) Installation
  - (1) Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner and in accordance with the requirements promulgated by the Mayor, as such may be amended from time to time. Network Provider's work shall be subject to the regulation, control and direction of the Mayor.
  - (2) All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment shall be in compliance with any Agreement with the City as applicable and all applicable laws, ordinances, codes, rules and regulations of the City, County, State, and the United States ("Laws").
- (b) Standard Pole Load Analysis on Attachments to a Service Pole

All applications for permits to collocate and or attach to any Service Pole must have included in its permit application a completed industry standard pole load analysis indicating that the Service Pole to which the network node is to be attached will safely support the load.
- (c) Inspections

The Mayor may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way as the Mayor deems appropriate without notice. If the inspection requires physical contact with the Micro Network Node, Network Node, Node Support Poles or related ground equipment, the Mayor

shall provide written notice to the Network Provider within five (5) business days of the planned inspection. Network Provider may have a representative present during such inspection.

**Sec. 3.21.181. - Requirements in Regard to Removal, Replacement, Maintenance and Repair.**

(a) Removal or Relocation by Network Provider

- (1) If the Network Provider removes or relocates a Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, it shall notify the Mayor in writing not less than ten (10) business days prior to removal or relocation. Network Provider shall obtain all Permits required for relocation or removal of its Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment prior to relocation or removal.
- (2) The City shall not issue any refunds for any amounts paid by Network Provider for Micro Network Node, Network Node facilities, Node Support Poles or related ground equipment that have been removed.
- (3) Any abandoned or obsolete Micro Network Node, Network Node, Node Support Pole or other related equipment shall be removed in strict accordance with this Chapter and all other applicable ordinances and state law.
- (4) Network Provider shall remove Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment when such facilities are Abandoned regardless of whether or not notice is received from the City. Such removal must occur within ninety (90) days from the date of Abandonment, unless additional time is allowed by the City. The Network Provider shall provide advance written notice of such removal which must be received by the City at least two (2) working days prior to the removal, except in case of emergency. Such notice shall specify the location and description of each Micro Network Node, Network Node, Node Support Pole or related ground equipment or other facilities to be removed.
- (5) The Mayor may require the Network Provider to complete additional remedial measures necessary for public safety and the integrity of any City facilities and the Right-of-Way.

(b) Removal or Relocation Required for City Project

- (1) A Network Provider shall relocate or adjust Micro Network Node, Network Node, Node Support Pole and related ground equipment in a public right-of-way in a timely manner in accordance with section 3.21.086 “Conditions of Public Rights-of-Way Occupancy” subsection (D) and without cost to the municipality managing the public right-of-way

- (2) Pursuant to state law and as a condition for occupancy of the right-of-way, the Network Provider may be required by the City to remove or relocate any of its facilities, including but not limited to, its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or any portion thereof from the Right-of-Way, and Network Provider shall, at the Mayor's direction, remove or relocate the same at Network Provider's sole cost and expense, whenever the Mayor reasonably determines that the relocation or removal is needed as set out in Section 3.21.086 "Conditions of Public Right-of-Way Occupancy."
- (c) If Network Provider fails to remove or relocate the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof as requested by the Mayor within ninety (90) days of Network Provider's receipt of the request, then the City shall be entitled to remove the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof at Network Provider's sole cost and expense, without further notice to Network Provider, and Network Provider shall, within thirty (30) days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof.
- (d) Removal Required by City for Safety or Due to Imminent Danger; or for Improper Permitting or Licensing
  - (1) Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the Mayor if the Mayor reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law. If the Mayor reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider's sole cost and expense.
  - (2) The Mayor shall provide ninety (90) days written notice to the Network Provider before removing a Micro Network Node, Network Node, Node Support Pole and related ground equipment under this Section, unless there is imminent danger to the public health, safety, and welfare.



(3) Network Provider shall reimburse City for the City's actual cost of removal of Micro Network Node, Network Node, Node Support Pole and related ground equipment within thirty (30) days of receiving the invoice from the City.

(e) Restoration

Network Provider shall repair any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider's removal or relocation activities (or any other of Network Provider's activities hereunder) within ten (10) calendar days following the date of such removal or relocation, at Network Provider's sole cost and expense, including restoration of the Right-of-Way and such property to substantially the same condition as it was immediately before the date Network Provider was granted a Permit for the applicable Location or did the work at such Location (even if Network Provider did not first obtain a Permit), including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the Mayor.

(f) Network Provider Responsible

Network Provider shall be responsible and liable for the acts and omissions of Network Provider's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider's and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider's acts or omissions.

**Sec. 3.21.182. - Requirements Upon Abandonment.**

- (a) Upon Abandonment or upon being deemed abandoned, Network Provider has a duty to promptly remove its facilities from the right-of-way. Notice from the City is not a prerequisite to the requirement for removal.
- (b) If the Network Provider does not promptly remove its facilities removal procedures as set out in section 3.21.094 "Abandoned Facilities" may be followed.

**Sec. 3.21.183. - General Provisions.**

- (a) All requirements of this Chapter shall be met as applicable.
- (b) No City Allocation of Funds for Removal and Storage

All costs of any removal or storage of Micro Network Node, Network Node, Node Support Pole and related ground equipment, as authorized under this Article, shall be the responsibility of the Network Provider and the City is not required to expend funds to meet the requirements of the Network Providers. Any funds expended by the City due to an emergency or failure of a Person to abide by these requirements shall be reimbursed to the City.

(c) Ownership.

No part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment erected or placed on the Right-of-Way by Network Provider will become, or be considered by the City as being affixed to or a part of, the Right-of-Way. All portions of the Micro Network Node, Network Node, Node Support Pole and related ground equipment constructed, modified, erected, or placed by Network Provider on the Right-of-Way will be and remain the property of Network Provider and may be removed by Network Provider at any time, provided the Network Provider shall notify the Mayor prior to any work in the Right-of-Way.

(d) Size Limits.

Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Texas Local Government Code Chapter 284 with each application and request for a permit for each location; provided, however, where possible Providers are encouraged to reduce the size of installed facilities.

(e) If Chapter 284 of the Local Government Code is found to be repealed, struck down, preempted or invalid, in whole or in part, then the standards required by the City, either in the Municipal Authorization or an amendment to the Municipal Authorization or the directives of the City or this Article shall apply.

**Sec. 3.21.184. - Indemnity, Bonding and Security Deposits.**

Indemnity, bonding and security deposits shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with state law.

**Sec. 3.21.185. - Design Manual – Updates.**

Placement or Modification of Micro Network Node, Network Node, Node Support Pole and related ground equipment shall comply with the City's Design Manual at the time the Permit for Installation or Modification, and as said Design Manual may be approved or amended from time to time.

**Reserved 3.21.185 through 3.21.220.**

**PART IV – EXEMPTION PROCESS**

**Sec. 3.21.221. Administrative Hearing – Request for Exemption.**

(a) Should any person utilizing or proposing to utilize the right-of-way desire to request an exemption from a specific standard set forth in this Chapter, and section 3.21.099 "Alternate means or method; waiver" is not applicable, the person may request an

Administrative Hearing before a Board of Appeals. The Zoning Board of Adjustment shall act as the Board of Appeals for a Request for Exemption under this Chapter.

- (b) Any person requesting an exemption from any of the requirements shall file such a request with the Mayor within fifteen (15) calendar days from the time that need for an exemption arose. If an exemption is requested prior to construction, the request should be submitted prior to filing for a permit.
- (c) An exemption shall only be granted if:
  - (1) Such exemption is not contrary to the public interest;
  - (2) Such exemption will not increase the burden on the right-of-way or other right-of-way users;
  - (3) Such exemption shall not increase the right-of-way management or administrative duties for city staff;
  - (4) The exemption shall fit within the spirit of this Article; and
  - (5) The application of the ordinance in the particular circumstances would create an unnecessary hardship.
- (d) It shall take an affirmative vote of four (4) members of the Board to grant the exemption.



# TEXAS MUNICIPAL LAW BULLETIN™

A news bulletin published by the Bojorquez Law Firm, PC ★ October 2017

## New Rules for Small Cell Nodes



Each city can regulate its right-of-way to ensure that there are no obstructions to city streets and that utilities can fit together in the limited space provided. Texas Senate passed Bill 1004 (now Chapter 284 of the Tex. Loc. Gov't Code), effective September 1<sup>st</sup>, provides special rules for wireless companies to place network nodes (different size boxes with wireless

technology attached to utility poles) in public rights-of-way. The bill limits city regulation of the placement of the nodes and poles, and sets low rental and permit fees. However, the new bill does allow cities to adapt their right-of-way management ordinances to regulate the placement and appearance of these facilities. Regulation of placement can include restricted or concealed placement in a park and the city, residential areas, historic districts, and, what is designated by the statute as “design districts”. It is crucial for each city to designate areas within their municipal boundaries as soon as possible to take advantage of these restrictions if it wishes to protect these areas from additional visual clutter and to obtain the small rental fees allowed when the nodes and poles are placed on city poles or in city rights of way. This is particularly beneficial to a city with more protected themed design layouts.

An application and registration form are also required if a city wants to regulate placement of nodes and poles.

***The Firm has draft ordinances and forms available for modification for your City. Please contact your primary attorney for more information.***

## Ordinance Revisions

Right of Way Management Ordinance and Design Manual

- a. Designate different districts and list parks
- b. Require concealment of some nodes and other facilities
- c. Limit sizes
- d. Permit Application and Registration Requirements Procedures
- e. Give City Officials duties and authority to regulate facilities
- f. Provide for indemnity and insurance requirements for companies placing facilities
- g. Impose safety and cleanup requirements of companies placing facilities
- h. Include preference of location of installation
- i. Requires separate electric supply for facilities
- j. Amend fee schedule to include all types of nodes and related facilities

*This educational message was sent to clients, friends and colleagues of the Firm. If you do not wish to receive such email messages in the future, please reply to the sender, or e-mail your request to be removed from this mailing list to [Info@TexasMunicipalLawyers.com](mailto:Info@TexasMunicipalLawyers.com). This document does not constitute legal advice.*

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# Implementation of S.B. 1004 – What can/must a city do?

2017 Texas Municipal League  
Annual Conference  
October 5, 2017

Georgia N. Crump  
gcrump@lglawfirm.com

# Compliance

- ❖ Can require compliance with ROW management ordinances, undergrounding requirements, zoning restrictions.
- ❖ Can continue to exercise zoning, land use, planning, and permitting authority.
- ❖ Can continue to impose police power-based regulations in management of PROW
- ❖ Can require compliance with a design manual – historic and design districts, parks and residential areas.
- ❖ Can require indemnification by providers, same as Chapter 283.
- ❖ Can require relocation or adjustment of NN in a timely manner and without cost to city.
- ❖ Can require non-interference with city mobile telecomm operations.

