

ORDINANCE NO. 0-2011-100

AN ORDINANCE AMENDING CHAPTER 19, "UTILITIES", ARTICLE VI, "LAKE TYLER AND LAKE TYLER EAST" OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, TO COMPLY WITH REQUIREMENTS AND FEDERAL GENERAL PRETREATMENT REGULATIONS BY AMENDING DIVISION 2, SECTION 19-170, "PUBLIC BARGE DOCKS;" DIVISION 5, SECTION 19-201, "LEASES – APPLICABLE FEES," SECTION 19-205, "LEASEHOLD CONSTRUCTION AND LOCATION," AND SECTION 19-206, "WATER AND SANITATION;" AND DIVISION 6, SECTION 19-220, "MISCELLANEOUS FEES," AND SECTION 19-221, "FEES APPLICATION TO LEASE;" PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY, AND ESTABLISHING AN EFFECTIVE DATE.

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

PART 1: That the Tyler City Code Chapter 19, "Utilities", Article VI. "Lake Tyler and Lake Tyler East," Division 2, "Boats and Boating", is hereby deleting by amending Section 19-170, "Public barge docks," in its entirety as follows:

PART 2: That the Tyler City Code Chapter 19, "Utilities", Article VI. "Lake Tyler and Lake Tyler East," Division 5, "Leasing and Use Lots", is hereby amended by amending Section 19-201 to read as follows:

Sec. 19-201. Leases - applicable fees.

a. Rental for all lots with leases originating prior to November 18, 2011 (and as described further in section 19-221a.). An annual rental fee will be assessed on each lot leased on Lake Tyler. See Division 6. The annual rental shall be adjusted at each annual anniversary date in an amount equal to the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the South (the geographic area including Smith County, Texas), as published by the United States Department of Labor (or its successor document), from the year in which the last rental increase was effective to the year in which the latest rental increase is occurring times the then annual rental rate, but in no event shall the amount of increases in rental exceed ten (10) percent at any one time. In the event of a decrease in the C.P.I., no decrease in rental shall be made; however, additional increases in rental shall not be made until the C.P.I. rises above the point from which the last increase in rental was determined, using 1993 as the base year. In July of every year, City staff will calculate any rental increases required under this paragraph and such increases shall be applicable to all leases coming due between the next October 1 and September 30 of the next year. Any such rental increase will be automatic, with City Staff to give lessee notice of such increase in the next bill sent to the lessee.

b. Rental for all lots with leases originating after November 18, 2011 (and as described further in section 19-221a.). An annual rental fee will be assessed on each lot leased on Lake Tyler equivalent to the city taxes which would be paid if the property and improvements

were privately owned and located within the City of Tyler, Texas. Lease payments shall be established using the tax rate adopted by the Tyler City Council and applied to initial land lease value established by the City plus any improvement values established by Smith County Appraisal District.

c. Other charges. Certain Fees will be charged for handling lease-related documents and transactions as set out in Division 6. (Ord. 0-97-52, 10/22/97) (Ord. No. 0-99-80, 10/20/99) (Ord. No. O-2011-100, 11/16/11)

PART 3: That the Tyler City Code Chapter 19, "Utilities", Article VI. "Lake Tyler and Lake Tyler East," Division 5, "Leasing and Use of Lots", is hereby amended by amending Section 19-205, "Leasehold construction and location," and Section 19-206, "Water and sanitation," to read as follows:

Sec. 19-205. Leasehold construction and location.

a. Building permits required for construction. All construction on Lake Tyler leased lots or located over the lake waters, after November 18, 2011, shall require a building permit issued by the City of Tyler Building Inspection Department. Applicable codes and fees, in addition to fees listed in Division 6, shall be detailed in Chapter 6, "Building and Structures" of the City of Tyler Code of Ordinances. Inspections as required by Chapter 6 of the City of Tyler Code of Ordinances shall be scheduled through, and performed by, the City of Tyler Building Inspection Department.

b. Residences, clubhouses. No house may be constructed without adequate sanitary facilities (a bathroom) connected to an approved wastewater disposal system. No house may be erected containing less than one thousand (1,000) square feet of enclosed floor space. It is unlawful for any person to erect any type building within 100 feet measured horizontally of elevation 378' msl at the waterfront except for boat houses and piers. Swimming pools may be constructed within the 100' setback, but the filter system, bathhouse, and other associated structures must be constructed outside the 100' setback line (100' from the 378' elevation). No buildings or structures other than fences and retaining walls may be erected within 7 ½ feet measured horizontally from any side property line on Lake Tyler. No more than one residence may be constructed on a residential lot. No use/structure shall encroach into an existing easement or right-of-way, an identified future easement or right-of-way, over an adjacent property or easement line or an identified or set aside access path.

