

ORDINANCE NO. O-2018-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS, CHAPTER 17, "STREETS AND TRAFFIC," BY AMENDING SECTIONS 17-1, 17-2, and 17-4 TO UPDATE THE APPLICATION REQUIREMENTS AND PERMIT FEE STRUCTURE FOR TEMPORARY STREET AND LANE CLOSURES, PARADES, BLOCK PARTIES, RIGHT-OF-WAY, TEMPORARY USE, TRANSIENT VENDOR, TENT, CANOPY AND SPECIAL EVENTS; 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, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of local self-government; 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, 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, As more and more events are being held in Tyler's Downtown Business, Arts, and Culture District (DBAC), there is a corresponding increase in requests for street closures; and

WHEREAS, Managing issues to balance accommodating events with the protection of property investments and businesses requires an updated application and permitting process; and

WHEREAS, The update will improve requirements for notifying property and business owners of pending closures; and

WHEREAS, Proposed changes to application requirements and the permitting process were approved by City Council in October, 2017;

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 I., Street Rental and Parades, Section 17-1 is amended to read as follows:

Sec. 17-1. Use and fees.

- a. Anyone other than City franchisees desiring to use a portion of public right-of-way, space, lane or street for a private business or personal use must first obtain a temporary street use permit or a right-of-way easement from the City.

- b. Applications for easements for right-of-way use that are permanent in nature, or temporary ~~or~~ for a limited number of years, shall be filed with the City Engineer. Such applications must include a detailed specific map of the location and proposed closure, description of type of use, length of time needs, and payment of the application fee. If the City Engineer or designee determines that the circumstances or length of time of a proposed use are such that City Council review is desirable, the City Engineer or designee may submit the request to the City Council for approval.
- c. Easements that are permanent in nature shall require approval of the City Council prior to issuance.
- d. Applications for temporary street and/or lane closures, parades, block parties, right-of-way, temporary use, transient vendor, tent or canopy, or special event shall be filed with the Tyler Police Department. Such applications must include a detailed specific map of the location and proposed closure, description of the type of use, length of time needed, proof of notification of businesses and properties within the proposed closure area, and payment of the application fee.
- e. Fees for applications filed pursuant to subsections b. and d.:
 - 1. Right-of-way use easement, permanent in nature - *Three hundred fifty dollars (\$350.00)*, payment due prior to issuance.
 - 2. Right-of-way use easement fee, temporary or for a limited number of years - *One hundred dollars (\$100.00)* review fee plus *one hundred dollars (\$100.00)* per year times the number of years of easement, payment due prior to issuance. If the closure of a space, lane, street, or portion thereof will affect the normal flow of traffic and/or function of vehicular traffic, a Temporary Street Use Permit Form for Street/Lane Closure/Use of Public Right-of-Way Application shall be filed with the Police Department in accordance with subsection h. or i. below, as applicable. There shall be a fee of *seventy-five dollars (\$75.00)* for the City's costs associated with such Temporary Street or Lane Closure pursuant to subsection h. or i., which shall be in addition to the right-of-way use easement fee in subsection e.2. of this Section. Application for closures within the Downtown Tyler Business, Arts and Culture District require a fee of *two hundred fifty dollars (\$250)*. In addition, a deposit of *one thousand dollars (\$1,000)* is due at time of application. This deposit is refundable upon City of Tyler's finding of adequate clean-up of the closure area and areas adjacent to the closure boundaries.
- f. Any person aggrieved by the granting or denial of a right-of-way use easement application by the City Engineer or designee under Subsection b. or the Police Department under Subsection d., may appeal the action within ten (10) calendar days from the date of action in accordance with Chapter I, Article IV.
- g. Other fees. The City Manager may recommend that additional fees be charged due to unusual circumstances such as the nature of the request, length of time requested, or extent of review necessary.
- h. Temporary Street or Lane Closure Application for Social Events, Athletic Events, Block Parties, Lane or Street Closures, etc. Anyone desiring to use a portion of public right-of-way or space that would obstruct the natural flow and/or function of vehicular traffic for a social event, parade, fund raiser, athletic event or similar event must apply to the Police Department at least thirty (30) calendar days prior to closure. A Temporary Street or Lane Closure Application can be obtained from and filed with the Police Department. Except for block parties and/or street closures within the Downtown Business Arts and Culture District (DBAC), there shall be a fee of *seventy-five dollars (\$75.00)* for the City's costs associated with such Temporary Street or Lane Closure, which shall be in addition to the right-of-way use easement fee in subsection e.2. of this Section. Application for closures within the Downtown Tyler Business, Arts and Culture District require a fee of *two hundred fifty dollars (\$250)* for the City's costs associated. In addition, a deposit of *one thousand dollars (\$1,000)* must be made at time of application. This deposit is refundable upon