# Permits

- ❖ Can require permits for nodes, node support poles, and transport facilities.
- ❖ § 284.152.

# Fees

- ❖ Can charge permit/application fees for NN and NSP - § 284.156
- ❖ Can charge right-of-way use fees for each node, node support pole, and transport facility - §§ 284.053, .055.



## What's the size of a node?

- ❖ Antenna must fit within 6 cubic feet – real or imaginary.
- ❖ Can't be higher than 3 feet above the top of the pole.
- ❖ Can't protrude more than 2 feet from the side of the pole.

## What if it's larger than this?

- ❖ Then not covered in the definition, and access not granted.

# How about a “micro network node”?

- ❖ Can't be larger than 24" long, 15" wide, and 12" high.
- ❖ Any exterior antenna can't be longer than 11".

# What about “other” equipment?

- ❖ The cumulative size of other equipment associated with the network node can't be more than 28 cubic feet in volume.
- ❖ And, it can't protrude more than 2 feet from outer circumference of existing structure or pole.

## **How about ground-based enclosures, separate from poles?**

- ❖ No taller than 3 ½ feet from grade, no wider than 3 ½ feet, no deeper than 3 ½ feet.

## **How about pole-mounted enclosures?**

- ❖ Can't be taller than 5 feet.

# How about poles?

- ❖ No higher than the *LESSER* of:
  - 10 feet above the tallest utility pole within 500 linear feet, or 55 feet.
- ❖ If higher than this – not covered by Chapter 284, and not allowed as matter of right.
  - E.g., 120' poles in PROW (Mobilitie).

# What's not included in these limitations?

- ❖ Electric meters;
- ❖ Concealment elements;
- ❖ Telecomm demarcation boxes;
- ❖ Grounding equipment;
- ❖ Power transfer switches;
- ❖ Cut-off switches; and
- ❖ Vertical cable runs for connection of power and other services.

# ROW Management Ordinance

## § 284.001(c) – Findings and Policy

“It is the policy of this state, subject to state law and strictly within the requirements and limitations prescribed by this chapter, that municipalities:

- (1) Retain the authority to manage the public right-of-way to ensure the health, safety, and welfare of the public...”

# ROW Management Ordinance, cont.

## § 284.002 – Definitions

(19) “public right-of-way management ordinance” means an ordinance that complies with Subchapter C.

## Industry focus on § 284.110 – Discrimination Prohibited.

In the management of, and access to, the PROW, the city’s exercise of administrative and regulatory authority must be competitively neutral with regard to other users of the PROW.



## ROW Management Ordinance, cont.

**§ 284.101** – city may not require a network provider to obtain a special use permit or similar zoning review, nor may the network provider be subject to further land use approval to access PROW in order to:

- 1) Construct, modify, maintain, operate, relocate, and remove a NN or NSP;
- 2) Modify or replace a utility pole or NSP; and
- 3) Collocate on a pole, subject to agreement with the city.

***But*** all of these activities are subject to applicable codes, including PROW management ordinances.

## ROW Management Ordinance, cont.

**And** all of these activities must comply with §294.102:

- May not obstruct, impede, or hinder usual travel or public safety on PROW;
- May not obstruct legal use of PROW by other utility providers;
- May not violate nondiscriminatory applicable codes;
- May not violate or conflict with city's PROW design specifications;
- May not violate federal Americans with Disabilities Act of 1990.

# PROW Management Ordinance

- ❖ Review existing ordinance – most provisions should also apply to Network Providers.
- ❖ Will need additional provisions related to permit processing and fees.
- ❖ In general – keep as uniform as possible to avoid claims of discrimination.
- ❖ In general – have provisions ensuring the non-violation of the provisions of §284.102 (above).

# Design Manual

**§ 284.108** – a city may adopt a Design Manual.

- ❖ For the installation and construction of NN and new NSP in the PROW.
- ❖ Supplements the installation and construction provisions of Chapter 284.
- ❖ Must not conflict with Chapter 284.

# Design Manual

Supplements the PROW management ordinance. May include:

1. Submittal of an industry standard pole load analysis for each service pole.
2. Requirement that NN equipment placed on new and existing poles be placed more than 8 feet above ground level.

Statute does *NOT* limit the Design Manual to these 2 items.

# Design Manual

- ❖ City can only impose requirements that are “in place” on date the permit application is filed.
- ❖ Time limitations for action on permit applications cannot be tolled or extended pending the adoption or modification of a design manual.

# Design Manual

So, what can be included?

- ❖ ROW management provisions
- ❖ preferences for location
- ❖ required concealment/camouflage measures/colors
- ❖ renderings of “pre-approved” designs for decorative fixtures, street signage installations
- ❖ identification requirements
- ❖ provisions for removing abandoned/damaged installations
- ❖ removal to underground locations
- ❖ placement in ROW (protecting sight-lines, pedestrian travel, ADA)
- ❖ minimum height of pole attachments (protecting sight-lines, pedestrians, etc.)
- ❖ set-backs for ground equipment from streets/parks/corners (same protections)
- ❖ limiting protrusions from poles
- ❖ limiting number of NN per pole
- ❖ spacing of new NSP
- ❖ placement restrictions to avoid interference with traffic signals

# Historic Districts/Design Districts

**§284.105** – Network Provider MUST obtain advance approval before installing new NN or new NSP in area zoned or designated as historic district or a design district.

- A “design district” must have decorative poles:  
Decorative pole is a streetlight pole “specially designed and placed for aesthetic purposes and on which no appurtenances or attachments [other than signage/banners] have been placed.” (§ 284.002(4))



# Historic Districts/Design Districts

Conditions for approval to locate in these districts:

- ❖ “require” use of design or concealment measures.
- ❖ “request” compliance with design and aesthetic standards.
- ❖ “explore feasibility” of certain camouflage measures to improve aesthetics of new NN, new NSP, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize impact to the aesthetics of the districts.

No limitation on city’s authority to enforce:

- ❖ historic preservation zoning regulations consistent with zoning authority under federal law,
- ❖ requirements for facility modifications under federal law, or
- ❖ National Historic Preservation Act of 1966.

# Underground Requirements

## § 284.107

- ❖ Any prohibitions on installation of aboveground structures in a PROW contained in ordinances, zoning regulations, state law, private deed restrictions, other public or private restrictions.
- ❖ Network Provider must comply with these restrictions for installations approved by permit from city.
- ❖ But can replace an existing structure in spite of these regulations.

# Protection of Parks and Residential Areas

## § 284.104

No installation of new NSP in PROW without city's nondiscriminatory written consent:

- ❖ PROW in a city park.
- ❖ PROW adjacent to street not more than 50' wide and adjacent to SF or MF residential lots (zoning or deed restrictions).

Compliance with private deed restrictions also required.

# Use of city-owned poles

Does the city have to allow NN on streetlights?  
On traffic signals? On directional signage?

§ 284.002(21) – “Service Pole”:

- ❖ Owned or operated by a city, in the PROW
- ❖ Supports traffic control functions
- ❖ Structure for signage
- ❖ Supports lighting (other than decorative pole)
- ❖ Supports only NN
- ❖ NOT a municipally-owned utility pole

# Use of city-owned poles

City can require a separate pole attachment agreement with network provider for location of NN on Service Poles.

## ❖ Non-discriminatory terms

- Can be very specific about weight limitations, access, removal, appearance, etc.

## ❖ Rental rate not to exceed \$20/year/pole.

# Permitting

Good idea to get procedures set up ahead of time – strict time requirements for processing permits.

No moratoria allowed for filing or processing permit applications, or issuing permits for NN or NSP – § 284.151.

Permit requirements should apply to all occupants of PROW (no discrimination, remember?)

# Permitting

§ 284.153 – Can't require more info on application than that required for telecommunications utility (no discrimination, remember?)

UNLESS the information directly related to requirements of Chapter 284.

**Application fees** not to exceed the lesser of:

- ❖ actual, direct, and reasonable costs, reasonably related in time to the time the costs are incurred; OR
- ❖ \$500 for up to 5 NN; \$250 for each additional NN per application; and \$1,000 for each pole.

No third-party legal or engineering costs to be included; no contingency fees.

# Permits Not Allowed

§ 284.157 - no application, permit, or payment allowed for:

- ❖ Routine maintenance with no excavation or closing of sidewalks or traffic lanes;
- ❖ Replace or upgrade NN or pole with node or pole substantially similar in size or smaller, and no excavation or closing;
- ❖ Install, place, maintain, operate, or replace Micro NN strung on cables between existing poles or NSP.



# Permits Not Allowed

## Substantially Similar NN or NSP:

- ❖ New or upgraded NN not more than 10% larger than existing NN (still may not exceed size limitations)
- ❖ New or upgraded NSP not more than 10% higher than existing pole (still may not exceed height limitations).
- ❖ Replacement or upgrade doesn't include replacement of an existing NSP.
- ❖ Replacement or upgrade doesn't defeat existing concealment elements of NSP.

# Permitting - § 284.153

Standard form application should be used, can require:

- ❖ Construction and engineering drawings (especially for historic, design, and underground districts, location vis-à-vis residential areas and parks)
- ❖ Info to confirm compliance with PROW design specifications and codes (drawings to show set-backs, protection of sight-lines, etc.)

# Permitting

## Very Important Time Requirements

§ 284.154 – Meet these requirements or permit will be *deemed approved*.

### Application submitted:

- ❖ For transport facility – determine if complete and notify applicant within 10 days.
- ❖ For NN or NSP – determine if complete and notify within 30 days.

# Permitting

## **If Application complete:**

- ❖ For transport facility – approve or deny within 21 days.
- ❖ For NN – approve or deny within 60 days.
- ❖ For NSP – approve or deny within 150 days.

## **If deny – document reason for denial – notify on or before date denied.**

- ❖ Applicant has 30 days to cure deficiency, without paying additional fee, other than fee for actual costs incurred by city.
- ❖ City must approve or deny within 90 days (review limited to noticed deficiencies).

# Grandfathering?

**SB 1004, Section 2** – public/private agreements for deployment of NN and ordinances:

- ❖ Rates, terms, and conditions of agreements and ordinances entered into or enacted before Sept. 1, 2017, apply to all NN ***installed and operational before Sept. 1, 2017.***
- ❖ For all NN installed and operational after Sept. 1, 2017:
  - If rate, term, or condition of agreement or ordinance doesn't comply with Chapter 284, city must amend the agreement or ordinance to comply, and amended provisions take effect on March 1, 2018.
  - Every agreement or ordinance after Sept. 1, 2017, must comply.

