

ORDINANCE NO. O-2020-35

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS, CHAPTER 17, "STREETS AND TRAFFIC," BY UPDATING AND CLARIFYING THE APPLICATION PROCESS AND PERMIT FEE STRUCTURE FOR TEMPORARY STREET AND LANE CLOSURES, PARADES, BLOCK PARTIES, RIGHT-OF-WAY USES, AND OTHER TEMPORARY USES AND SPECIAL EVENTS, IN THE DOWNTOWN BUSINESS, ARTS, AND CULTURE DISTRICT (DBAC); 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, the Tyler City Council is acting under its police power, home-rule authority, Texas Local Government Code Sections 51.001 and 51.072; Tyler City Charter Sections 1, 2 and 6; and Texas Transportation Code Chapter 311; and

WHEREAS, the City of Tyler has established street closure regulations and related fees in City Code Chapter 17; including provisions related to the Downtown Business, Arts and Culture District (DBAC); and

WHEREAS, as more and more events are being held in Tyler's Downtown Business, Arts, and Culture District (DBAC), there is a corresponding increase in requests for street closures; and

WHEREAS, the managing issues to balance accommodating events with the protection of property investments and businesses requires an updated application and permitting process; and

WHEREAS, previous changes to application requirements and the permitting process were approved by City Council in October, 2018; and

WHEREAS, it is important to update and clarify the application process and permit fee structure for temporary street and lane closures, parades, block parties, right-of-way uses, and other temporary uses and special events, in the Downtown Business, Arts and Cultural District (DBAC);

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

PART 1: That Tyler City Code, Chapter 17, "Streets and Traffic," Article I., Street Rental and Parades, Section 17-1 is amended to read as follows:

Sec. 17-1. Use and fees.

- a. Anyone other than City franchisees desiring to use a portion of public right-of-way, space, lane or street for a private business or personal use must first obtain a temporary street use permit or a right-of-way easement from the City.
- b. Applications for easements for right-of-way use that are permanent in nature, or temporary or for a limited number of years, shall be filed with the City Engineer. Such applications must include a detailed specific map of the location and proposed closure, description of type of use, length of

time needs, and payment of the application fee. If the City Engineer or designee determines that the circumstances or length of time of a proposed use are such that City Council review is desirable, the City Engineer or designee may submit the request to the City Council for approval.

- c. Easements that are permanent in nature shall require approval of the City Council prior to issuance.
- d. Applications for temporary street and/or lane closures, parades, block parties, right-of-way, temporary use, transient vendor, tent or canopy, or special event shall be filed with the Tyler Police Department. Such applications must include a detailed specific map of the location and proposed closure, description of the type of use, length of time needed, proof of notification of businesses and properties within the proposed closure area, and payment of the application fee.
- e. Fees for applications filed pursuant to subsections b. and d.:
 1. Right-of-way use easement, permanent in nature - *\$350.00*, payment due prior to issuance.
 2. Right-of-way use easement fee, temporary or for a limited number of years - *\$100.00* review fee plus *\$100.00* per year times the number of years of easement, payment due prior to issuance. If the closure of a space, lane, street, or portion thereof will affect the normal flow of traffic and/or function of vehicular traffic, a Temporary Street Use Permit Form for Street/Lane Closure/Use of Public Right-of-Way Application shall be filed with the Police Department in accordance with subsection h. or i. below, as applicable. However, if such application relates to an event that is to occur in the Downtown Tyler Business, Arts. And Culture District (DBAC), then said application shall first be filed with the Main Street Director. Following review by the Main Street Director, the application for DBAC shall then be forwarded to the Police Department. There shall be a fee of *\$75.00* for the City's costs associated with such Temporary Street or Lane Closure pursuant to subsection h. or i., which shall be in addition to the right-of-way use easement fee in subsection e.2. of this Section. However, applications for closures within the DBAC shall instead require a fee of *\$250* per day, or *\$100* per day if the applicant is a DBAC business, for the City's costs associated with the event. In addition, a deposit of *\$1,000* is due at time of application (if event is in DBAC). This deposit is refundable upon City of Tyler's finding of adequate clean-up of the closure area and areas adjacent to the closure boundaries.
- f. Any person aggrieved by the granting, ~~or~~ denial or other action regarding an application under this Section may appeal the action within ten (10) calendar days from the date of action in accordance with Chapter 1, Article IV.
- g. Other fees. The City Manager may recommend that additional fees be charged due to unusual circumstances such as the nature of the request, length of time requested, or extent of review necessary.
- h. Temporary Street or Lane Closure Application for Social Events, Athletic Events, Block Parties, Lane or Street Closures, etc. Anyone desiring to use a portion of public right-of-way or space that would obstruct the natural flow and/or function of vehicular traffic for a social event, parade, fund raiser, athletic event or similar event must apply to the Police Department at least sixty (60) calendar days prior to closure. A Temporary Street or Lane Closure Application can be obtained from and filed with the Police Department. However, if such application relates to an event that is to occur in the Downtown Tyler Business, Arts. And Culture District (DBAC), then said application shall first be filed with the Main Street Director. Following review by the Main Street

Director, the application for DBAC shall then be forwarded to the Police Department. Using the Standards set forth in subsection j., the Main Street Director has the right to limit the amount of closures in the DBAC per month.