c. Piers, boathouses. No more than one boathouse may be constructed on a residential lot. All piers and boathouses shall be inspected annually in conjunction with annual onsite sewage facility inspections, or as deemed necessary by the Manager. All inspections will be coordinated with lessee. The City Council shall have the authority to declare a pier, boathouse, or other structure located below the 378' elevation unsafe, unsightly or a nuisance, and to order the same repaired or removed within a specified time period. If the structure is deemed a navigational hazard, it may be removed by the City, and costs incurred shall be collected from the lessee. All boathouses and piers must display the lot number in a way visible from the Lake.

d. Approval for Construction required. An Approval for Construction must be granted by the Manager, prior to initiating construction on any property or lot on the Lake. In order to receive approval, a plat drawing must be submitted to the office of the Manager, on available forms identifying the lot, subdivision, owner and building, and containing the lot dimensions, the 100' setback line from the 378' elevation line, the exact location of existing and proposed structures in relation to all property lines including the 100' setback line, and describing the location and size of the septic system to be installed. As applicable, plans for boathouses, piers,

retaining walls, swimming pools, boat ramps, and other structures must also be approved through the method described above. Approval for construction will be granted upon confirmation of a current lease on Lake Tyler lots, of current lot ownership registration with the City Clerk on Lake Tyler East lots, and following a physical on-site inspection by a Lake Supervisor. A fee for each Approval for Construction form submitted shall be collected when the form is presented to the Office of the Manager, (See Division 6).

e. Recreational vehicles, campers. Locating or establishing recreational vehicles or campers on a lot as a permanent residence is prohibited. When utilized routinely for camping on a lot, the unit must be equipped with self-contained sanitary facilities, or connected to an approved wastewater disposal system. (Ord. 0-97-52, 10/22/97) (Ord. No. 0-99-80, 10/20/99) (Ord. No. O-2011-100, 11/16/11)

Sec. 19-206. Water and sanitation.

a. Plans and specifications. All plans and specifications for all residences or other plumbed buildings must contain provisions for proper sanitation and are subject to the approval of the City and State.

b. On-site sewage disposal system. It is unlawful to employ as the method of sewage disposal on the Lake, any method other than an approved and permitted on-site sewage disposal system. All grey water shall be discharged to the approved and permitted on-site sewage disposal system. No grey water discharges to the surface or to an independent subsurface system are allowed. Sewage disposal systems shall be designed and installed in accordance with state law governing private sewage systems. Prior to construction, detailed plans for each system shall be submitted to all applicable approving authorities, copies of which are to be attached to the Approval for Construction submitted to the Manager. Formal written approval from all applicable approval authorities is required prior to initiating any construction on the system, including that of Tyler Water Utilities. All sewage effluent from either aerobic or anaerobic systems shall be disposed of in an approved spray irrigation field, or an approved subsurface drain field, with no effluent discharged to the surface within the 100' setback from 378' msl elevation or into the waters of the lake. No part of the disposal system, including plumbing fixtures, collection and transport components may be located within 100 feet from the 378' msl elevation. A fee set by the City Council will be assessed annually by the Manager for the inspection of each approved sewage disposal system on the lake effective November 18, 2011, and payable at the time the annual lease fee is due on Lake Tyler lots, and upon the anniversary of system installation for lots on Lake Tyler East. Any system may be inspected in response to a complaint, but at a minimum all systems will be inspected annually in conjunction with the inspection of piers and boathouses. All inspections shall be coordinated with the lessee.

c. Sanitary facilities located inside the 100' setback from 378' msl elevation. The Manager may grant a variance to allow plumbing fixtures and collection and transport components to be located inside the 100' setback from 378' msl elevation under the following conditions:

1. The system must be designed by a registered professional engineer with experience in design of such systems.

2. Only one commode, one bathroom lavatory, one shower and/or tub, one kitchen sink (double compartment), one water heater, and one ice-maker/ice dispensing unit is allowed per boathouse.

3. Only a single wastewater collection tank is allowed per boathouse, and only when pumping is required to reach the disposal system located outside the 100' setback from 378' msl elevation.

4. Where a wastewater collection tank is required, same shall be equipped with a sewage pump capable of pumping the volume required to meet specified engineering criteria for the system activated by means of a float switch.

5. Where a wastewater collection tank is required, same shall be constructed of a corrosion resistant, non-buoyant material, and shall be located within a containment structure capable of holding 1 ½ times the volume of the tank.

6. Where a wastewater collection tank is required, same shall be equipped with an audible and visual alarm system indicating tank leaks or overflow.

7. All pipe and fittings used to convey wastewater from the boathouse to the on-site sewage facility (OSSF) shall have a minimum working pressure rating of 150 pounds per square inch. Final plans and specifications shall describe and require pressure testing for all lines installed with the minimum test pressure being 1.5 times the maximum design pressure. All pipe and fittings used to convey water to the boathouse and wastewater from the boathouse to the OSSF shall be located above the 376' elevation and must be capable of being visually inspected.

