

ORDINANCE NO. O-2013-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 10, "TYLER UNIFIED DEVELOPMENT CODE", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, TO AMEND REGULATIONS RELATING TO ZONING DISTRICTS, USE REGULATIONS, FENCING REQUIREMENTS, STREETS AND THOROUGHFARES, OFF-STREET PARKING AND LOADING, DEVELOPMENT STANDARDS, DEVELOPMENT APPROVAL PROCEDURES, ADMINISTRATION AND ENFORCEMENT, BILLBOARD AND SIGN REGULATIONS, FEES AND DEFINITIONS; 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 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, the powers granted to municipalities under Texas Local Government Code Chapter 211, Subchapter A., are for the purpose of promoting the public health, safety, morals, and general welfare, as well as preserving places and areas of historical, cultural or architectural importance and significance; and

WHEREAS, Texas Local Government Code Section 211.003(a)(5) authorizes the governing body of a municipality to regulate the location and use of buildings, or structures, and land for business, industrial, residential, or other purposes; and

WHEREAS, Texas Local Government Code Section 211.007(a) authorizes a zoning commission to recommend boundaries for the original zoning districts, and appropriate regulations for each district; and

WHEREAS, Texas Local Government Code Section 212.002 states that after a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and

WHEREAS, Texas Local Government Code Section 212.003(a) provides that the governing body of a municipality may by ordinance extend to the extraterritorial jurisdiction of the municipality the application of the municipal ordinance prescribing rules governing plats and subdivisions of land; 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, on April 23, 2008, the City Council adopted Ordinance No. 0-2008-48, which amended Tyler City Code Chapter 10 by adopting the Unified Development Code governing zoning, subdivision, development and other land use regulations; and

WHEREAS, it is important to amend and update existing sections of the Unified Development Code; and

WHEREAS, the appointed UDC Steering Committee reconvened to review and recommend proposed changes to the Unified Development Code; and

WHEREAS, major recommended substantive amendments to the Unified Development Code were presented to the Developers Roundtable;

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

PART 1: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article III., "Use Regulations", Division A., "Use Table Overview", is hereby amended by amending the following portion of the Nonresidential District Use Table in Section 10-49 to add a Category for "Homeless Davy Resource Facility in the appropriate alphabetical location, with no other changes to the Table:

USE GROUP					
Use Category	<i>Use Sub-Category</i>	DBAC	M-1	M-2	Use Standards
Specific Uses					
RESIDENTIAL					
Group Living					
Homeless Day Resource Facility		S	S	S	

PART 2: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article V., "Streets and Thoroughfares", Division A., "Master Street Plan", is hereby amended by amending Section 10-153 to read as follows:

Sec. 10-153. Waivers to Right-of-Way Dedication Requirements

- a. No changes...
- b. No changes...
- c. No changes...
- d. Amendments to Master Street Plan

The following amendments to the master street plan approved by the city council on April 27, 2005, are hereby made.

- 1. No changes...
- 2. No changes...

3. The required right-of-way for one way streets as designated in Chapter 17, Article IV., will be 65 feet for major arterials, and 60 feet for minor arterials and collectors. (Ord. No. 0-2006-11, 1/11/06)

4. The portion of South Broadway Avenue extending from 4th Street to Front Street is designated as a Minor Arterial with 90' right of way. (Ord. No. 0-2010-11; 1/27/10)

5. The portion of 29th Street from Cecil Avenue to Grand Avenue is designated as a Residential Collector with 60' right-of-way with bicycle lanes. (Ord. No. 0-2010-11; 1/27/10)

6. The portion of Grand Avenue from 29th Street to Mims Street is designated as a Local Collector with 60' right-of-way with a southbound bicycle lane. Ord. No. 0-2010-11; 1/27/10)

7. The portion of New Copeland Road from Loop 323 to Amherst Street is designated as a Residential Collector with 60' right-of-way with bicycle lanes. (Ord. No. 0-2010-11; 1/27/10)

