

CITY OF BASTROP, TX

ORDINANCE NO. 2023-11

Draft “**G**” by Cty Atty Alan B Approved on 1st Reading June 13, 2023
NONCONFORMING USES & STRUCTURES

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 2.4 ADMINISTRATION, SEC. 2.4.001 NONCONFORMING USES AND STRUCTURES; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop (City Council) has general authority to adopt an Ordinance or police regulation that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217, the City Council has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, the City Council finds certain amendments to Bastrop Code of Ordinances necessary to meet changing conditions and are in the best interest of the City; 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:

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. Amendment: Article 2.4 [Administration], Section 2.4.001 [Nonconforming Uses and Structures] 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 shown in each of the attachments.

Section 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conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated.

Section 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.

Section 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.

Section 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.

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

PASSED & APPROVED on First Reading by the City Council of the City of Bastrop, on this, the 13th of June, 2023.

PASSED & APPROVED on Second Reading by the City Council of the City of Bastrop, on this, the ___ day of ____ 2023.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

City of Bastrop

Code of Ordinances Chapter 14

Bastrop Building Block (B3) Code

Chapter 2: Zoning Procedures

ARTICLE 2.4 ADMINISTRATION

The Code of Ordinances is amended by modifying Section 2.4.001 by inserting and/or deleting the following language:

Sec. 2.4.001 Nonconforming Uses and Structures

...

(c) Continuing Lawful Use of Property & Existence of Structures

(3) When a nonconforming use or Structure that does not meet the Development Standards in this Code ceases to be used for a period of ~~6~~ 18 months or longer, such use shall not be resumed and proof of such event shall constitute prima facie evidence of an act of abandonment. Any nonconforming use that does not involve a permanent type of Structure or operation and that is moved from the Premises shall be CHAPTER 2: ZONING PROCEDURES 43 of 249 considered to have been abandoned. Manufactured homes and mobile homes may be replaced once per the Texas Occupations Code.

(4) No nonconforming use or Structure may be expanded, reoccupied with another nonconforming use, or increased as of the effective date of this Code, unless:

(a) an application is authorized by the ZBA; or

(b) an application is administratively approved by the Director of Development Services. Administrative approval can be made by the Director of Development Services if:

(1) properties within 500 feet of the adjacent structures have similar encroachments, building standards, lot standards, setbacks, or build to lines and the application is generally consistent with the surrounding built environment; or

(2) the application is for an Accessory Structure that does not directly increase or expand the characteristics that render the use or structure nonconforming; or

(3) the expansion to the structure does not directly increase or expand the characteristics that render the use or structure nonconforming.

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(d) Changing Nonconforming Use:

(1) An expansion of a nonconforming Structure is allowed in accordance with the following:

A. A nonconforming use located within a Building may be extended throughout the existing Building, provided:

i. No structural alteration of over 50% the total square footage as determined by the Bastrop County Central Appraisal District, may be made on or in the Building except those required by law to preserve such Building in a structurally sound condition.

ii. No nonconforming use within a Building may be extended to occupy any land outside the Building.

B. Buildings or Structures that have been vacant or abandoned for more than 18 months and do not meet the Standards of this Code shall be allowed to be reoccupied if compliant with ICC, adopted Bastrop County Health District, and Fire Code and allowed by the Place Type, as determined by the ZBA. Or administratively resolved by the Building Official and Fire Official agreeing all life safety measures are being met in accordance with the existing building code, if the requisite conditions exist. This determination can be made by the Director of Development Services.

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(e) Restoration of Nonconforming Structure:

(1) If a nonconforming structure or structure occupied by nonconforming uses are destroyed by fire, the elements, or other unavoidable casualty, it may be rebuilt or repaired if the necessary permits are sought and repairs commence within 2 years of the damage. In rebuilding or repairing the structure it may be expanded by up to 50% beyond the initial footprint. The construction to rebuild or repair structure must comply with current national or international building codes as adopted by the City.

...

(g) Miscellaneous

(1) Routine repairs and nonstructural alterations shall be permitted if not extending or enlarging the characteristics that render the use or structure nonconforming.

(2) The act of real estate acquisition of the subject property or nearby property by a government agency shall not render a use or structure nonconforming.