Except for block parties and/or street closures within the DBAC, there shall be a fee of \$75.00 for the City's costs associated with such Temporary Street or Lane Closure, which shall be in addition to the right-of-way use easement fee in subsection e.2. of this Section. Applications for closures within the DBAC require a fee of \$250 per day, or \$100 per day if applicant is a DBAC business, for the City's costs associated with the event. In addition, a deposit of \$1,000 must be made at time of application (when event is in DBAC). This deposit is refundable upon City of Tyler's finding of adequate clean-up of the closure area and areas adjacent to the closure boundaries. Such application shall provide the following information:

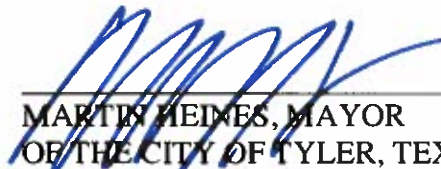
1. Name and address of applicant, sponsors and/or organizers, and/or property owner who will benefit from the closure.
 2. Map of street closure requested.
 3. Purpose and duration of closure from beginning of setup to final cleanup.
 4. Estimated number of persons to participate in the event.
 5. Proof of notification of closure application to all businesses and properties within and adjacent to the proposed closure area.
 6. Anticipated damage to street, curbs, sidewalks, etc., as a result of the demolition, construction or maintenance project.
 7. Statement of availability of general liability insurance with City as co-insured.
 8. Application fee of \$250 per day, or \$100 per day if applicant is a DBAC business, for DBAC-area closure
 9. Clean-up deposit of \$1,000 when event is in DBAC.
- i. Temporary Street or Lane Closure Application for Demolition, Construction or Maintenance. Anyone in the construction or maintenance business desiring to use a portion of public right-of-way or space for demolition, construction, maintenance or related activities must file a Temporary Street or Lane Closure Application with the Police Department in conjunction with a Temporary right-of-way easement. A Temporary Street or Lane Closure Application can be obtained from and filed with the Police Department. There shall be a fee of \$75.00 for the City's costs associated with preparation, which shall be in addition to the right-of-way use easement fee in subsection e.2. of this Section. Application for closures within the Downtown Tyler Business, Arts and Culture District require a fee of \$250 for the City's costs associated with the event. In addition, a deposit of \$1,000 must be made at time of application (when event is in DBAC). This deposit is refundable upon City of Tyler's finding of adequate clean-up of the closure area and areas adjacent to the closure boundaries. Such application shall provide the following information:
1. Name and address of applicant and/or property owner; and the construction or maintenance business owner, legal manager, or authorized agent, and the affiliated business name.
 2. Limits of street closure requested and a detailed specific map of the area that the applicant(s) request be closed.
 3. Purpose and duration of closure.
 4. Names and addresses of adjacent property owners or tenants who may be affected by the closure and any contacts made by applicant.
 5. Alternatives to street closure.
 6. Anticipated damage to streets, curbs, sidewalks, etc., as a result of the event.
 7. Statement of availability of general liability insurance with City as co-insured.

- j. The Chief of Police, Main Street Director, Traffic Engineer, or designee(s), shall approve or deny an application under subsection h or i. An application may be denied if:
- (a) The information contained in the application is found to be false or incomplete in any material aspect; or
 - (b) The applicant has conducted an event in violation of this Article or other applicable law; or
 - (c) Conduct of the event at the time and place or in a manner proposed will substantially disrupt the safe and orderly movement of vehicular or pedestrian traffic contiguous to the event, and/or would place undue burdens on the public, area businesses, government offices, City staff and/or resources; or
 - (d) The event is reasonably likely to interfere adversely with the provisions of adequate police, fire, emergency or other necessary services to other parts of the City; or
 - (e) Emergency conditions or other exigent circumstances then existing within the City require that the public streets remain open to the free and unencumbered transportation of emergency crews, equipment and materials.
- k. The Police, Fire, Traffic, Transit, Planning, Main Street and Street Departments shall be notified of any temporary closure approved under Subsection h. or i. via E-mail or other means.
- l. Street Cuts. Street cuts are governed by City Code Section 15-266. (Ord. 0-98-43, 5/27/98) (Ord. 0-2002-38; 9/11/2002) (Ord. 0-2003-8, 3/12/03) (Ord. No. 0-2015-33; 3/25/15) (Ord. No. O-2018-20; 2/14/18) (Ord. No. O-2020-35; 4/8/20)

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 violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 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 April 10, 2020.

PASSED AND APPROVED this the 8th day of April, A.D., 2020.


MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK



APPROVED:


DEBORAH G. PULLUM,
CITY ATTORNEY