8. The portion of Donnybrook Avenue from Rose Rudman Trail to Amherst Street is designated as a Residential Collector with 60' right-of-way. (Ord. No. 0-2010-11; 1/27/10)

9. The portion of East Rieck Road from Rose Rudman Trail to Quail Creek Drive will be designated as a Local Collector with 60' right-of-way with a westbound bicycle lane. (Ord. No. 0-2010-11; 1/27/10)

10. The Master Street Plan is amended to shorten the Glass Avenue future collector to West Mims Street. (Ord. No. 0-2011-25; 4/27/11) (Ord. No. 0-2011-45, 6/8/11) (Ord. No. 0-2013-16; 2/27/13)

PART 3: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article V., "Streets and Thoroughfares", Division A., "Master Street Plan", is hereby amended by amending Section 10-155 to read as follows:

Sec. 10-155. Street Construction

The developer must construct all streets or thoroughfares to city standards in rights-of-way as required by the master street plan and must follow the approved cross section standards as per the master street plan Report document, subject to participation policies stated in Article V, Division D and E. Streets (including sidewalks) which dead-end at power lines, railroad, or similar rights-of-way, and are intended for future extension must be constructed in the full right-of-way as required by the master street plan for half the distance across such right-of-way for each side. Widths shown below are face to face of curbs and required on both sides of divided streets. Developers of property abutting only one side of a street are responsible for half of the road up to a residential street section. When no road exists, the minimum is a 28 foot pavement section. The minimum paving widths for the various types of streets must be as follows:

Table 10-155 Minimum Paving Widths

Type	Classification	Row Width	Face To Face	Residential Lot Capacity
	Cul-De-Sac	55'	28'	Cul-de-sacs
F	Residential	55''	28'	Less than 60

			[1]	
E	Collector Residential	60'	32'	60 or more
D	Commercial Street	60'	40'	
C	Collector Major	70'	40'	
			[2]	
B	Arterial Minor	105'	78'	
	Arterial Minor W/Bike Lane	115'	88'	
A	Arterial Major	130'	101'	

Note 1: Street extensions or stub-outs into unplanned areas must have a minimum pavement width of 32 feet measured face of curb to face of curb.

Note 2: The width of a major collector must be flared to 52 feet at the intersection with an arterial or major collector. The width of the right-of-way must be flared to 80 feet. The length of the flare must be 130 feet with a 100 foot taper.

Note 3: Commercial use shall be based on the following Zoning Districts: R-MF, C-1, C-2, DBAC, M-1 and M-2. If a street fronts along a commercially zoned district on one side of the street and on a residentially zoned district on the other, then both sides must plat the street as a C or D street, as applicable. If a street fronts along lots that are a mixture of both commercial and residential zoning, then both sides must plat the street as a C or D street, as applicable. (Ord. No 0-2010-119, 11/10/10)

Note 4: In addition to the classifications listed above, the master street plan classifies road construction standards into the following subgroups: rural, suburban, urban, and urban core. Typical cross sections for each road type can be found in the master street plan. (Ord. No. 0-2013-16; 2/27/13)

PART 4: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article V., "Streets and Thoroughfares", Division B., "Street Design Standards", is hereby amended by amending Section 10-162 to read as follows:

Sec. 10-162. Curb and Gutter

Curbs and gutters must conform to standard city design and construction and are required in all subdivisions except roads designated as rural on the Master Street Plan and residential subdivisions where all lots are larger than two acres. Alternate curb and gutter construction are allowed in planned districts with the approval of the development services engineer. This exception will only apply to local streets and not on extensions of collector or arterial streets or streets proposed as such in the master street plan. (Ord. No. 0-2013-16; 2/27/13)

PART 5: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division C., "Fences and Walls", is hereby amended by amending Section 10-331 to read as follows:

Sec. 10-331. Required Conditions

In all cases, fences and walls must meet the following:

a. Location and Height

1. Fences generally may be constructed along the rear and side property lines, if located entirely on private property and not in excess of the maximum height allowed. (Ord. No. 0-2013-15; 2/27/13)

