

**ORDINANCE NO. O-2016-112**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 17, "STREETS AND TRAFFIC", ARTICLE V., "STOPPING, STANDING OR PARKING", BY AMENDING THE PROVISIONS IN THE MOBILE FOOD UNIT STREET VENDING PILOT PROGRAM RELATING TO STOPPING DURATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; ESTABLISHING AN EFFECTIVE DATE; AND ESTABLISHING AN EXPIRATION 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 to promote the health, safety and general 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 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 self-government; 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 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**, 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 may license and regulate persons, corporations, and associations engaged in any business, occupation, profession or trade; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City 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

**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 express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and 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 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 Transportation Code Section 311.001(a) provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

**WHEREAS**, it is important to supplement health and safety regulations enforced by the Northeast Texas Public Health District; and

**WHEREAS**, major recommended substantive amendments were reviewed and recommended by the Traffic Safety Board;

**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 V., "Stopping, Standing, or Parking", is hereby amended by amending Section 17-90 to read as follows:

**Section 17-90. Mobile Food Unit Street Vending Pilot Program**

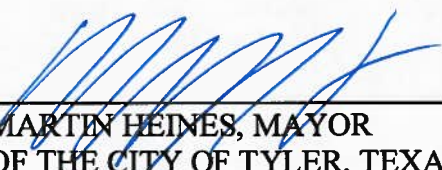
- a. through d. No changes...
- e. Mobile Food Units shall only operate with curb-side service on a City street under the following conditions:
  1. At an active construction site during hours of active construction:
    - i. No changes...
    - ii. For a duration not to exceed 6 hours; and
    - iii. through vii. No changes...
  2. Within the Midtown District adjacent to institutional uses:
    - i. No changes...
    - ii. For a duration not to exceed 6 hours; and
    - iii. through vii. No changes...
  3. Within the University Woods District:
    - i. No changes...
    - ii. For a duration not to exceed 6 hours; and

- iii. through vii. No changes...
- 4. Within the Texas College District adjacent to Texas College:
  - i. No changes...
  - ii. For a duration not to exceed 6 hours; and
  - iii. through vii. No changes...
- 5. On a street abutting properties zoned "DBAC", Downtown, Business, Arts and Culture District:
  - i. No changes...
  - ii. For a duration not to exceed 6 hours; and
  - iii. through viii. No changes...
- 6. On a street abutting a City park:
  - i. through iii. No changes...
  - iv. For a duration not to exceed 6 hours; and
  - v. through ix. No changes...
- f. through i. No changes...(Ord. No. 0-2014-112, 12/10/14) (Ord. No. 0-2015-108; 12/9/15) (Ord. No. 0-2016-112; 12/14/16)

**PART 3:** 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 4:** 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 Friday, December 16, 2016.

**PASSED AND APPROVED** this the 14<sup>th</sup> day of December, A.D., 2016.


  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK



APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY