



STAFF REPORT

MEETING DATE: April 25, 2023

TITLE:

Consider action to approve the second reading of Ordinance No. 2023-09 of the City Council of the City of Bastrop, Texas amending the City of Bastrop, Texas Code of Ordinances, Chapter 3 Building Regulations, Article 3.17 Flood Damage Prevention; repealing conflicting provisions; providing for severability; proper notice and meeting; and establishing for an effective date.

AGENDA ITEM SUBMITTED BY:

Fabiola de Carvalho, AMP MIAM, Director of Engineering and Capital Project Management.

BACKGROUND/HISTORY:

The City of Bastrop is a participating community of the National Flood Insurance Program (NFIP), which requires a community to have a floodplain management ordinance. The City's Flood Damage Prevention Ordinance can be found in Article 3.17, included in Chapter 3 - Building Regulations of the Bastrop Code of Ordinances. The Flood Damage Prevention Ordinance has various provisions that meet or exceed the minimum criteria as required by the NFIP with the intent of minimizing flood losses. These provisions are legally enforceable and enforced uniformly throughout the community.

The City's floodplain management ordinance was first adopted on May 14, 1991 in Ordinance number 91-004.

Each time FEMA provides a community with new or revised flood hazard data, the community must either adopt new floodplain management regulations, or amend its existing regulations to reference the new FIRMs and FIS report.

FEMA released preliminary Flood Insurance Rate Maps (FIRMs) and a Flood Insurance Study (FIS) on February 11, 2021 for the City of Bastrop and Bastrop County to review. The FIRMs and FIS include, but are not limited to, changes in the base flood elevations (BFEs), floodplain, and floodway boundaries. In accordance with FEMA requirements, the City published a public notification in the local newspaper on September 30, 2021, during the statutory 90-day appeal period for all new and modified flood hazard information that is provided on the preliminary FIRMs and FIS, concerning the 90-day appeal period giving the community an opportunity to appeal the proposed flood hazard information before the preliminary FIRMs and FIS become effective by FEMA. The appeal period is to allow any owner or lessee of real property in our community, who believes his or her property rights will be adversely affected by the proposed flood hazard determinations, the time to request an appeal to the City. The appeal should accompany scientific and/or technical data to support its position. The City is supposed to review the information provided on the appeal and provide an opinion stating whether the evidence provided is sufficient to justify an official appeal. The City is required to submit all copies of individual appeals and supporting data to FEMA, even if it does not agree with the appeal.

On July 13, 2021, the Planning Department delivered a Work Session to the City Council on the preliminary FIRMs and FIS and the impacts on the community.

In addition, the City held a joint public meeting with Bastrop County on October 4th, 2021 at the Convention Center explaining the preliminary FIRMs and FIS, how to appeal, and the importance of floodplain management.

The appeal period ended in December of 2021. Neither the City nor FEMA received any appeals, therefore the City Manager at the time, which is the designated Floodplain Administrator, in accordance with the Flood Damage Prevention Ordinance, directed City staff to start using and enforcing the preliminary FIRMs and FIS as the best available data starting on 12/31/2021.

In November of 2022, FEMA issued a Letter of Final Determination, which established the final flood hazard data of the new FIRMs and FIS report to be legally adopted within 6 months from November 9, 2022. This means the City must have this amendment to its ordinance approved by City Council by May 9, 2023. If this amendment is not approved by May 9, 2023, the City will be suspended from the NFIP and the following sanctions will apply:

- Property owners will not be able to purchase NFIP flood insurance policies and existing policies will not be reviewed.
- Federal grants or loans for development will not be available in identified flood hazard areas under programs administered by Federal agencies such as the Department of Housing and Urban Development (HUD), the Environmental Protection Agency (EPA), and the Small Business Administration (SBA).
- Federal disaster assistance will not be provided to repair insurable buildings located in identified areas flood hazard areas for damage caused by a flood.
- Federal mortgage insurance or loan guarantees will not be provided in identified flood hazard areas such as those written by HUD or the Department of Veteran Affairs.
- Federally insured or regulated lending institutions, such as banks and credit unions, are allowed to make conventional loans for insurable buildings in flood hazard areas of non-participating communities. However, the lender must notify applicants that the property is in a flood hazard area and that the property is not eligible for Federal disaster assistance. Some lenders may voluntarily choose not to make these loans.

If the City is suspended, it may regain its eligibility in the NFIP by enacting the floodplain management measures established in 44 CFR Section 60.3 of the NFIP regulations, which talks about the floodplain management criteria for flood-prone areas. If development takes place in the City during suspension that does not meet the minimum NFIP requirements, the City will be asked to take actions to reduce the increased flood hazard prior to reinstatement.

This ordinance is designed to minimize flood losses in flood hazard areas by elevating, floodproofing, and otherwise protecting property from flood damage. This is accomplished by methods such as elevating structures, restricting or prohibiting uses, controlling the alteration of natural floodplains and streams, and regulating flood barriers. Technical training, knowledge, and skills are needed to adequately understand and administer the Flood Damage Prevention ordinance. Currently, Section 3.17.007 indicates the City Manager as the Floodplain Administrator.

FISCAL IMPACT:

N/A

RECOMMENDATION:

Consider action to approve second reading of Ordinance 2023-09 of the City Council of the City of Bastrop, Texas amending the City of Bastrop, Texas Code of Ordinances, Chapter 3 Building Regulations, Article 3.17 Flood Damage Prevention; repealing conflicting provisions; providing for severability; proper notice and meeting; and establishing for an effective date.

ATTACHMENTS:

- Ordinance 2023-09
- Exhibit A: Preliminary FIRM-48021C0215F
- Exhibit B: Preliminary FIRM-48021C0220F
- Exhibit C: Preliminary FIRM-48021C0355F
- Exhibit D: Preliminary FIRM-48021C0360F
- Exhibit F: Preliminary FIS