2. No changes...
3.
 - i. Fences located in the front yard, along the front property line and/or the side property line(s), to a depth less or equal to the required front yard setback of residential property, must obtain a Special Use Permit before beginning construction. Where fencing is allowed, the height is restricted to a maximum height of four feet in residentially zoned districts. (Ord. No. 0-2013-16; 2/27/13)
 - ii. Fences located in the front yard, along the front property line and/or the side property line(s), to a depth less or equal to the required front yard setback, are restricted to a maximum height of eight feet in commercial, industrial and other non-residential districts. (Ord. No. 0-2013-16; 2/27/13)
4. No changes...
5. No changes...
- b. No changes...
- c. No changes...
- d. No changes...
- e. No changes...ORD. 0-97-62, 12/10/97)

PART 6: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division E., "Off-Street Parking and Loading", is hereby amended by amending Section 10-361 to read as follows:

Sec. 10-361. Off-Site Parking Allowance

- a. Location
 1. No changes...
 2. The 1,000 foot maximum distance is to be measured from the nearest point of the lot or tract which is the location of the off-site parking spaces, to the nearest point of the lot or tract which is the location of the principal use. (Ord. No.0-2013-16; 2/27/13)
- b. No changes...
- c. No changes...

PART 7: That Tyler City Code Chapter 10, "Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending Section 10-430 to read as follows:

Sec. 10-430. Billboards

Billboards, off-premise signs, and similar outdoor advertising are allowed in M-1 and M-2 districts in the city and commercial properties in the ETJ provided the billboard meets all federal, state, and city requirements.

a. General Requirements.

All billboards located within the city limits and extraterritorial jurisdiction must adhere to the following requirements. The city's regulations herein governing billboards in the extraterritorial jurisdiction hereby supersede the regulations imposed by or adopted under Chapter 394 of the Texas Transportation Code.

1. No changes...

2. No changes...

3. Billboards may not be located within 1,500 feet of any public park, public forest, public playground or scenic area, designated as such by the city or any other governmental agency. (Ord. No.0-2013-16; 2/27/13)

4. No changes...

(Ord. No. 0-2009-70; 6/10/09)

b. Allowed Area and Height

1. No changes...

2. The maximum area for any one billboard must not exceed 672 square feet. (Ord. No.0-2013-16; 2/27/13)

3. No changes...

4. No changes...

5. No changes...

6. No changes...

7. No changes...

8. No changes...

9. No changes...

10. No changes... (Ord. 0-98-41, 5/27/98) (Ord. No. 0-2009-70; 6/10/09)

c. No changes...

(Ord. No. 0-2012-83; 10/10/12)

PART 8: That Tyler City Code Chapter 10, "Unified Development Code", Article VIII., "Development Approval Procedures", Division C., "Zoning Map Amendments (Rezoning)", is hereby amending by amending Section 10-611 to read as follows:

Sec. 10-611. Applications for Planned District Rezonings

- a. No changes...
- b. No changes...
- c. No building permits may be issued for any portion of a planned district until the city council, upon recommendation of the planning and zoning commission approves a site development plan for the subject property or a written narrative specifying the development regulations. (Ord. No. 0-2013-16; 2/27/13)
- d. No changes...

PART 9: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VIII, "Development Approval Procedures", Division D., "Subdivisions", is hereby amended by amending Section 10-630 to read as follows:

Sec. 10-630. General

- a. through e. No changes...
- f. Statutory Compliance Procedure

The planning director must place the application on the agenda of a planning and zoning commission meeting that is scheduled within 30 days following the official submission date. The commission must approve or disapprove the application at the meeting. If the commission fails to approve or disapprove an application within 30 days of the official submission date, the application must be deemed approved. Unless the commission unconditionally disapproves the plat application within such period, the city will continue to process the application for compliance with these regulations. The commission must consider the application within 30 days. (Ord. No. 0-2013-16; 2/27/13)

- g. No changes... (Ord. No. 0-2000-11, 3-1-2000)

PART 10: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article X., "Administration and Enforcement", Division A., "Review and Approval Bodies", is hereby amended by amending Section 10-770 read as follows:

Sec. 10-770. Planning and Zoning Commission

- a. No changes...
- b. No changes...
- c. Comprehensive (Master) Plan
 - 1. No changes...
 - 2. No changes...

