

ORDINANCE NO. O-2020-27

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 18, "CODE ENFORCEMENT", ARTICLE II., "WEEDS AND DEBRIS," OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY UPDATING THE RATES FOR TIRE DISPOSAL AND APPLIANCE/FURNITURE/JUNK/RUBBISH DISPOSAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations not in conflict with Federal or State law to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of local self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City of Tyler may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City, and all nuisances and causes thereof; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether expressed or implied, shall be exercised and enforced, in the manner prescribed by the Charter, or when not prescribed in the Charter, in such manner as shall be provided by ordinances or resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Texas Local Government Code Section 217.042(a) provides that a home rule municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet thereof; and

WHEREAS, Texas Local Government Code Section 217.042(b) provides that a home-rule municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance; and

WHEREAS, Texas Local Government Code Section 54.004 provides that a home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants; and

WHEREAS, Texas Health & Safety Code Section 342.004 provides that the governing body of a municipality may require the owner of a lot in the municipality to keep the lot free from weeds, rubbish, brush, and other objectionable, unsightly or unsanitary matter; and

WHEREAS, Texas Health & Safety Code Section 342.007(a) states that the governing body of a municipality may assess the municipality's expenses incurred for clean-up under Section 342.006 against the real estate on which the work is done or improvements are made; and

WHEREAS, pursuant to Texas Health and Safety Code Chapter 342, the City of Tyler has adopted weed/debris regulations in City Code Chapter 18, including an abatement process and assessment of costs; and

WHEREAS, City Code Section 18-24 contains a schedule associated with the City's assessment of costs related to weeds/debris abatement; and

WHEREAS, it is important to update the rates for tire disposal and appliance/furniture/junk/rubbish disposal to mirror the current rates charged by the Solid Waste Department;

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

PART 1: That Tyler City Code Chapter 18, "Code Enforcement", Article II. "Weeds and Debris", is hereby amended by amending Section 18-24 to read as follows:

Sec. 18-24. Assessment of City's expenses; billing; lien.

a. Schedule of City costs. If the notice requirements of Sections 18-21 and 18-22 have been met, the City's expenses to correct any violation under this Article may be assessed against or otherwise charged to, the owners of all outstanding interest in the tract involved at the following rate:

For major equipment (tractor and mower),	\$75.00/hr x no. hrs=\$_____	per hour
For equipment operators, laborers,	\$30.00 x no. hrs. =\$_____	per hour
Fee for program administration	\$90.00	
Fee for transporting waste to landfill, per cubic yard transported	\$14.60	
Late fee for failure to pay bill within 15 days of receipt	\$100.00	
Tire disposal (per tire)	\$5.00	
Battery disposal (per battery)	\$2.00	
Appliance/furniture/junk/rubbish disposal (per appliance/item)	\$20.00	
Filing Fee, if filing lien against property =	Cost to City for filing lien based on current County fee schedule.	
Penalty fee for each subsequent corrective work by City after first violation	One	

hundred percent (100%) of the above rates, excluding Late Fee and Filing Fee.
(Ord. 0-2010-99, 9/22/10) (Ord. No. 0-2020-27; 2/26/20)

b. through f. No changes...

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation convicted of violating any of the provisions of this ordinance shall be punished by a fine as provided in Section 18-37 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 5, 2020.

PASSED AND APPROVED this 26th day of February, A. D., 2020.




MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:



CASSANDRA BRAGER, CITY CLERK



DEBORAH G. PULLUM,
CITY ATTORNEY