City of Tyler's finding of adequate clean-up of the closure area and areas adjacent to the closure boundaries. Such application shall provide the following information:

1. Name and address of applicant, sponsors and/or organizers, and/or property owner who will benefit from the closure.
 2. Map of street closure requested.
 3. Purpose and duration of closure from beginning of setup to final cleanup.
 4. Estimated number of persons to participate in the event.
 5. Proof of notification of closure application to all businesses and properties within and adjacent to the proposed closure area.
 6. Anticipated damage to street, curbs, sidewalks, etc., as a result of the demolition, construction or maintenance project.
 7. Statement of availability of general liability insurance with City as co-insured.
 8. Application fee of *two hundred fifty dollars (\$250)* for DBAC-area closure plus clean-up deposit of *one thousand dollars (\$1,000.)*
- i. Temporary Street or Land Closure Application for Demolition, Construction or Maintenance. Anyone in the construction or maintenance business desiring to use a portion of public right-of-way or space for demolition, construction, maintenance or related activities must file a Temporary Street or Lane Closure Application with the Police Department in conjunction with a Temporary right-of-way easement. A Temporary Street or Lane Closure Application can be obtained from and filed with the Police Department. There shall be a fee of *seventy-five dollars (\$75.00)* for the City's costs associated with preparation, which shall be in addition to the right-of-way use easement fee in subsection e.2. of this Section. Application for closures within the Downtown Tyler Business, Arts and Culture District require a fee of *two hundred fifty dollars (\$250)* for the City's costs associated. In addition, a deposit of *one thousand dollars (\$1,000)* must be made at time of application. This deposit is refundable upon City of Tyler's finding of adequate clean-up of the closure area and areas adjacent to the closure boundaries. Such application shall provide the following information:
1. Name and address of applicant and/or property owner; and the construction or maintenance business owner, legal manager, or authorized agent, and the affiliated business name.
 2. Limits of street closure requested and a detailed specific map of the area that the applicant(s) request be closed.
 3. Purpose and duration of closure.
 4. Names and addresses of adjacent property owners or tenants who may be affected by the closure and any contacts made by applicant.
 5. Alternatives to street closure.
 6. Anticipated damage to streets, curbs, sidewalks, etc., as a result of the event.
 7. Statement of availability of general liability insurance with City as co-insured.
- j. The Chief of Police, Traffic Engineer, or designee shall approve or deny an application for Temporary or Land Closure under subsection h or i. The Chief of Police, Traffic Engineer, or designee may deny an application if:
- (a) The information contained in the application is found to be false or incomplete in any material aspect; or
 - (b) The applicant has conducted an event in violation of this Article or other applicable law; or
 - (c) Conduct of the event at the time and place or in a manner proposed will substantially disrupt the safe and orderly movement of traffic contiguous to the event; or
 - (d) The event is reasonably likely to interfere adversely with the provisions of adequate police, fire, emergency or other necessary services to other parts of the City; or
 - (e) Emergency conditions or other exigent circumstances then existing within the City require that the public streets remain open to the free and unencumbered transportation of emergency crews, equipment and materials.

- k. The Police, Fire, Traffic, Transit, Planning and Street Departments shall be notified of any temporary closure approved under Subsection h. or i. via E-mail or other means.
- l. Any person aggrieved by the granting or denial of an application for closure by the Police Chief, Traffic Engineer or designee under Subsection h., i. or j. may appeal the action within ten (10) calendar days from the date of action in accordance with Chapter I, Article IV.
- m. Street Cuts. Street cuts are governed by City Code Section 15-266. (Ord. 0-98-43, 5/27/98) (Ord. 0-2002-38; 9/11/2002) (Ord. 0-2003-8, 3/12/03) (Ord. No. 0-2015-33; 3/25/15) (Ord. No. O-2018-20; 2/14/18)

PART 2: That Tyler City Code, Chapter 17, "Streets and Traffic," Article I., Street Rental and Parades, Section 17-2 is amended to read as follows:

Sec. 17-2. Definitions.

