



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: O-3

Date: November 13, 2012

Subject: Request that the City Council consider adopting an Ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by clarifying that the existing fee for Zoning Changes shall also apply to the administrative costs associated with beer and wine on-site inspection verification, and other types of on-site zoning inspection verification.

Page: 1 of 1

Item Reference: Texas Local Government Code Chapter 211 Tyler Unified Development Code, Tyler City Code Chapter 10

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 (UDC) governing zoning, subdivision, development and other land use regulations. City Code Section 10-776 currently provides for a fee of \$500.00 to cover the administrative costs associated with City Staff time spent on inspections, handling of paperwork, etc.

With the approval of recent Beer and Alcohol petitions by voters, it is necessary to clarify that the existing Zoning Amendment Fee will also apply to the administrative costs associated with On-Site Beer and Wine Inspection Verification and other types of On-Site Zoning Inspection Verification.

The Planning and Zoning Commission considered this Ordinance on November 6, 2012. No one spoke in favor or in opposition to the proposed amendment.

RECOMMENDATION:

The Planning and Zoning Commission, by a 6-0 vote, recommends approval of the Zoning Fee Clarification in the Unified Development Code, Tyler City Code Chapter 10, as outlined in the attached ordinance.

Drafted/Recommended By:
Department Leader


City Planner

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2012-91

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 THE EXISTING FEE FOR ZONING CHANGES TO INCLUDE BEER AND WINE ON-SITE INSPECTION VERIFICATION AND OTHER ON-SITE ZONING INSPECTION VERIFICATION; PROVIDING A SEVERABILITY CLAUSE; 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, 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, Tyler City Code Section 10-776 currently establishes a fee for zoning changes; and

WHEREAS, it is important to clarify the existing fee for zoning change to indicate that it also applies to Beer and Wine On-Site Inspection Verification and other On-Site Inspection Verification;

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 X., "Administration and Enforcement", is hereby amended by amending the Fee Chart in Section 10-776 to read as follows:

Sec. 10-776. Fees

Application, Permit, Test, or Deposit	Fee
Annexation (Voluntary)	\$441.00 [a] [b] [c] (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Billboard Registration	\$200.00 per billboard Initially and annually thereafter (<i>Ord. No. 0-2012-69; 9/12/12</i>)
Historic Landmark Markers (Landmark and Subject)	\$300.00 Markers
Master Sign Plan	\$80.00 (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Plats	
Minor Plat (four lots or less with no street or utility extensions)	\$221.00 + \$5 per lot [c]
Major Plat	\$321.00 + \$5 per lot [c]
Preliminary Plat	\$300.00 + \$5 per lot
Pre-Plat Agreement	\$200.00 (<i>Ord. No. 0-2012-69; 9/12/12</i>)
Vacation (Plat Vacation or Vacating Plat)	\$121.00 [c] (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Quality Control Testing (<i>Ord. 0-2006-79, 9/13/2006</i>)	1% (inside City limits) 3% (outside City Limits)
Right-of-way Closure	\$350.00 [a] (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Sexually Oriented Business License	\$600.00 Initially and annually thereafter
Street Name Change	\$200.00 [a] (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Special Use Permit	\$370.00 [a] [b] (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Temporary Sign Permit	\$10.00
Temporary Use Permit	\$35.00
Outdoor Transient Vendor Permit	\$150.00 [c]
Variance	\$321.00 [a] [c] (<i>Ord. No. 0-2012-69; 9/12/12</i>) (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Zoning Change/Beer and Wine Site Inspection Verification /Zoning Site Inspection Verification	\$500.00 [a] [b] (<i>Ord. No. 0-2012-83; 10/10/12</i>)(<i>Ord. No. 0-2012-91; 11/13/12</i>)
Zoning Change Planned Development	\$930.00 [a] [b] (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Zoning Site Plan Amendment (Non-administrative)	\$930.00 [a] [b] (<i>Ord. No. 0-2012-83; 10/10/12</i>)
Zoning Site Plan Amendment (Administrative)	\$80.00
Zoning Verification Letter Request	\$25.00

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 \$21 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. 0-2012-91; 11/13/12)

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 this Ordinance shall take effect immediately upon its passage and approval by the City Council.

PASSED AND APPROVED this 13th day of November, A. D., 2012.

BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

GARY C. LANDERS, CITY ATTORNEY