Questions?

Thank you

December Presentation for Council Reference:  
Item 9D  
Proposed Network Node Ordinance  
City Council Meeting  
December 12<sup>th</sup>, 2017



# Public Right-of-Way Management

## Why is it important?

- The public right-of-way is vital to the everyday life of citizens, visitors, and businesses
  - Roads
  - Utilities (Water, Sewer, Drainage, Electric)
  - Sidewalks
- State law gives cities the authority to regulate its right-of-way
  - Permitting, Design Standards, Inspections
- HOWEVER. . . Other utility companies have rights too!





# Senate Bill 1004 – Effective September 1, 2017

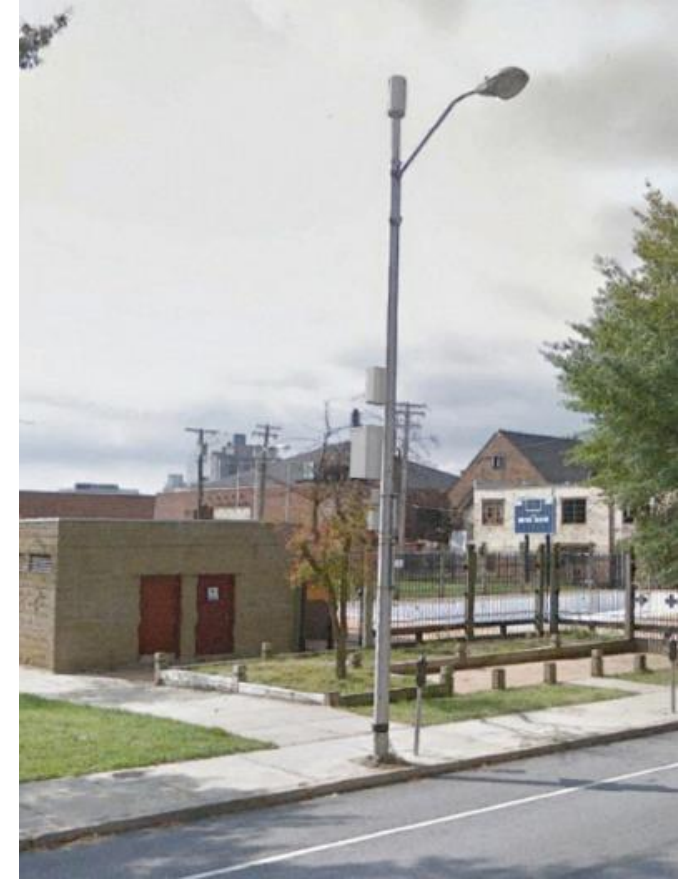
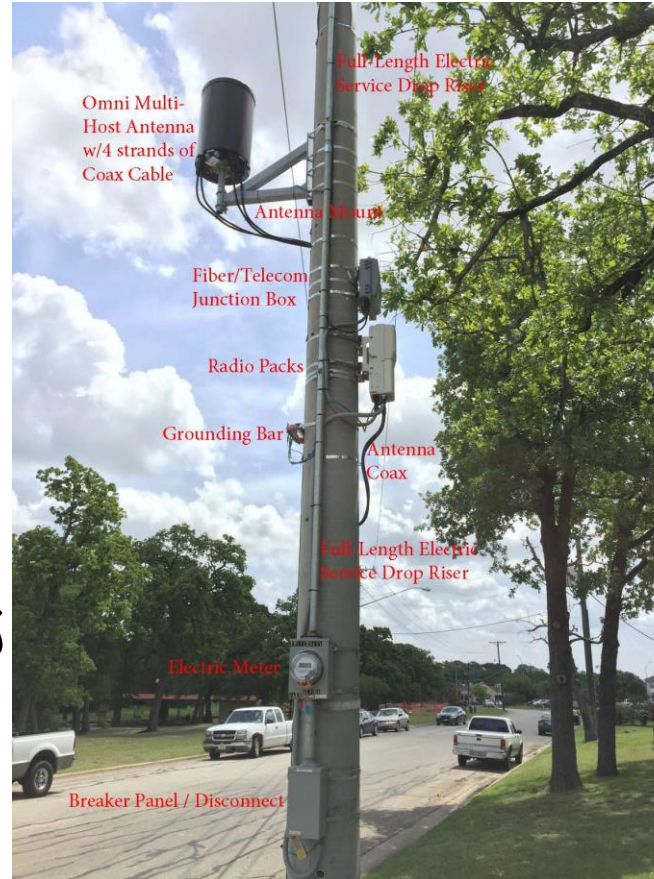
## Deployment of Network Nodes in the Public Right-of-way

- Passed in the last Legislative Session
- Establishes Chapter 284 of the Texas Local Government Code
- Requires cities to allow network nodes in the public right-of-way
  - New poles and infrastructure
  - Attachments to existing poles (collocation) - Agreement Required
- Cities can still regulate the location, design, and construction standards
- BUT . . . they must have an ordinance that defines these regulations!



# What are Network Nodes?

- Box-shaped antennas and equipment used by wireless companies to communicate between users and a communications network.
- Commonly known as “small cell antennas” or “distributed antenna systems”
- Can be attached to existing service poles (traffic signals, street lights, street signs) or utility poles (electric distribution); or
- Can be installed on a stand-alone pole



# Proposed Ordinance #2017-31

## Adds Article 3.21 “Streets, Rights-of-Way and Public Property”

- Enhances currently-adopted standards for working within the right-of-way
- Adopts regulations to address and comply with SB 1004
- Permit requirements and procedures
- Design, safety, and construction standards
- Maintenance, repair, and removal requirements
- Prohibited, restricted, and preferred locations
  - Agreement required for pole attachments
- Confirmation of Non-Interference with City Safety Communication Networks

# Proposed Ordinance #2017-31

## Highlights

- Application and registration process
  - Insurance Requirements
  - Improper Installations
  - Inspections
  - Waiver Process (City Council)
  - Installation, Inspections, and Maintenance
  - Removal (city project, safety reasons, etc.)
  - Exemption Process (Board of Adjustment)
- Design Requirements
    - Prohibited Areas: Municipal Parks, Residential Areas
    - Restricted Areas: Historic Districts and Landmarks
      - Concealment Required
    - Preferred Areas: Industrial, Commercial/Retail Areas
    - Placement, Size, and Concealment Requirements



# What this all boils down to is . . .

## The Bad News

- SB 1004 provides special rules to place network nodes within the public right-of-way

## The Good News

- SB 1004 does allow us to adopt rules to regulate the placement and appearance of these facilities.



What this all boils down to is...

Less This →



What this all boils down to is . . .

And More   
This!



Thank you!







# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 10E

**TITLE:**

Consider action to approve the second reading of Ordinance No. 2017-32 of the City Council of the City of Bastrop, Texas amending the Code Ordinances, Chapter 14 titled “Zoning”, Section 37 titled “Exterior Construction Requirements”, providing a repealing clause; providing a severability clause; providing a savings clause; and providing for an effective date.

**STAFF REPRESENTATIVE:**

Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

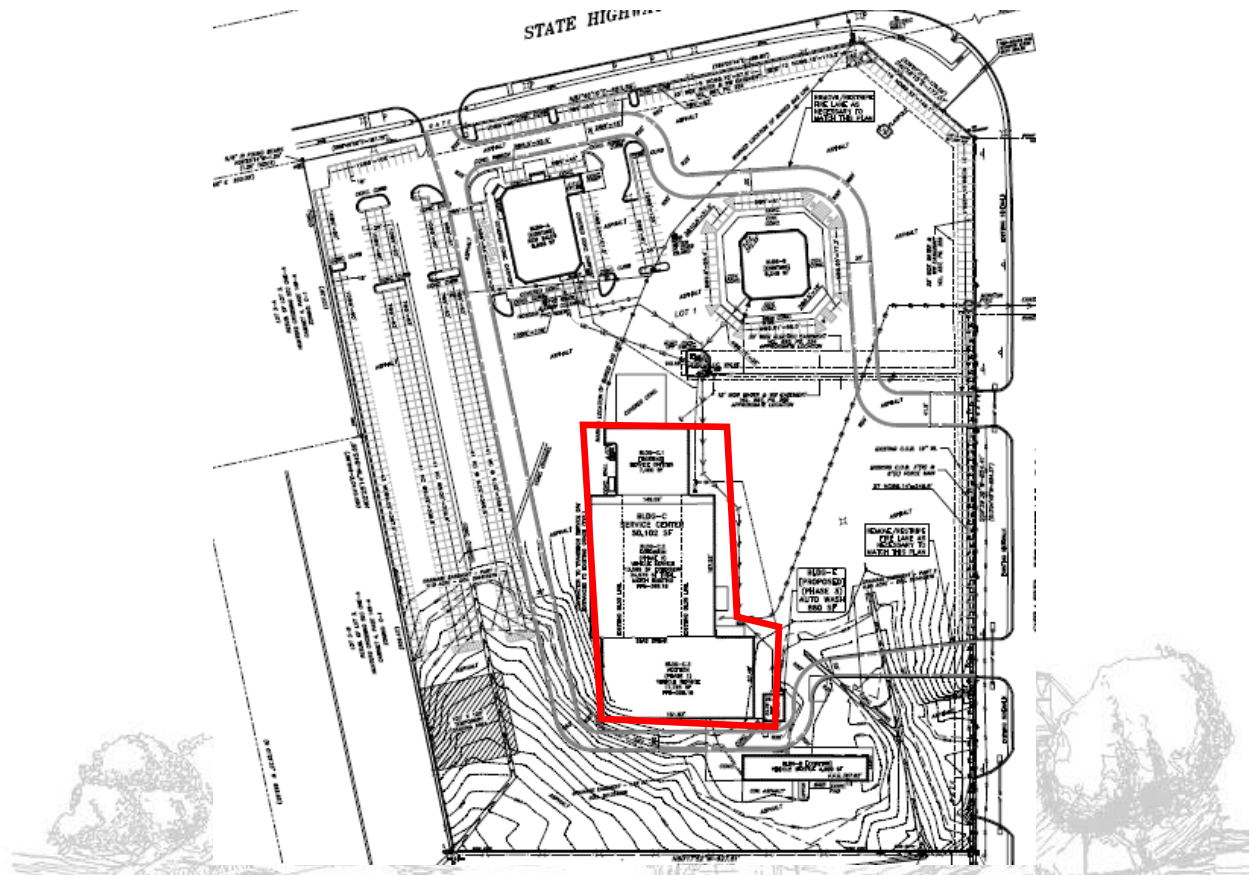
**BACKGROUND/HISTORY:**

The Code of Ordinances Chapter 14 – Zoning contains Development Standards that apply to both residential and non-residential site development. The amendment specifically relates to Section 37 – Exterior Construction Requirements, which outlines allowable materials that can be installed on the exterior of the building within specific zoning district and on specific building faces. The section of the code detailing the materials and picture examples of each are in Attachment 1.

