

ORDINANCE NO. O-2023-54

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 7, "COMMUNITY DEVELOPMENT", ARTICLE III., "MINIMUM URBAN STANDARDS", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY AMENDING AND UPDATING REGULATIONS RELATED TO SUBSTANDARD BUILDINGS, CLARIFYING ENFORCEMENT AUTHORITY RELATED TO SUBSTANDARD STRUCTURES, REMOVING OUTDATED REFERENCES FROM THE SUBSTANDARD BUILDING PROCESS, AND MAKING OTHER MINOR CLEAN-UP CHANGES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND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, Texas Local Government Code Section 217.042(a) provides that a home rule municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet thereof; and

WHEREAS, Texas Local Government Code Section 217.042(b) provides that a home-rule municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance; and

WHEREAS, pursuant to Texas Local Government Code Chapter 214, the City of Tyler has adopted specific regulations related to substandard structures in Tyler City Code Chapter 7, Article III.; and

WHEREAS, the City Council has adopted regulations related to substandard buildings in City Code Chapter 7; and

WHEREAS, it is important to amend and update the Substandard Structure provisions in City Code Chapter 7 to reflect current City practice, to remove outdated references to the City Council, to streamline processes, to improve enforcement and to clarify the enforcement authority of the Neighborhood Services Department, Code Enforcement Department and the Building Inspection Department in the process;

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

PART 1: That Tyler City Code Chapter 7, Community Development, Article III, “Minimum Urban Standards”, is hereby amending by amending Section 7-67 to read as follows:

Sec. 7-67. Powers and duties; enforcement

a. through b. No changes at this time.

c. Recordkeeping. Each Department shall keep, or cause to be kept, records of the Department’s business in enforcing this Article. (Ord. No. 0-2023-54; 6/28/23)

d. Enforcement; right of entry. The Director or designee, members of the Code Enforcement Department, and members of Building Inspection are authorized to enforce the provisions of this Article, and upon presentation of proper identification to the owner, agent, or tenant in charge of such property, may enter any building, structure, dwelling, apartment, apartment house or premises, during all reasonable hours. When the property is unoccupied or in cases of emergency where extreme hazards are known to exist, identification and reasonable hour limitations shall not apply. The Director or designee, members of the Code Enforcement Department and members of Building Inspection are authorized to enter upon any premises where a violation exists and to post notice identifying persons violating this Chapter. (Ord. No. 0-2023-54; 6/28/23)

e. Inspections. The Director or designee, members of the Code Enforcement Department and members of Building Inspection may authorize inspections to determine the condition of buildings and premises in the interest of safeguarding the health and safety of future occupants and of the public. The Director or designee, members of the Code Enforcement Department and members of Building Inspection are hereby authorized to enter, examine, and survey all buildings or structures to verify compliance with this Chapter. If such buildings or structures are occupied, inspections shall be done at reasonable times. (Ord. No. 0-2023-54; 6/28/23)

f. Annual Reports. The Director or designee, Code Enforcement or Building Inspection shall submit any annual reports to the City Manager and/or appropriate federal agencies, as needed, covering the work of the Department, and summarizing the Neighborhood Revitalization Board decisions during the preceding year. (Ord. No. 0-2023-54; 6/28/23)

g. Letters of compliance. Letters indicating compliance with Code provisions may be issued by the Director or designee, members of the Code Enforcement Department, and members of Building Inspection. (Ord. No. 0-2023-54 ; 6/28/23)

h. Removal of Placard. No building which has been placarded as unfit for human habitation, occupancy, or use shall again be used for such habitation, occupancy, or use until approved by the Director or designee, or Code Enforcement or Building Inspection, and such placard is removed. No person shall deface or without proper authority remove the placard from any building. (Ord. No. 0-97-61; 12/3/97) (Ord. No. 0-2000-27, 4-19-00) (Ord. No. 0-2006-52, 5/24/06) (Ord. No. 0-2007-101, 8-22-07) (Ord. No. 0-2021-65; 6/23/21) (Ord. No. 0-2023-54; 6/28/23)

PART 2: That Tyler City Code Chapter 7, "Community Development", Article III., "Minimum Urban Standards" is hereby amended by amending the following portion of Section 7-73 to read as follows, with no other changes to the Section:

Sec. 7-73 Substandard Buildings 50+ Years Old. Procedures for Rehabilitation or Demolition of Historically Significant Buildings. Historical Preservation Board.

a. If the substandard building is 50 or more years old at the date of being placarded, the Director or designee, Code Enforcement or Building Inspection shall verify with the Planning Department whether the property is identified as historically significant per the Historic Resources Survey of Tyler, Texas and will also send a letter to the State Historical Preservation Office (SHPO) requesting a determination about whether the property may be of historical significance.

1. If SHPO states the property may be of historical significance, or the property is already designated as a historical landmark, or the property has been otherwise identified by the City as being potentially historically significant, then the Director or designee, Code Enforcement or Building Inspection will coordinate with the Planning Department to set a hearing before the Historical Preservation Board (HPB) pursuant to Section 10-23. The HPB is responsible for establishing guidelines, reviewing requests, and issuing Certificates of Appropriateness for Rehabilitation and Certificates of Demolition for buildings, and sites designated as historical landmarks. (Ord. No. 0-2023-54; 6/28/23)

2. If SHPO states that the property has no historical significance and the property has not been otherwise identified as potentially historically significant by the City, then the Director shall issue either a Notice to Proceed with Voluntary Demolition under the City's Voluntary Demolition Program or a Notice to Proceed with Demolition by Owner. If the owner/lienholder has requested rehabilitation and has timely submitted a Rehabilitation Plan of Action, then the matter shall be set for public hearing before the Neighborhood Revitalization Board (NRB). Notice of the NRB public hearing shall be sent to interested parties no later than ten (10) calendar days prior to the hearing by certified mail, return receipt requested, restricted signature.

b. through f. No changes...

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.

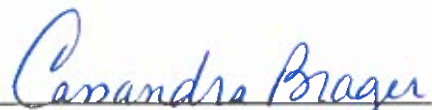
PART4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, 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 Friday, June 30, 2023.

PASSED AND APPROVED this the 28th day of June A.D., 2023.



DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK



APPROVED:



DEBORAH G. PULLUM,
CITY ATTORNEY