In this Article, the following words and terms have the following meaning:

Block party means a neighborhood event occurring in a residential neighborhood that would involve closing a residential street temporarily for the duration of the event. (Ord. No. 0-2015-33; 3/25/15)

Parade means an assembly of three (3) or more persons gathering for the common design of moving in or upon any public street from one location to another, whether on foot, on horseback, or by mechanical conveyance, as part of a procession, march, pageant, ceremony, or like event.

Commercial parade means a parade sponsored other than by a nonprofit organization, the purpose of which is to advertise a product, whether tangible or intangible, to advertise or promote an exhibition or theatrical performance, or otherwise operate to the pecuniary benefit of the sponsor.

Parade permit means a written consent or permit to conduct a parade issued pursuant to written application and approval hereunder.

Street means the entire width between the curb and gutter, or edge of pavement, of every road or way publicly maintained when any part thereof is open to the use of the public for vehicular traffic. (Ord. No. 0-2015-33; 3/25/15)

Permittee means a person to whom a parade permit has been granted under this Article. (Ord. 0-98-43, 5/127/98)

DBAC means the Downtown Business, Arts and Culture District that is bordered by Gentry Parkway to the north, Front Street to the south, Beckham Avenue to the east and Palace Avenue to the west. (Ord. No. O-2018-20; 2/14/18)

PART 3: That Tyler City Code, Chapter 17, "Streets and Traffic," Article I., Street Rental and Parades, Section 17-4 is amended to read as follows:

Sec. 17-4. Application for parade permit.

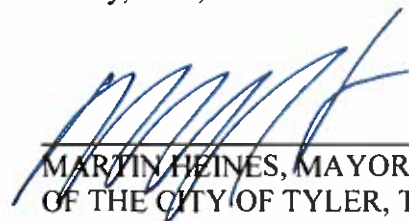
- a. Applications for a parade permit can be obtained from and filed with the Police no less than thirty (30) calendar days prior to the date and time for commencement of such parade. In addition to the parade permit, a Temporary Street Use Permit Form for Street/Lane Closure/Use of Right of Way Application must be obtained and filed with the Police Department. There shall be a fee of seventy-five dollars (\$75.00) for the City's costs associated with such Temporary Street or Lane Closure, which shall be in addition to the parade permit fee in subsection c. of this Section.
- b. Each application for parade permit shall be signed by the applicant, sworn to before an officer authorized to administer oaths, and contain the following:
 - 1. Name, address, and telephone number of the applicant;
 - 2. Name, address and telephone number of any organization, firm, association, corporation, or other entity on whose behalf application is made;

3. Date and time proposed for commencement of the parade;
 4. A statement of the anticipated duration of the parade;
 5. A description of the specific parade route listing all streets to be utilized and the direction of flow from the point of commencement to termination;
 6. Estimated number of persons to participate in the parade; and
 7. Estimated number of vehicles, floats, animals, motorized displays and the like to be utilized in the parade;
- c. The application for a commercial parade permit includes a *five hundred dollar (\$500.00)*, non-refundable fee. The fee for a non-commercial parade permit is *fifty dollars (\$50.00)*.
- d. If the applicant is acting on behalf of a corporation, association, firm, or other organization sponsoring the parade, the application must be accompanied by a copy of an appropriate resolution of the governing body of such corporation, firm, or other organization indicating its sponsorship of such parade and authorizing the applicant to act in its behalf in securing a permit therefor.
- e. Upon receipt of a parade permit application, the Police Chief shall obtain comments from the Fire Chief and Traffic Engineer. (Ord. 0-98-43, 5/27/98) (Ord. No. 0-2015-33; 3/25/15) (Ord. No. O-2018-20; 2/14/18)

PART 4: 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 5: 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, or later. The effective date of this Ordinance shall be February 16, 2018.

PASSED AND APPROVED this the 14th day of February, A.D., 2018.

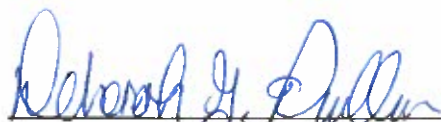

 MARTIN HEINES, MAYOR
 OF THE CITY OF TYLER, TEXAS

ATTEST:


 CASSANDRA BRAGER, CITY CLERK



APPROVED:


 DEBORAH G. PULLUM,
 CITY ATTORNEY