Within Non-residential zoning districts, excluding residential and industrial, and Light Industrial districts, the code defines which of the materials referenced above can be on specific faces of the building and in what amount. A building in C-2, Commercial 2 Zoning is required to have 100% masonry on the street-facing and residential-facing facades. The remaining sides must be comprised of at least 50% masonry material.

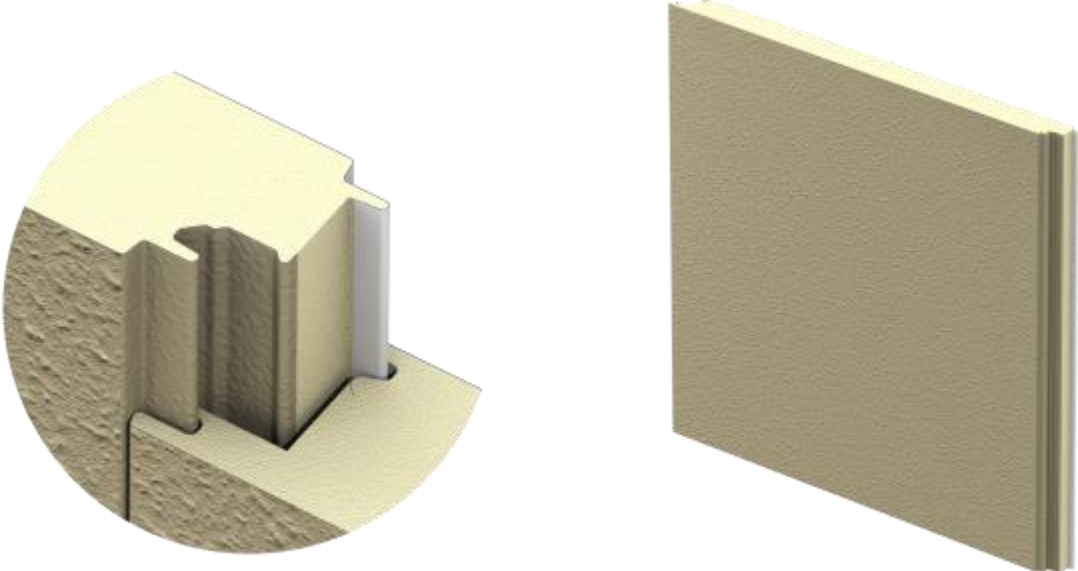
The owner of Covert Chevrolet has requested an amendment to the Code of Ordinance requirements for exterior building materials in order to use a metal composite material that provides an exterior finish similar to a concrete composite material or plaster finish that is allowed as a masonry product in the code.

The site plan that is currently under review includes the expansion of the existing building highlighted below.



The existing building (and other buildings onsite) has metal siding. The building will be approximately 50,000 square feet in size and contain multiple bays for automobile repair.

They would like to use an insulated metal panel material coated with a masonry like textured and painted surface that will resemble a plaster or EIFS finish. The applicant has chosen this material as it is more energy efficient for this type of building and will have long-term durability. Examples of the material are below:





**PLANNING & ZONING COMMISSION RECOMMENDATION:**

The P&Z by a vote of 6-1 recommended that the foamed-insulated-core concealed fastener metal wall panel with a masonry finish be added to the list of approved exterior construction materials and that alternative building material requests should come before the Planning & Zoning Commission for approval. The amendment language, as amended by the P&Z is below:

**Sec. 37.1.A DEFINITIONS**

- D. Foamed-insulated-core concealed fastener metal wall panel with a masonry finish may be allowed if approved by the city and found to be of comparable or superior durability and mimic the appearance of other approved materials.

**Sec. 37.2.A.2 Nonresidential Zoning Districts, excluding Residential and Light Industrial (LI):**

- a. In recognition of changing construction materials and practices, the **Planning & Zoning Commission** may authorize alternate building materials for exterior finishes required in paragraphs 2.a and 2.b. above, provided that they have an appearance and sustainability similar to masonry construction. To approve the alternative, the applicant must show that:
  - (1) The material is of equal or better quality than is required.
  - (2) Approval of the alternative material will not adversely affect the physical character of sites in the immediate vicinity of the development.
  - (3) The alternate material is consistent with the purpose and intent of the code.

### **Sec. 3.01.A.3 Light Industrial (LI) Zoning District:**

In recognition of changing construction materials and practices, the **Planning & Zoning Commission** may authorize alternate building materials for exterior finishes required in paragraphs 3.a and 3.b. above, provided that they have an appearance and sustainability similar to masonry construction. To approve the alternative, the applicant must show that:

- (1) The material is of equal or better quality than is required.
- (2) Approval of the alternative material will not adversely affect the physical character of sites in the immediate vicinity of the development.
- (3) The alternate material is consistent with the purpose and intent of the code.

### **CITY COUNCIL:**

At the public hearing and first reading of the ordinance on December 12, 2017, City Council voted 3-0 to adopt the recommendation of the Planning & Zoning Commission and amend Chapter 14 – Zoning, Section 37, as written in the attached ordinance.

### **POLICY EXPLANATION:**

#### **10.2 - AUTHORITY TO AMEND ORDINANCE:**

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

*The Planning & Zoning Commission will held public hearing and made a recommendation on the amendment to City Council. The City Council will hold a public hearing and two ordinance readings if this amendment is approved and adopted.*

### **RECOMMENDATION:**

Consider action to approve Ordinance 2017-32 of the City Council of the City of Bastrop, Texas amending the Code Ordinances, Chapter 14 titled "Zoning", Section 37 " titled "Exterior Construction Requirements", providing a repealing clause; providing a severability clause; providing a savings clause; and providing for an effective date.

### **ATTACHMENTS:**

- Attachment 1: Section 37-Exterior Construction Materials and Examples of Materials
- Ordinance

**ORDINANCE 2017- 32**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 14 TITLED “ZONING,” SECTION 37 TITLED “EXTERIOR CONSTRUCTION REQUIRMENTS”, PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bastrop has adopted Chapter 14 – Zoning, Section 37 – Exterior Construction Materials, to allow the City to review and permit development standards related to building construction to ensure the future sustainability of the city and safety of the citizens; and

**WHEREAS**, a request was made to review new exterior construction materials to for compliance with purpose and intent of the code and amend the existing requirements to allow new materials; and

**WHEREAS**, The City Council may from time to time, after receiving a final report from the Planning and Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided; and

**WHEREAS**, staff proposed an amendment to allow the consideration and approval of alternative materials by the Planning Director, taking in to consideration the quality of the material, the effect upon the immediate vicinity of the project, and that the material meets the purpose and intent of the code; and

**WHEREAS**, the Planning & Zoning Commission, after a public hearing, recommended amending the staff proposed amendment to provide that the Commission approve all alternative materials and recommended that the foamed-insulated-core concealed fastener metal wall panel with a masonry finish be added as an allowed exterior building material at their regular November 30, 2017 meeting; and

**WHEREAS**, notice of the public hearing to consider amendments to the Code of Ordinances was published on November 11, 2017, as required by Ordinance, and the City Council held a public hearing on December 12, 2017; and

**WHEREAS**, after consideration of the information presented and public input received at the hearing, City Council has determined that the exterior construction materials requirements should be amended to acknowledge that construction practices continue to evolve and create new products and therefore authorize the Planning & Zoning Commission to allow alternative materials on a case-by-case basis.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP THAT:**

**Section 1:** The Code of Ordinances of the City of Bastrop, Texas, is hereby amended by amending Chapter 14 “Zoning” Section 37 “Exterior Construction Requirements”, to read as follows:

**“Chapter 14. ZONING**

**ARTICLE 37.1 EXTERIOR CONSTRUCTION STANDARDS**

...

**Sec. 37.1.A DEFINITIONS**

...

- D. Foamed-insulated-core concealed fastener metal wall panel with a masonry finish may be allowed if approved by the city and found to be of comparable or superior durability and mimic the appearance of other approved materials.

**ARTICLE 37.2 CONSTRUCTION STANDARDS**

...

**Sec. 37.2.A.2 Nonresidential Zoning Districts, excluding Residential and Light Industrial (LI):**

...

- d. In recognition of changing construction materials and practices, the Planning & Zoning Commission may authorize alternate building materials for exterior finishes required in paragraphs 2.a and 2.b. above, provided that they have an appearance and sustainability similar to masonry construction. To approve the alternative, the applicant must show that:
  - (1) The material is of equal or better quality than is required.
  - (2) Approval of the alternative material will not adversely affect the physical character of sites in the immediate vicinity of the development.
  - (3) The alternate material is consistent with the purpose and intent of the code.

**Sec. 3.01.A.3 Light Industrial (LI) Zoning District:**

...

- d. In recognition of changing construction materials and practices, the Planning & Zoning Commission may authorize alternate building materials for exterior finishes required in paragraphs 3.a and 3.b. above, provided that they have an

appearance and sustainability similar to masonry construction. To approve the alternative, the applicant must show that:

- (1) The material is of equal or better quality than is required.
- (2) Approval of the alternative material will not adversely affect the physical character of sites in the immediate vicinity of the development.
- (3) The alternate material is consistent with the purpose and intent of the code.

**Section 3:** This ordinance shall take effect upon passage and in accordance with the laws of the State of Texas.

**Section 4:** All ordinances of the City of Bastrop in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

**Section 5:** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Bastrop Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Bastrop Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**Section 6:** An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Bastrop Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

**Section 7.** This Ordinance shall take effect on the 9<sup>th</sup> day of January 2018, 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 the First Reading on the 12<sup>th</sup> day of December, 2017.

READ and ACKNOWLEDGED on the Second Reading on the 9<sup>th</sup> day of January, 2018.

