

ORDINANCE NO. O-2011-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING AND CLARIFYING THE CONFLICT OF INTEREST PROVISIONS IN THE ETHICS ORDINANCE, CHAPTER 1, "GENERAL PROVISIONS", ARTICLE III, "BOARDS", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to promote the public welfare; and

WHEREAS, public service is a public trust, and all City officials, employees and agents are stewards of that trust; and

WHEREAS, it is essential that the public have confidence in the integrity, independence and impartiality of those who act on their behalf in government; and

WHEREAS, it is important to promote confidence in the integrity, independence and impartiality of those who act on behalf of the public in government; and

WHEREAS, it is important to prohibit conduct that is incompatible with the public's interests and to minimize the risk of any appearance of impropriety; and

WHEREAS, Section 71 of the Tyler City Charter and Chapter 171 of the Texas Local Government Code define and regulate the permitted and prohibited financial interests of municipal officers and employees; and

WHEREAS, on April 27, 2005, the Tyler City Council adopted an Ethics Ordinance defining and clarifying permitted and prohibited contract interests by City Officers, employees and agents; and

WHEREAS, the City of Tyler ethics regulations are governed by State law, the City Charter, the City Code and City Policies; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the 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 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 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, it is important to provide further clarity, definition and certainty to daily interpretations of the City Charter and Ethics Ordinance regulating potential conflicts of interest; and

WHEREAS, it is important to achieve a balance between the public's confidence in the integrity, independence and impartiality of government with the City's continuing need to refrain from unreasonably narrowing the pool of eligible City board members and contactors on city contracts;

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

PART 1: That Tyler City Code Chapter 1, "General Requirements", Article III., "Boards", is hereby amended by amending Section 1-28 to read as follows:

Sec. 1-28 Penalties.


- a. No changes...
- b. Voidable Contracts

Any violation of this Article with the knowledge, express or implied, of a person or entity contracting or transacting with the City Council, shall render the contract or transaction involved voidable by either the City Manager or the City Council. Notwithstanding the above, the City Council has the final authority to determine the applicability of the City ethics regulations to the situation currently under review. (Ord. No. 0-2005-33, 4/27/05) (Ord. No. 0-2011-21; 4/13/11)

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 April 15, 2011.

PASSED AND APPROVED this 13th day of April, A. D., 2011.



BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK



APPROVED:



GARY C. LANDERS, CITY ATTORNEY