

ORDINANCE NO. O-2020-44

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 1, "GENERAL PROVISIONS", ARTICLE III, "BOARDS", BY UPDATING AND CLARIFYING CERTAIN CITY BOARD RESIDENCY REQUIREMENTS TO ENSURE THAT THE CITY COUNCIL MAINTAINS THE DISCRETION TO APPOINT BOTH CITY RESIDENTS AND NON-RESIDENTS TO CITY BOARDS; 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 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, the City Council has adopted certain residency requirements in City Code Chapter 1 for persons to serve on City Boards; and

WHEREAS, it is important to amend City Code Chapter 1 to update and clarify certain City Board residency requirements;

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

PART 1: That Tyler City Code Chapter 1, "General Provisions", Article III., "Boards", is hereby amended by amending Section 1-20 to read as follows:

Sec. 1-20. General Regulations

a. Definitions.

1. Board: A group created by the City Council to serve a particular purpose and with a membership set by the City Council, sometimes referred to as a Commission or Committee.

2. Regular Board: Boards that have regularly scheduled monthly or bi-monthly meetings, including the following:

Airport Advisory Board
Keep Tyler Beautiful Board
One-Half Cent Sales Tax Corp, Inc. Board
Park Board
Planning and Zoning Commission
Traffic Safety Board
Tyler Historical Preservation Board
Tyler Public Library Board

3. Periodic Board: Boards that either meet quarterly, less often, or only "as needed," including the following:

Animal Care Advisory Board
Audit Firm Review Committee
Board of Directors of Tax Increment Reinvestment Zone No. 1 (TIRZ No. 1)
Board of Directors of Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2)
Board of Directors of Tax Increment Reinvestment Zone No. 3 (TIRZ No. 3)
Civil Service Commission
Construction Board of Adjustment & Appeals
Disability Issues Review Board
Industrial Development Corporation of Tyler Board
Main Street Board
Neighborhood Revitalization Board
Reinvestment Zone Committee
Redevelopment Authority Board
Tyler Health Facilities Development Corporation Board
Zoning Board of Adjustment

4. Members: All appointees to a board who have voting authority.
5. Quorum: A majority of a board's members.

b. Eligibility. Members of City Boards should generally be City of Tyler residents. Except as otherwise set forth herein, the City Council retains the discretion to appoint any person that it deems to be qualified to serve on a particular City Board if the appointee is either a City of Tyler resident or is a resident of Smith County, Texas. The majority of the total membership of each City Board shall be City of Tyler residents, while a minority of the total membership may reside outside of the City limits but within Smith County, Texas. All members of the One-Half Cents Sales Tax Corp., Inc. Board and the Planning and Zoning Commission must be City of Tyler residents. Except when otherwise authorized by ordinance, City employees may not serve as members of the City boards established in subsection a. above. (Ord. No. O-2020-44; 4/22/20)

c. Appointment process. The City Manager or designee will develop a board handbook which explains the duties and responsibilities of each board and the appointment process. In June of each year, the City Manager or designee will solicit applications from eligible citizens through the media and other means. Each appointee must certify that the section of this ordinance pertaining to attendance has been read and acknowledge understanding of the duties and responsibilities of the position. Each August these applications and applications from incumbents who wish to be re-appointed will be compiled and submitted to the Council. The City Clerk shall be responsible for the applications' completeness. The City Clerk shall check each nominee's qualifications and include the completed applications in information sent to the City Council. The Council will be provided an attendance report detailing the number of absences of each current member and a status report on vacancies. All applicants will be considered at a City Council meeting in August, and the Council will jointly select the most qualified individuals for the available positions. The appointments should be made by the last Council meeting in August.

d. Orientation. The Board Liaison shall be responsible for ensuring that new members attend an orientation session to overview City government and the functions of the Board.

e. Vacancies. Vacancies occurring on the Board shall be filled for the unexpired term by appointment of the City Council from completed applications.

f. Terms of office; selection of presiding officer; other officers.

1. The terms of office for all boards shall be for two (2) years staggered, and shall expire on the 31st day of August, unless otherwise provided. Members shall continue to serve until a replacement has been appointed and qualified.

2. The presiding officer of each board shall be appointed annually by the City Council from among the ranks of regular members of the board, unless otherwise provided. The Board shall select a vice-presiding officer annually to serve in the presiding officer's absence.

g. Boards may adopt, subject to City Council approval, such rules as the Board considers appropriate.

h. Maximum terms of office. No member of any Board shall be appointed to that same Board as a regular member for more than three (3) complete successive terms or six years, unless otherwise provided. This provision shall apply to all future appointments.

i. One membership. No member shall serve on more than one board at a time, except where the City Council determines otherwise that such dual membership is necessary or desirable.

j. Salary. All members, including ex officio members, shall serve without salary.

k. No financial liability. Neither any Board nor any member thereof shall incur any financial liability in the name of the City without proper authorization.

l. Attendance.

1. Active participation by all appointed members is necessary for proper functioning of boards. Once notice of a City Board meeting has been supplied, it shall be the responsibility of that member to either attend or, prior to the meeting, notify the City department originally providing the notice to the board member of his/her inability to attend.

2. For "Regular Boards" as defined herein, failure to attend at least two-thirds (2/3) of the meetings of the Board for which that person was appointed for any six-month period during which the appointee is a member of the board will be considered a voluntary resignation as shown below:

Regular Board
Required Attendance Chart

If the Board Meets:	Required Attendance
One (1) time within a six month period*	1*
Two (2) times within a six month period	1*
Three (3) times within a six month period	2*
Four (4) times within a six month period	3*
Five (5) times within a six month period	3*
Six (6) times within a six month period	4*

* however, consideration will be given for illness or extenuating circumstances.

3. For "Periodic Boards" failure to attend two (2) meetings within any six month period will be considered a voluntary resignation. However, consideration will be given for illness or extenuating circumstances.

4. If an appointee fails to attend as required herein and thus voluntarily resigns, the City Council shall appoint a person to the unexpired term. The City Manager or designee is designated to develop a program whereby minutes are taken and distributed timely, attendance taken, and appropriate and necessary action taken.


m. Use of position. Appointed members shall not use or refer to their position in writing letters or taking public positions unless approved by a majority of the Board and approved by the City Council.

n. Removal of members. The City Council, by majority vote, may remove any member of a Board from office whenever, in its sole discretion, the best interests of the City shall be served thereby. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2004-33, 5/12/04) (0-2008-108, 8/27/08) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2013-113; 12/11/13) (Ord. No. 0-2017-32; 4/12/17) (Ord. No. 0-2019-61; 7/24/19) (Ord. No. 0-2020-16; 2/12/20) (Ord. No. 0-2020-44; 4/22/20)

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 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 24, 2020.

PASSED AND APPROVED this the 22nd day of April, A.D., 2020.


MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:


CASSANDRA BRAGER, CITY CLERK

The seal of the City of Tyler, Texas, is a circular emblem. It features a central five-pointed star surrounded by a wreath. The words "CITY OF TYLER" are inscribed in a circle around the star, and "TEXAS" is at the bottom. The word "SEAL" is prominently displayed in the center.


DEBORAH G. PULLUM,
CITY ATTORNEY