**APPROVED:**

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Connie B. Schroeder, Mayor

**ATTEST:**

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Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

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Alan Bojorquez, City Attorney

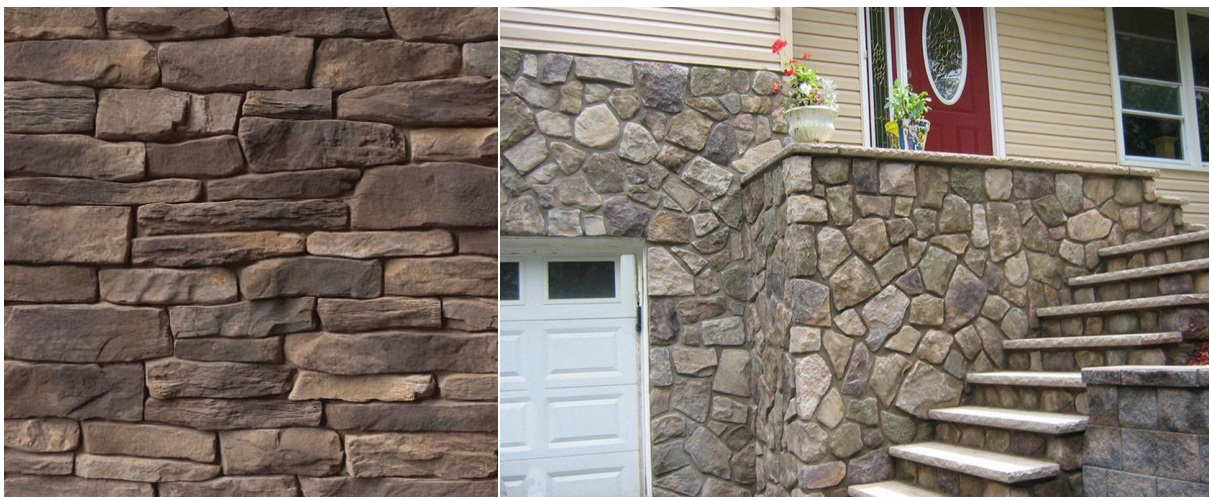
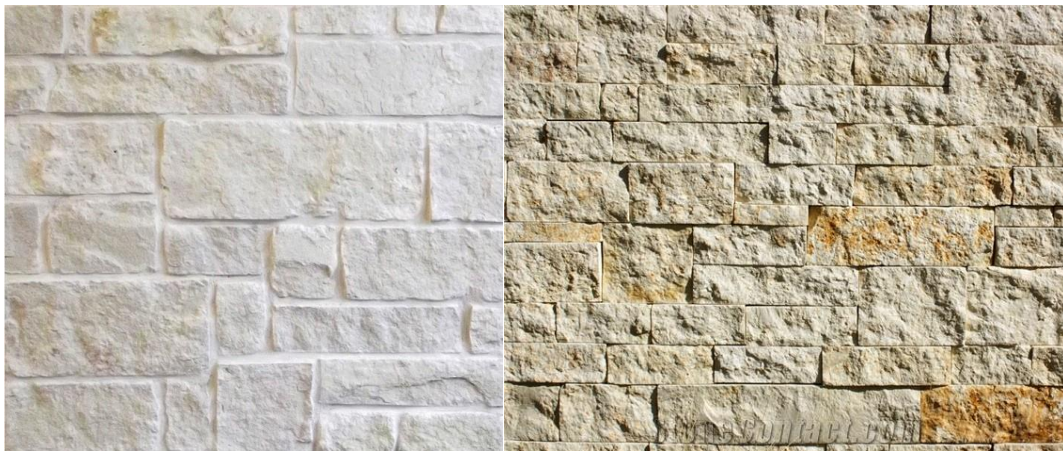
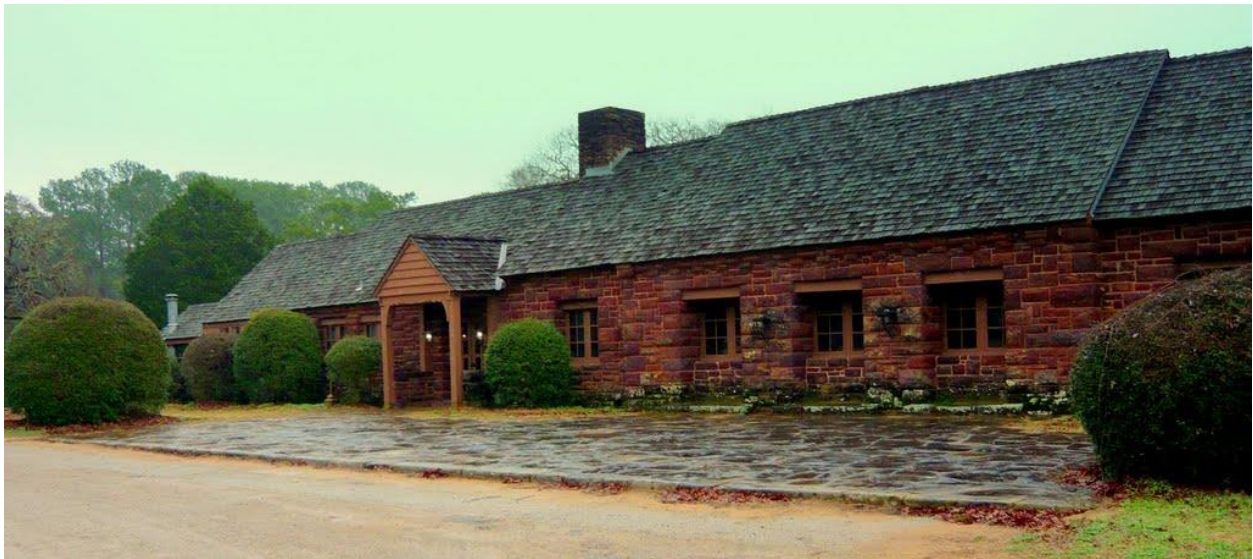


## ARTICLE 37.1 EXTERIOR CONSTRUCTION STANDARDS

- A. **Definitions:** For the purpose of this section the following definitions shall apply:
1. Masonry exterior construction shall include all construction of stone material (including artificial stone), brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction.  
The types of allowable masonry construction are listed below:
    - a. Stone Material: Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.
    - b. Brick Material: Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material that meets the latest standard contained within the building code. Unfired or underfired clay, sand, or shale brick are not allowed.
    - c. Concrete Masonry Units: Concrete masonry units used for masonry construction shall meet the latest standard contained within the building code. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish, and be integrally colored. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.
    - d. Concrete Panel Construction: Concrete finish, pre-cast panel or tilt wall construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable unless painted.
    - e. Plaster Finishes: Plaster (stucco) shall have a minimum overall thickness of 7/8".
  2. Glass exterior construction shall include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.
  3. Metal exterior construction shall include profiled panels, deep ribbed panels and concealed fastener systems. Metal exterior construction shall be (1) finished with a manufacturer's permanent finish material, such as baked on enamel or epoxy/resin finish, or (2) painted in accordance with the wall manufacturer's specifications. All such exterior metal walls shall be required to have a profiled surface. The following are prohibited when the walls are metal:
    - a. corrugated panels[.]
    - b. galvanized, corrugated, aluminum coated, zinc-aluminum coated, or unpainted exterior metal finish[.]
    - c. Siding shall include fiber cement (e.g. Hardiplank) or wood products excluding vertical panels.
- B. Use of corrugated plastic or fiberglass panels is prohibited.
- C. Hardy plank or other concrete composite materials may be allowed if approved by the city and found to be of comparable or superior durability and mimic the appearance of other approved materials.

**Examples of Currently Allowed Materials**

a. Stone Material



Attachment 1: Section 37 Exterior Construction Materials and Examples of Materials

b. Brick Material



c. Concrete Masonry Unit



Attachment 1: Section 37 Exterior Construction Materials and Examples of Materials

d. Concrete Panel Construction (tilt wall)



e. Plaster Finishes (stucco)



Attachment 1: Section 37 Exterior Construction Materials and Examples of Materials

Plaster Finish Detail



2. Glass Exterior Construction

Glass curtain wall



Attachment 1: Section 37 Exterior Construction Materials and Examples of Materials

Glass block



3. Metal Exterior Construction



Attachment 1: Section 37 Exterior Construction Materials and Examples of Materials



4. Hardiplank



Hardiplank detail:

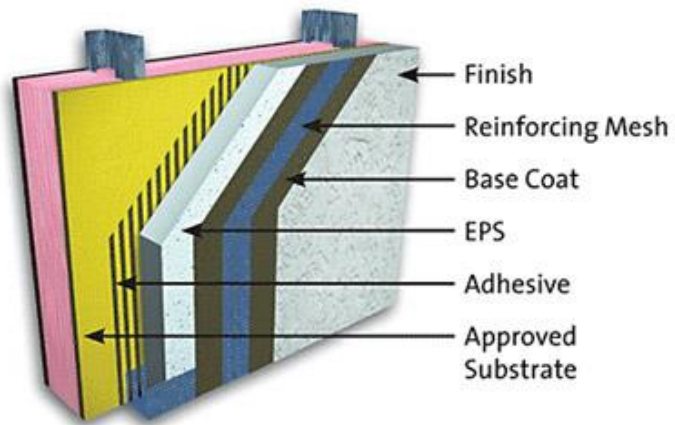




Wood Siding



Exterior Insulation and Finishing System (EIFS)



**ARTICLE 37.2 CONSTRUCTION STANDARDS**

**2. Nonresidential Zoning Districts, excluding Residential and Light Industrial (LI):**

- a. Exterior construction on any building/wall side that faces or is oriented toward any street or residential zoning district shall have 100% of the total exterior walls above grade level, excluding doors and windows, constructed of masonry, siding, wood, or glass materials.
- b. Exterior walls, other than walls that face and/or are adjacent to any street or any residential zoning district, shall have at least fifty percent (50%) of the total of those exterior walls above grade level, excluding doors and windows, constructed of masonry, siding, wood or glass materials. The exterior wall areas that face a public street or residential zoning district cannot be used in calculating the required fifty percent (50%).
- c. Metal exterior wall construction in Nonresidential zoning districts excluding Light Industrial (LI), may be approved by the City as follows:
  - (1) On accessory buildings that are two hundred forty (240) square feet or less.
  - (2) On accessory buildings over two hundred forty (240) square feet if located in the C-1 and C-2 zoning districts.
  - (3) Over masonry or other materials as an architectural design motif upon the submittal and approval (considering the size, content, location, theme of the proposal and the location and character of surrounding uses) of a detailed design plan (including, at a minimum, to scale renderings of exterior elevations, signage, and landscape plans) that illustrates a unified theme and that identifies the metal materials used as an accent or element to accomplish the architectural design goals. No metal exterior construction will be approved if the sole purpose is to reduce construction costs.
  - (4) On temporary construction buildings with a permit issued by the City Building Official.