3. No changes...

4. Area development plans. Plans for specific areas of the City may be established to analyze the needs and opportunities for growth. The recommendations from the area development plans shall be in line with the principles established in the Comprehensive Plan. (Ord. No. 0-2013-16; 2/27/13)

d. No changes...
(ORD. 0-97-62, 12/10/97) (Ord. 0-2003-38, 7/23/03) (Ord. No. 0/2010/20, 3/10/10) (Ord. No. 0-2013-16; 2/27/13)

PART 11: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article X., "Administration and Enforcement", is hereby amended by amending the following portions of the Fee Chart in Section 10-776 to read as follows, with no other changes to the Fee Chart:

Sec. 10-776. Fees

Application, Permit, Test, or Deposit	Fee
Annexation (Voluntary)	\$451.00 [a] [b] [c] (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2013-16; 2/27/13)
Plats	
Minor Plat (four lots or less with no street or utility extensions)	\$231.00 + \$5 per lot [c]
Major Plat	\$331.00 + \$5 per lot [c]
Preliminary Plat	\$300.00 + \$5 per lot
Vacation (Plat Vacation or Vacating Plat)	\$131.00 [c] (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2013-16; 2/27/13)
Variance	\$331.00 [a] [c] (Ord. No. 0-2012-69; 9/12/12) (Ord. No. 0-2012-83; 10/10/12)(Ord. No. 0-2013-16; 2/27/13)

Notes:

References to the existing Publication Fee, Refundable Zoning Sign Deposit and Recording Fee are deleted from the Chart above and are included below. These existing fees [a], [b], and [c], are added to the fees above, where applicable. The intent is to include these existing fees with the fees above, where applicable, to make payment easier. In addition, the Notification Fee, which historically has been mailed to the applicant after the total number of required mailings has been determined, has been added as a lump sum to allow applicants to pay all fees upfront. Staff performed a study on the average number of notices sent per zoning case, and determined the average Notification Fee to be \$20.00. Therefore, the current reference to a .50 Notification Fee per mailed notification is deleted.

[a] Includes mandatory \$30 publication and \$20 mailed notification required for owners whose property is within 200 feet of the proposed action.

[b] Includes \$20 Zoning Sign Deposit (refundable upon sign's return)

[c] Includes \$31 recording.

[d] The Outdoor Transient Vendor permit fee shall not be required for a Non-Profit.

Non Profit – An organization or entity formed for the purpose of serving a purpose of public or mutual benefit other than the pursuit or accumulation of profits, i.e., 501(c)(3)s, schools, religious organizations, governmental organizations. Proof of non profit status is required. All other entities/individuals will be charged the regular rate.

(Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2009-88; 8/26/09) (Ord. No. 0-2010-99; 9/22/10) (Ord. No. 0-2012-69, 9/12/12) (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2013-16; 2/27/13)

PART 12: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article XIII., "Definitions", Division A., "Definitions", is hereby amended by adding the following definition in the appropriate alphabetical order to read as follows:


Homeless Day Resource Facility

A facility that provides any of the following to homeless patrons: showers, laundry, mail, barber/beauty salon, computer/library reference center or counseling services. These facilities shall neither contain nor provide sleeping facilities or drug rehabilitation services. (Ord. No. 0-2006-19; 2/8/06) (Ord. No. 0-2013-16; 2/27/13)

PART 13: 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 14: 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 March 1, 2013.

PASSED AND APPROVED this 27th day of February, A. D., 2013.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK


GARY C. LANDERS, CITY ATTORNEY