8. The system will be subject to periodic, routine inspections by the City Staff.

9. The system will be subject to a permit fee and an annual inspection fee as described in Division 6 of this Article.

10. Any system changes from the original permit must be designed by a registered professional engineer with experience in design of such systems, and will require a new permit approved by the Manager, and subject to an additional permit fee (see Division 6).

d. Floating boathouses, piers or any other on-water facility which has sanitary facility connections shall be prohibited.

e. Pit toilets. It is unlawful to employ as the means of waste disposal any pit-type toilet on a Lake lot or on City property at the Lake.

f. Garbage. It is unlawful to maintain any dump ground or garbage incinerator on the watershed. All garbage shall be collected and removed from the lake shore at least once weekly by lessee. The burning of household garbage is prohibited on the Lake.

g. Non-potable untreated (raw) water may be obtained from the Lake by the following means:

1. by lease holders and lot owners for irrigation purposes only, with a maximum 5 hp pump and a 2" supply line; or

2. by contractors upon obtaining a temporary water diversion permit from the State of Texas. (Ord. 0-97-52, 10/22/97) (Ord. No. 0-99-80, 10/20/99) (Ord. No. O-2011-100, 11/16/11)

h. Insecticide Misting Systems. Insecticide misting systems are permitted for the use of controlling insects in and around piers, docks and boathouses. Misting systems shall be designed in accordance with the City of Tyler Water Utilities Misting System Guidelines. All insecticides used shall be approved for use over surface water supplies by the Texas Department

of Agriculture, Texas Parks and Wildlife Department and meet the criteria for EPA FIFRA 25(b) exemption.

PART 4: That the Tyler City Code Chapter 19, "Utilities", Article VI. "Lake Tyler and Lake Tyler East," Division 6, "Schedule of Fees", is hereby amended by amending Section 19-220, "Miscellaneous Fees," and Section 19-221, "Fees applicable to leases," to read as follows:

Sec. 19-220. Miscellaneous Fees:

a.	Fee for Access Agreement (non-transferable) (Reference 19-147)	\$250.00
b.	Fees for reclaiming a derelict boat or barge. (Reference 19-168)	
	Fee for reclaiming derelict boat	\$25.00
	Fee for reclaiming derelict barge	\$50.00

(Ord. 0-97-52, 10/22/97) (Ord. No. 0-99-80, 10/20/99) (Ord. No. O-2011-100, 11/16/11)

Sec. 19-221. Fees applicable to leases.

(Reference 19-201-208)

a.	Rental fee for lots with leases originating prior to November 18, 2011 as shown in red on the attached Exhibit "A" on Lake Tyler (annual)	\$ 50.00*
	*After June, 1993, to be adjusted at each annual anniversary date in an amount equal to the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the South, as published by the U.S. Department of Labor. Reference 19-201a.	
b.	Rental fee for lots with leases originating after November 18, 2011. An annual rental fee will be assessed on each lot leased on Lake Tyler equivalent to the city taxes which would be paid if the property and improvements were privately owned and located within the City of Tyler, Texas. Lease payments shall be established using the tax rate adopted by the Tyler City Council and applied to initial land lease value established by the City plus any improvement values established by Smith County Appraisal District.	
c.	Other fees	
	Fee for Consent to Mortgage	\$75.00
	Fee for Lease Transfer, Assignment	\$75.00
	Fee for transfer by Will or Devise	\$75.00
	Fee for Lease Assumption	\$50.00
	Fee for Lease Addendum	\$75.00
	Fee for Approval for Construction and insecticide misting systems	\$75.00
	Fee for Filing document with County Clerk	\$25.00
d.	Water and sanitation fees (Reference 19-206)	
	Aerobic septic system inspection fee (annual)	\$30.00*
	*To be waived if upon inspection, the system is found to be operational with chlorine present in the discharge.	
	Fees for a permit to locate plumbing fixtures, collection, and transport	


components of a sanitation system to be located within the 100' setback for 378' msl	
Permit Fee	\$250.00
Inspection Fee (annual)	\$ 50.00
e. New subdivision, resubdivision, re-platting fees (Reference 19-207-208)	
Any new subdivision plat on Lake Tyler East	\$200.00 + \$1.00 per lot
Any resubdivision of an existing, approved subdivision on Lake Tyler East	\$150.00
Any replat of an existing, approved subdivision	\$150.00
One-time fee per new lot created from resubdivision of City-owned lot	\$2,500.00
Annual lease fee for new lot created from resubdivision of City-owned lot	\$500.00*
*After June, 1997, to be adjusted at each annual anniversary date in an amount equal to the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the South, as published by the US. Department of Labor. (See Sec. 19-208g.)	

(Ord. 0-97-52, 10/22/97) (Ord. No. 0-99-80, 10/20/99) (Ord. No. O-2011-100, 11/16/11)

PART 5: 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 6: That any person, firm or corporation violating any 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 November 18, 2011.

PASSED AND APPROVED this 16th day of November, A.D. 2011.


 BARBARA BASS, MAYOR OF
 THE CITY OF TYLER, TEXAS

ATTEST:


 CASSANDRA BRAGER, CITY CLERK



APPROVED:


 GARY C. LANDERS, CITY ATTORNEY