**3. Light Industrial (LI) Zoning District:**

- a. Metal exterior construction is not permitted on any building/wall side that faces or is oriented toward any street or residential zoning district. Said walls shall have 100% of the total exterior walls above grade level, excluding doors and windows, constructed of masonry, siding, wood, or glass materials.
- b. Exterior walls, other than walls that face and/or are adjacent to any street or any residential zoning district, shall have at least fifty percent (50%) of the total of those exterior walls above grade level, excluding doors and windows, constructed of such masonry, siding, wood or glass materials. The side exterior wall areas that face a public street or residential zoning district cannot be used in calculating the required fifty percent (50%).
- c. Metal exterior walled construction may be approved by the City in the Light Industrial Zoning District as follows:
  - (1) On accessory buildings that are two hundred forty feet (240') square feet or less.
  - (2) Over masonry or other materials as an architectural design motif upon the submittal and approval (considering the size, content, location, theme of the proposal and the location and character of surrounding uses) of a detailed design plan (including, at a minimum, to scale renderings of exterior elevations, signage, and landscape plans) that illustrates a unified theme and that identifies the metal

## Attachment 1: Section 37 Exterior Construction Materials and Examples of Materials

materials used as an accent or element to accomplish the architectural design goals. No metal exterior construction will be approved if the sole purpose is to reduce construction costs.

- (3) On temporary construction buildings with a permit issued by the City Building Official.
- (4) On structures that have ground floors (first floor of structure) of 7,000 square feet or greater in area (total ground floor area excluding parking garages and loading docks) located in Light Industrial Zoning Districts, provided that:
  - i. All exterior walls adjacent any street and/or any residential, neighborhood service, retail, central business or commercial district shall consist of 100% nonmetal materials, such as masonry, siding, wood, and/or glass.
  - ii. All other exterior walls, excluding those identified in 3.c.(4)(i) above, may be constructed of metal (excluding corrugated and galvanized metals) that comply with Section 37.1.A.3 above.
  - iii. Galvanized and corrugated metals are prohibited for use on exterior walls unless the use of such materials are an approved part of an architectural 'design motif' as defined in 3.c.(3) above.



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 10F

**TITLE:**

Consider action to approve the second reading of Ordinance No. 2017-28 of the City Council of the City of Bastrop, Texas, approving an amendment to the Bastrop Code of Ordinances, Chapter 4, Titled "Business Regulations", Article 4.02, Titled "Sale of Alcoholic Beverages" and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting.

**STAFF REPRESENTATIVES:**

Dave Gattis, Interim Planning Director  
Allison Land, Planner and GIS Coordinator  
Ann Franklin, City Secretary

**BACKGROUND/HISTORY:**

House Bill 2101 made changes that increased the threshold to qualify for a food and beverage certificate from no more than 50% of gross receipts attributed to alcohol to no more than 60%. This change in law requires an amendment to the City of Bastrop's Code to implement Laws of the 85<sup>th</sup> Legislation, Regular Session impacting the Alcoholic Beverage Code.

The current Code allows for a variance request from City Council. Amendments are being proposed to clarify the process for applicants and City departments.

The existing Code calls out specific locations where the sale of alcoholic beverages is permitted. Amendments are being proposed to reflect the adoption of form-based code zoning.

**POLICY EXPLANATION:**

Chapter 1 – General Provisions, Article 1.01.007 – Amendments or additions to code.

*All ordinances of a general and permanent nature, and amendments to such ordinances, hereafter enacted or presented to the City Council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this code shall be made by reference to the chapter and section of the code which is to be amended, and additions shall bear an appropriate designation of chapter, article and section; provided, however, the failure to do so shall in no way affect the validity or enforceability of such ordinances.*

Specific amendments are proposed to the Code of Ordinances and are made by reference to the chapter and section of the Code. Additions are designated by chapter, article, and section. City Council will consider action after a presentation by City staff.

**RECOMMENDATION:**

Consider action to approve the second reading of Ordinance 2017-28 of the City Council of the City of Bastrop, Texas approving an amendment to the Bastrop Code of Ordinances, Chapter 4, Titled "Business Regulations", Article 4.02, Titled "Sale of Alcoholic Beverages" and providing for findings of fact, repealer, severability, codification, effective date, proper notice and meeting.

**ATTACHMENTS:**

Ordinance



**ORDINANCE NO. 2017-28**

**SALE OF ALCOHOLIC BEVERAGES**

**AN ORDINANCE OF THE CITY OF BASTROP, TEXAS AMENDING THE CODE OF ORDINANCES, RELATED TO CHAPTER 4, TITLED “BUSINESS REGULATIONS”, ARTICLE 4.02, TITLED “SALE OF ALCOHOLIC BEVERAGES” AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE AND MEETING.**

**WHEREAS**, the City Council has developed and approved written policies and procedures that provide for and allow for the sale and consumption of alcoholic beverages in various locations in the City of Bastrop; and

**WHEREAS**, the City Council has developed and approved written policies and procedures that provide for and allow for the sale and consumption of alcoholic beverages in various locations in the City of Bastrop; and

**WHEREAS**, the City is authorized by Tex. Loc. Gov’t Code § 51.001 to adopt, appeal or amend any ordinance that is for the good government, peace, or order of the municipality, and for the trade and commerce of the municipality, and is necessary or proper for carrying out a power granted by law to the municipality; and

**WHEREAS**, the City has the full power of local self-government as recognized by Tex. Loc. Gov’t Code § 51.072; and

**WHEREAS**, the City has the ability to enact certain rules regarding alcoholic beverages in accordance with Tex. Alc. Bev. Code Chapter 109; and

**WHEREAS**, the City Council finds the attached amendments reasonable and necessary.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bastrop, TX:**

**1. FINDINGS OF FACT**

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

**2. AMENDMENT**

Chapter 4, Article 4.02 of the City of Bastrop Code of Ordinances is hereby amended, and after such amendment, shall read in accordance with *Attachment “A”*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on *Attachment A*.

### **3. REPEALER**

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

### **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### **5. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

### **6. EFFECTIVE DATE**

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.

### **7. PROPER NOTICE & 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.



**READ & ACKNOWLEDGED** on First Reading on the 12<sup>th</sup> day of December 2017.

**READ & APPROVED** on the Second Reading on the 9<sup>th</sup> day of January 2018.

**APPROVED:**

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Connie B. Schroeder, Mayor

**ATTEST:**

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Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

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Alan Bojorquez, City Attorney

**Bastrop Code of Ordinances**

**Chapter 4: Business Regulations**

**Article 4.02: Sale of Alcoholic Beverages**

**Section 1:** The Code of Ordinances of the City of Bastrop, Texas, is hereby amended by amending Chapter 4 titled "Business Regulations", to read follows:

**CHAPTER 4 – BUSINESS REGULATIONS**

**ARTICLE 4.02 - SALE OF ALCOHOLIC BEVERAGES**

**Sec. 4.02.001 - Definitions.**

The definitions contained in the Texas Alcoholic Beverage Code shall apply to the provisions of this article.

**Sec. 4.02.002 - Construction consistent with state law.**

This chapter shall be construed in accordance with the Texas Alcoholic Beverage Code, as may be amended, and rules and regulations promulgated under its authority.

**Sec. 4.02.002 4.02.003 - Processing of applications for state licenses or permits.**

- (a) Any person applying for a permit or license issued by the authority of the Texas Alcoholic Beverage Code, or a renewal of such permit or license, or to change location of the place of business designated in such permit or license, shall present in person to the City Secretary the appropriate application forms prescribed by the alcoholic beverage commission and shall file one copy thereof with the City Secretary;  
~~Such applicant shall file an application for a package store permit, a wine and beer retailer's permit and a retail dealer's on-premises license shall also provide, on a form to be furnished by the city, information necessary to show compliance by the applicant with the provisions of this article. Such information shall include, but not limited to, the name, age, height, weight, race and all other city permits or licenses held by the applicant.~~
- (b) The City Secretary ~~shall direct the applicant to deliver the filed application to the state alcoholic beverage commission, which shall cause an investigation to be made as to the applicant's moral character and also as to the applicant's police or criminal record, if any. The applicant may be required and directed to submit a classifiable set of his fingerprints if the Chief of Police deems such to be necessary to accomplish said investigation. On completing this investigation, the Chief of Police shall forward the application and information form, together with his report of the applicant's personal record, to the building official~~ Planning Department, which shall:

- (1) determine the use zoning district in which the proposed business is to be located, determine road frontage as applicable, and determine the location of the nearest church, public or private school, and public hospital;
- ~~(2) and the building official shall indicate such facts and any other pertinent information by appropriate notation in the applicant's file;~~
- ~~(3) (2) The building official shall immediately promptly~~ advise the City Secretary, in writing, of the use zoning district in which the place of business is located and the location of the nearest church, public or private school and public hospital. ~~The building official shall forward the file on all applications, except applications for a brewer's permit, distiller's permit, class A winery permit, rectifier's permit, wine and beer retailer's permit, manufacturer's license, retail dealer's on-premises license and retail dealer's off-premises license, directly to the fire marshal, and on such excepted applications the building official shall transmit the file to the city health officer.~~

**Sec. ~~4.02.003~~ 4.02.004 - Compliance with zoning regulations.**

No person shall sell, store or otherwise handle for the purpose of sale, or engage in the business of selling, storing or otherwise handling, any alcoholic beverage in the city, unless the place of business of such person is located in a use district of the city, as established by the city and present or future zoning regulations of the city, in which the sale, storage or otherwise handling for the purpose of sale of such alcoholic beverage is permitted.

