

ORDINANCE NO. O-2016-44

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 1, "GENERAL PROVISIONS", ARTICLE IV., "ADMINISTRATIVE PROCEDURES", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY CLARIFYING AND UPDATING THE GENERAL CITY ADMINISTRATIVE APPEALS PROCEDURES; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING 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, it is important to update and amend the general Administrative Appeals procedures in City Code Chapter 1, Article IV.;

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 IV., "Administrative Procedures", is hereby amended to read as follows:

ARTICLE IV. ADMINISTRATIVE PROCEDURES

Sec. 1-30. Administrative policies and procedures.

The City Manager shall create and adopt administrative policies and procedures to set out guidelines and steps to be followed in certain circumstances as may be necessary. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2016-44; 5/11/16)

Sec. 1-31. Scope.

The appeal provisions of this Article shall apply to a decision of a City employee concerning:

- a. The granting or denial of any license, permit, or privilege; or
- b. The administration of any City or Departmental policy as such policy may reasonably relate to:
 1. The administration of a City ordinance, a State or Federal law; or
 2. An administrative rule of a State Agency; or
 3. An administrative rule of a Federal Agency or Executive Order.

This Article shall not apply to employer/employee relationship questions, personnel matters, or to employee grievances. Employee grievances shall be resolved in accordance with

civil service law, Civil Service Rules, or non-civil service administrative policies and procedures as may be applicable.

This Article shall not apply to any decision, which by separate ordinance, may be appealed to an administrative review board or to the City Council.

This Article shall not apply to any decision rendered pursuant to the criminal enforcement of any ordinance. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2016-44; 5/11/16)

Sec. 1-32. Standing of person asking for review.

The appeal procedures as set forth in this Article may be evoked only by those persons who:

- a. Have applied for a license, permit or privilege, and
- b. Have sustained, or may reasonably sustain, a direct injury or loss as a result of such decision of a City employee. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2016-44; 5/11/16)

Sec. 1-33. Procedure at Departmental level.

- a. Any person aggrieved by the decision of a City employee may appeal such decision to the appropriate Department Leader or designee.
- b. Such appeal shall be in writing and shall succinctly state the problem or objection of the aggrieved party and the aggrieved party's understanding of the City employee's decision. An appeal stays all proceedings in furtherance of the action that is appealed.
- c. The Department Leader or designee shall render a written decision within twenty (20) business days after receipt of the written appeal. However, if the Department Leader or designee determines that there is not sufficient data upon which to base a decision, further written information may be requested from the aggrieved party, in which case the twenty-business day limit shall run from the date on which the completed information is received. If the aggrieved party is not satisfied with the decision of the Department Leader or designee, the decision may be appealed to the City Manager in accordance with Section 1-34. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2016-44; 5/11/16)

Sec. 1-34. Procedure before City Manager.

- a. Any person aggrieved by the decision of a Department Leader or designee may appeal such decision to the City Manager. Such appeal must be filed with the City Manager within thirty (30) business days after the decision of the Department Leader or designee.
- b. Such appeal shall be in writing and shall succinctly state the problem or objection of the aggrieved party and the aggrieved party's understanding of the decision of

the Department Leader or designee. An appeal stays all proceedings in furtherance of the action that is appealed.

- c. The City Manager (or acting City Manager in absence) shall render a written decision within ten (10) business days after receipt of the written appeal or the latest amended appeal. If, however, the City Manager determines that there is not sufficient data upon which to base a decision, further written information may be requested from the aggrieved party, in which event the ten-business day time limit shall run from the date on which the completed information is received.
- d. The City Manager may refer the controversy to an appropriate City board for recommendation, in which event the time limit of subpart c., above, shall not apply. For purposes of this section, the term "appropriate City board" shall mean one of the specific City Boards established by the City Council in Section 1-20, and having objectives or functions associated with the specific City Department to which the appeal was made. The City board to which the matter is referred shall conduct a public hearing on the matter within sixty (60) business days after the matter is referred to it, and shall provide a recommendation to the City Manager. The City Manager shall render a decision within ten (10) business days after the appropriate City board gives its recommendation. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12)
- e. At the conclusion of the review, the City Manager shall either:
 - 1. Sustain the decision of the Department Leader or designee, or
 - 2. Render an appropriate decision.
- f. The decision of the City Manager regarding an appeal under this Article shall be final. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2016-44; 5/11/16)

Secs. 1-35--1-39. Reserved.

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 May 13, 2016.

PASSED AND APPROVED this 11th day of May, A. D., 2016.



MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:



CASSANDRA BRAGER, CITY CLERK





DEBORAH G. PULLUM,
CITY ATTORNEY