**Sec. ~~4.02.004~~ 4.02.005 - ~~Distance of premises from church, school or hospital.~~ Separation Requirements from Church, Public or Private School, or Public Hospital**

- (a) No person shall sell or engage in the business of selling any alcoholic beverage where the place of business of such person is located within three hundred (300) feet of any church, public or private school, or public hospital: ~~provided, however, that the City Council may provide variances to the three hundred foot limitation if the City Council determines that the enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or for any other reason the Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community. For purposes of this section, the measurements of the distance between such businesses and the affected churches, schools, and hospitals shall be done in accordance with state law.~~
- (b) This section does not apply to:
  - (1) a holder of a license or permit who also holds a food and beverage certificate covering premises that are located within three hundred (300) feet of a private school, as the term "private school" is defined by the Texas Alcoholic Beverage Code;
  - (2) ~~Additionally, this section shall not apply to~~ any place of business that is legally selling alcoholic beverages at the same location for a continuous period of one year ~~next~~ preceding the establishment, construction or purchase of property for the

establishment or construction of a church, public or private school, or public hospital; or

- (3) ~~nor shall it apply to~~ businesses that were in operation at the time this section was originally enacted, until such a time as such businesses have a change in ownership.
- (c) For purposes of this section, the measurements of the distance between such businesses and the affected churches, schools, and hospitals shall be done in accordance with state law.
- (b) ~~Whether the grant of a variance from the rule prohibiting a person from selling or engaging in the business of selling any alcoholic beverage within three hundred (300) feet of any church, public or private school or hospital is in the best interest of the community shall be determined by the Council following a public hearing held by the Council to receive public input on the requested variance.~~
- (e) ~~Notice of the required public hearing, set forth in subsection (b) above, shall be provided to all property owners who are located adjacent to the site to which the variance would apply, if granted, including but not limited to notices to all churches, public or private schools, and hospitals in the area that may be potentially affected by the requested variance.~~
- (d) ~~Any variance awarded pursuant to this section shall be by resolution, approved by the City Council for such purpose.~~

#### **Sec.4.02.006 Variance to Separation Requirements**

- (a) Pursuant to the State of Texas Alcoholic Beverage Code, City Council of the City of Bastrop has the authority to allow variances to the separation requirement regulations.
- (b) The council may provide variances if, after notice and a public hearing, the council determines that enforcement of the regulation in a particular instance:
  - (1) is not in the best interest of the public;
  - (2) constitutes waste or inefficient use of land or other resources;
  - (3) creates an undue hardship on an applicant;
  - (4) does not serve its intended purpose;
  - (5) is not effective or necessary; or
  - (6) for any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
- (c) The council may consider the written consent to a variance under this section from each church, public or private school, public hospital within 300 feet from the applicant's proposed place of business filed by the applicant with the Planning Department to be a sufficient justification for a variance.

#### **§ 4.02.007 – Variance to Separation Requirements Process**

- (a) To obtain a variance under this section, an applicant must submit an application to the Planning Department, on a form approved by the director, requesting a variance to the separation requirements of 4.02.005, showing justification under section 4.02.006(b) of this section.
  - (1) The Planning Department shall distribute notice of public hearing by:

- A. Publication in a newspaper of general circulation in the location in which the variance is requested;
- B. Mail not fewer than 15 days before the date of the council's public hearing to all property owners within 300 feet of the premise; and.
- C. Notify the police department.
- (2) Applicant must comply with the following:
  - A. post a sign that shall include the type of action pending and contact number and be at least one (1) square foot and visible from street;
  - B. verify placement of the signs in writing to the Planning Department;
  - C. respond to complaints regarding the signs to the department within 24 hours; and
  - D. a person may not remove a sign posted by the department under this section before the earliest date city council action may be taken on the application.
- (3) City Council shall hold a public hearing, after which a determination will be made to grant or deny the variance request.
- (4) Any variance granted pursuant to this section shall be by resolution, approved by City Council.
- (5) If the city council denies a variance with prejudice, the director of the Planning Department may not accept an application for the same or a substantially similar variance request earlier than 12 months after the date the previous variance request was denied. provided, however, that the City Council may provide variances to the three hundred foot limitation if the City Council determines that the enforcement of the regulation in a particular instance for a license or permit,

Sec. ~~4.02.005~~ **4.02.008**- **Permit and license fees; issuance of city permit.**

- (a) Unless state law exempts a permittee or licensee from payment of a fee established by this section, a permittee or licensee must pay the City an annual permit or license fee of one-half the amount of the state fee for each permit and license authorizing the sale of alcoholic beverages. There is hereby levied an annual permit fee and an annual license fee in the amount of one-half (1/2) the state fee for each permit or license issued, except as prohibited by Texas Alcoholic Beverage Code.
- (b) Such fee shall be paid in advance for one year to the City Secretary ~~within thirty (30) days from the date payment was due to be paid to the county tax assessor/collector or no later than the 30th day after the date said state permit or license fee is due.~~ alcoholic beverage commission for said state permit fee or state license fee.
- (c) The permit may be cancelled if the permittee has not paid a fee levied under this section. A permittee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than \$10 nor more than \$200. Upon the payment of the applicable tax or fee prescribed to the city and exhibiting a permit duly issued by the state to the applicant, the City Secretary shall, in the name of the city, issue and deliver to such applicant a permit to engage in business in the city of the character described in and authorized by the permit or license from the state held by such applicant, and the permit so issued in the name of the city shall authorize the conduct of such business upon the premises described in the permit or license from the

~~state and shall remain in force only so long as such permit or license from the state remains in force.~~

- ~~(d) The City Secretary shall issue and deliver a receipt under this section to the permittee or licensee authorizing the sale of alcoholic beverages under this chapter and a state permit or license, if the permittee or licensee:
  - ~~(1) pays the fees established by Subsection (a); and~~
  - ~~(2) exhibits the permit or license issued by the state.~~~~
- ~~(e) The permit issued in the name of the city shall authorize the conduct of such business upon the premises described in the permit or license from the state and shall remain in force only so long as such permit or license from the state remains in force.~~
- ~~(f) The following are exempt from the fee authorized in this section:
  - ~~(1) agent's, airline beverage, passenger train beverage industrial, carrier's, private carrier's, private club registration, local cartage, storage, and temporary wine and beer retailer's permits;~~
  - ~~(2) a wine and beer retailer's permit issued for a dining, buffet, or club car; and~~
  - ~~(3) a mixed beverage permit during the three-year period following the issuance of the permit.~~~~

**Sec. ~~4.02.006~~ 4.02.009- Hours of sale and consumption.**

- (a) No person shall sell or offer for sale any beer, wine, or mixed beverages during the following periods of time:
  - (1) On Sunday, at any time between the hours of 1:00 a.m. and 12:00 noon, unless it is between the hours of 10:00 a.m. and 12:00 noon and ~~or between the hours of 1:00 a.m. and 10:00 a.m. if~~ the alcoholic beverage is provided during the service of food to the customer.
  - (2) On any other day, at any time between the hours of 12:00 midnight and 7:00 a.m.
- (b) No person shall consume or hold for the purpose of consumption in ~~any public place~~ the Form Based Code, Downtown Mixed Use and Historic Main Street Character zones any alcoholic beverages during the following periods of time:
  - (1) On Sunday at any time between the hours of 1:15 a.m. and 12:00 noon.
  - (2) On any other day at any time between the hours of 12:15 a.m. and 7:00 a.m.
- (c) Any sale, consumption or possession of beer, mixed beverages or alcoholic beverages, as permitted by this section, shall be subject to all applicable laws and ordinances, and nothing in this section shall be construed as permitting or otherwise authorizing any act in contravention of any state or federal statute or any ordinance of the city.

**Sec. ~~4.02.007~~ 4.02.010- Inspection of premises.**

It shall be the duty of the building official, ~~Chief of Police, and~~ fire marshal ~~and health officer~~ to cause an inspection to be made periodically of all premises of permittees and licensees under this article.

**Sec. ~~4.02.008~~ 4.02.011- Permitted locations.**

- (a) Establishments for the sale and consumption of beer and/or wine may be located in the following areas and none other (except as noted in section 4.02.005):
- (1) Sale for consumption of beer and wine, on-premises, in food service establishments that derive ~~less than fifty (50)~~ **no more than sixty (60)** percent of their gross revenue from on-premises sale and consumption of alcoholic beverages may be located in areas within the municipal limits ~~with the following zoning designations as authorized by the Use Regulations in the Zoning Ordinance.:~~
    - ~~(A) The central business district;~~
    - ~~(B) The commercial tourism district;~~
    - ~~(C) The commercial-1 district (light);~~
    - ~~(D) The commercial-2 district (heavy).~~
  - (2) Notwithstanding the provisions noted above in subsection (1) of this section, sale for consumption of beer and wine, on-premises, is allowed in the following areas:
    - (A) Property fronting on State Highway 95 from the northern city limits line to the intersection of State Highway 71, which is zoned commercial-1, commercial-2, ~~commercial tourist~~, industrial park or light industrial.
    - (B) Property fronting on State Highway 71 and property fronting on parallel frontage roads to State Highway 71 from the western city limits line to the eastern city limits line, which is zoned commercial-1, commercial-2, ~~commercial tourist~~, industrial park or light industrial.
    - (C) Property fronting on Loop 150 from the western bank of the Colorado River to the intersection of Loop 150 and State Highway 71, which is zoned commercial-1, commercial-2, ~~commercial tourist~~, industrial park or light industrial.
    - (D) Property fronting on Loop 150 from the intersection of Water Street and Loop 150 east to the intersection of Loop 150 and State Highway 71, which is zoned commercial-1, commercial-2, ~~commercial tourist~~, industrial park or light industrial.
    - (E) Property fronting on State Highway 21 from the intersection of Loop 150 and State Highway 21 to the eastern city limits line, which is zoned commercial-1, commercial-2, ~~commercial tourist~~, industrial park or light industrial.
    - (F) ~~Property zoned central business district. As authorized by the Schedule of Permitted Uses in the Downtown Bastrop Form-Based Code.~~
  - (3) Sale for consumption of beer and wine, off-premises. Any establishment within the city limits that is located in an area that is zoned:
    - (A) Commercial-1, commercial-2, ~~commercial tourist~~, industrial park or light industrial; and
    - (B) ~~Central business district so long as the beer and wine products sold in the central business district are "Texas-made" products and the display of such alcoholic products occupies less than 20% of the retail sales floor space of the establishment.—~~Downtown Bastrop Form-Based Code Downtown Mixed Use, Historic Main Street, Civic/Cultural Arts, Commercial Mixed Use, Live/Work, Neighborhood Tourism, and Neighborhood Services character zones as permitted in the Schedule of Permitted Uses so long as the beer and wine products sold are "Texas-made" products and the display

of such alcoholic products occupies less than 20% of the retail sales floor space of the establishment.

- (b) Pursuant to a special option election held on February 5, 2005, the sale of mixed beverages on-premises is permitted in any establishment that has acquired a valid food and beverage certificate from the state alcoholic beverage commission, or successor agency, and that is located within the city limits in an area appropriately zoned for restaurant use.
- (c) The sale and consumption of alcoholic beverages, whether beer, wine or mixed beverages, shall be allowed at the City of Bastrop's Convention Center and Exhibit Hall, when done in full compliance with the city's approved policies and procedures, and when in compliance with state permitting laws and regulations.

**Sec. ~~4.02.009~~ 4.02.012- Authority to close places of sale during riot.**

Whenever any riot or mob violence has occurred, or there is reasonable cause to apprehend an outbreak thereof within the city, or in the vicinity thereof, the mayor shall have and is hereby vested with the power to immediately issue a proclamation ordering the closing of all places within the city which sell or in any way deal in beer, until such time as, in his or her judgment, the public peace and safety no longer require such restrictions.





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 11A

**TITLE:**

Consider action to approve the first reading of Ordinance No. 2018-33 amending the budget for the Fiscal Year 2018 in accordance with existing statutory requirements; appropriating the various amounts herein; repealing all prior ordinances and actions in conflict herewith; and providing an effective date; and move to include on the January 23, 2018 agenda for a second reading.

**STAFF REPRESENTATIVE:**

Tracy Waldron, Chief Financial Officer

**BACKGROUND/HISTORY:**

The budget amendments do, in some funds, increase the budget appropriations for Fiscal Year 2018. Funds included in these amendments are detailed below:

General Fund includes:

- There were several projects (riverfront dredging at Fisherman's Park, Delgado Park equipment and restrooms, replacement A/C for Library and Interlocal with Bastrop County for drainage study of Gills Branch and Piney Creek) that were budgeted in FY17, but did not get completed/received by fiscal year end. This budget amendment re-appropriates them from fund balance in FY2018.
- Transfer any salary vacancy savings to contingency for City Manager discretion. There were savings in Finance and Public Works.

Vehicle & Equipment Replacement Fund includes:

- There is available fund balance in this fund and there are many vehicle and equipment needs throughout the organization. This budget amendment funds two Dump Trucks, a Drum Roller, and a Truck for Public Works. The Water department is adding a new truck.

**POLICY EXPLANATION:**

The City Charter requires that when the budget is amended, that the amendment be made by Ordinance.

The Financial Management Policy states that the level of budgetary control is the department level in all funds. When budget amendments are required between departments and funds, these must be approved by City Council through an Ordinance.

The Financial Management Policy further states that the contingency account can be increased by the amount available from vacancy savings on a quarterly basis.

**FUNDING SOURCE:**

N/A

**RECOMMENDATION:**

Consider action to approve the first reading of Ordinance No. 2018-33 amending the budget for the Fiscal Year 2018 in accordance with existing statutory requirements; appropriating the various amounts herein; repealing all prior ordinances and actions in conflict herewith; and providing an effective date; and move to include on the January 23, 2018 agenda for a second reading.

**ATTACHMENTS:**

- Ordinance 2018-33
- Exhibit "A"



**ORDINANCE NO. 2018-33**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AMENDING THE BUDGET FOR THE FISCAL YEAR 2018 IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS; APPROPRIATING THE VARIOUS AMOUNTS HEREIN; REPEALING ALL ORDINANCES AND ACTIONS IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Manager of the City of Bastrop has submitted to the Mayor and City Council proposed amendment(s) to the budget of the revenues and/or expenditures/expenses of conducting the affairs of said city and providing a complete financial plan for Fiscal Year 2018; and

**WHEREAS**, the Mayor and City Council have now provided for and conducted a public hearing on the budget as provided by law.

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

**Section 1:** That the proposed budget amendments for the Fiscal Year 2018, as submitted to the City Council by the City Manager and which budget amendments are attached hereto as Exhibit "A", are hereby adopted and approved as the amended budget of said city for Fiscal Year 2018.

**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 APPROVED on First Reading on the 9<sup>th</sup> day of January 2018.

READ and ADOPTED on Second Reading on the 23<sup>rd</sup> day of January 2018.

APPROVED:

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Connie B. Schroeder, Mayor

**ATTEST:**

---

Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

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Alan Bojorquez, City Attorney

**Exhibit "A"**  
**FY 2018**  
**BUDGET AMENDMENTS**  
**GENERAL FUND**

Projected Fund Balance as of 9-30-17	2,927,289	
FY 2018 Projected Revenues	10,712,030	
FY 2018 Projected Expenses	(10,712,030)	
1/2018 Budget Amendments (net)	<u>(252,328)</u>	
Ending Fund Balance	<u>2,674,961</u>	(25% policy = \$2,678,008)

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT #
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**New Revenue:**

**Matching Revenues to Expenditures:**

Total Revenues 0

**Matching Expenditures to Revenues:**

<b>New Expenditures:</b>				
Parks	Increase	(54,850)	Riverfront Capital Outlay	101-18-19-6107
Parks	Increase	(143,478)	Park Equipment	101-18-19-6013
Library	Increase	(19,000)	Equipment	101-21-00-6010
Public Works	Increase	(35,000)	Professional Services	101-18-10-5505
Finance	decrease	750	Group Insurance	101-05-00-5155
Public Works	decrease	17,635	Operating Salaries	101-18-10-5101
Organizational	Increase	(18,385)	Contingency	101-02-00-5900
Total Expenditures		<u>(252,328)</u>		
Net Change		(252,328)		

**FY 2018  
BUDGET AMENDMENTS  
VEHICLE & EQUIPMENT REPLACEMENT FUND**

Projected Fund Balance as of 9-30-17	801,903
FY 2018 Budgeted Revenues	561,371
FY 2018 Budgeted Appropriations	(82,000)
1/2018 Budget Amendments (net)	<u>(293,276)</u>
Ending Fund Balance	<u><u>987,998</u></u>

DEPARTMENT	BUDGET	AMOUNT	DESCRIPTION	ACCOUNT #
<b>Matching Revenues to Expenditures:</b>				
Neutral				
Total Revenue		<u>0</u>		
<b>Matching Expenditures to Revenues:</b>				
Neutral				
<b>New Expenditures:</b>				
Public Works	Increase	(89,613)	Vehicle- Freightliner 6-8YD Dump	380-00-00-6030
Public Works	Increase	(103,000)	Vehicle- Freightliner Dump Truck	380-00-00-6030
Public Works	Increase	(34,213)	Vehicle-Crew Cab Truck	380-00-00-6030
		(36,450)	Equip-Dynapac CC1200 47" Drum	
Public Works	Increase		Roller	380-00-00-6010
Water/Wastewater	Increase	(30,000)	Vehicle-1/2 Ton Truck	380-00-00-6030
Total Expense		<u>(293,276)</u>		
Net Change		(293,276)		



# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 11B

**TITLE:**

Consider action to approve Resolution No. R-2018-01 of the City Council of the City of Bastrop, Texas confirming the appointment by the Mayor to the Main Street Board, as required in Section 3.08 of the City's Charter, as outlined in Exhibit A; and establishing an effective date.

**STAFF REPRESENTATIVE:**

Lynda K. Humble, City Manager

**BACKGROUND/HISTORY:**

Section 3.08, Mayor and Mayor Pro Tem, of the City Charter states that the Mayor shall appoint members to all City boards and commissions, subject to confirmation by the City Council.

**POLICY EXPLANATION:**

- According to Article III (2)(d) of the Main Street Program Advisory Board Bylaws, the Main Street Advisory Board recommended Sandra Grawunder, to fill Place 7 with a term set to expire June 2019 at their December 14, 2017, meeting.

**FUNDING SOURCE:**

N/A

**RECOMMENDATION:**

Consider action to approve Resolution No. R-2018-01 of the City Council of the City of Bastrop, Texas confirming the appointment by the Mayor to the Main Street Board, as required in Section 3.08 of the City's Charter, as outlined in Exhibit A; and establishing an effective date.

**ATTACHMENTS:**

- Resolution
- Exhibit A - PowerPoint Presentation

**RESOLUTION NO. R-2018-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS  
CONFIRMING APPOINTMENTS BY THE MAYOR TO THE MAIN STREET  
BOARD, AS REQUIRED IN SECTION 3.08 OF THE CITY'S CHARTER, AS  
OUTLINED IN EXHIBIT A; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, Section 3.08, Mayor and Mayor Pro Tem, of the City Charter states that the Mayor shall appoint members to all City boards and commissions, subject to confirmation by the City Council; and

**WHEREAS**, Mayor Connie Schroeder has completed a review of applications to the City's boards and commissions and has made appointments to the Main Street Board as outlined in Exhibit A; and

**WHEREAS**, City Council must confirm these appointments as required by the City Charter.

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

**Section 1:** That Mayor Connie Schroeder appointed the following member to the Main Street Board:

**Main Street Board:** Sandra Grawunder is appointed to fill Place 7 with a term set to expire in 2019.

**Section 2:** That the City Council of the City of Bastrop confirms Mayor Schroeder's appointment to the Main Street Board as outlined in Exhibit A.

**Section 3:** 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 9<sup>th</sup> day of January, 2018.

**APPROVED:**

---

Connie B. Schroeder, Mayor

**ATTEST:**

---

Ann Franklin, City Secretary

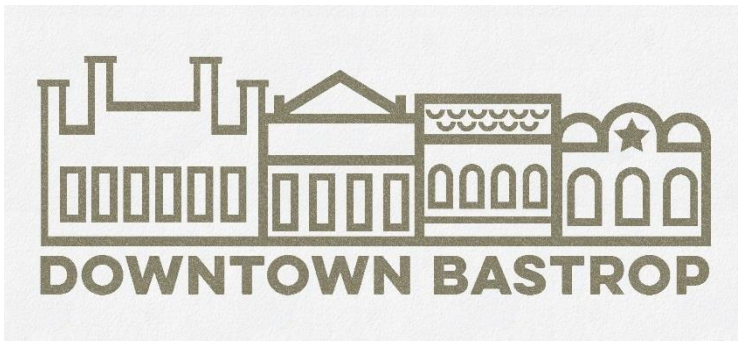
**APPROVED AS TO FORM:**

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Alan Bojorquez, City Attorney

*Mayor Appointments  
Boards, Commissions & Task Forces  
January 9, 2018*





# *Main Street Advisory Board*

***Appointments: Terms ends 2019***

Place 7: **Sandra Grawunder** (Downtown)

- Served on Economic Vitality Committee
- Extensive background in architecture
- Experience in renovating and restoring historical buildings
- Local Business Owner

***NOTE:***

*Recommended by Main Street Nominating Committee and unanimously approved by its Board on December 14, 2017.*



# *Appointment Statistics*

48 Appointments total in 2017:

63% New to serving on a Board

44% Downtown, 40% Other than Downtown, 16% ETJ/County

42% Male, 58% Female

I respectfully request City Council confirm these appointments



# *Council Liaison - Current Status*

- Mayor Schroeder – BEDC and BAIPP
  - Mayor Pro Tem Schiff - Library
  - Council Member Ennis – Main Street and Cemetery
  - Council Member Jones – Construction Standards and Planning and Zoning
  - Council Member Nelson – Hunters Crossing and Parks
  - Council Member Peterson – Historic Landmark Commission
- Boards that are inappropriate for council liaison
- Ethics
  - Zoning Board of Adjustments

Note: Housing Authority, governed by Federal Law, no jurisdiction other than Board appointment





# STAFF REPORT

**MEETING DATE:** January 9, 2018

**AGENDA ITEM:** 13

**TITLE:**

Take any necessary or appropriate action on matters posted for consideration in closed/executive session

**STAFF REPRESENTATIVE:**

Lynda Humble, City Manager

