

**ORDINANCE NO. O-2015-67**

**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 REGULATIONS RELATING TO DEVELOPMENT STANDARDS, ENVIRONMENTAL REGULATIONS, DEVELOPMENT APPROVAL PROCEDURES, AND DEFINITIONS; 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**, 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**, Texas Local Government Code Section 212.002 states that after a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and

**WHEREAS**, Texas Local Government Code Section 212.003(a) provides that the governing body of a municipality may by ordinance extend to the extraterritorial jurisdiction of the municipality the application of the municipal ordinance prescribing rules governing plats and subdivisions of land; and

**WHEREAS**, Texas Transportation Code Section 311.001(a) provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; 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**, it is important to amend and update existing sections of the Unified Development Code; and

**WHEREAS**, the appointed UDC Steering Committee reconvened to review and recommend proposed changes to the Unified Development Code; and

**WHEREAS**, major recommended substantive amendments to the Unified Development Code were presented to the Developers Roundtable;

**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 VI., "Development Standards", Division A., "Landscaping and Tree Preservation", is hereby amended by amending Section 10-305 to read as follows:

**Sec. 10-305. Tree Planting Standards and Specifications**

- a. Plant Criteria
  1. No changes...
  2. Trees and shrubs planted in order to satisfy this code must conform to the minimum size specified.
    - (a) All trees must be a minimum two inches in DBH (4.5 feet above grade); a minimum branching height of six feet; and a minimum overall height of eight feet at the time of planting. (Ord. No. 0-2015-67; 6/24/15)
    - (b) No changes...
  3. through 5. No changes...
- b. through g. No changes...

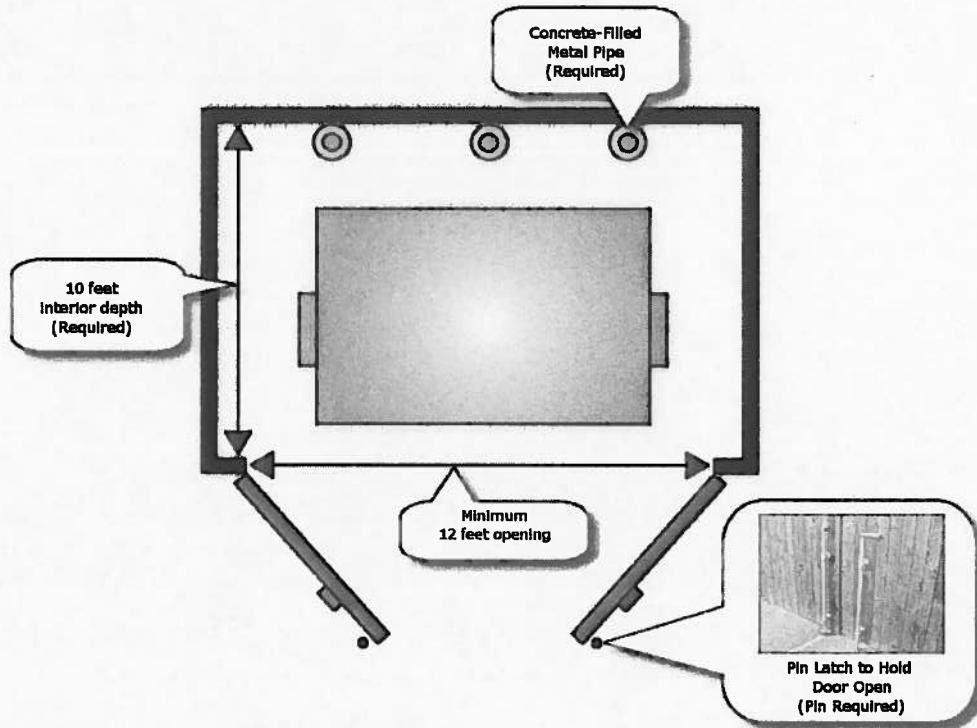
**PART 2:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division D., "Screening", is hereby amended by amending Section 10-340 to read as follows:

**Sec. 10-340. Trash Enclosures**

All Dumpsters and other similar trash containers must meet the following standards for placement on a site, screening, and screening materials:

- a. through g. No changes...
- h. Trash enclosures shall have a minimum depth of 10 feet and must have steel-framed gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. The gates must allow for a minimum 12 feet clear opening (should be increased if multiple refuse containers are required) and provide pin latches to hold gates open. When in use, tie-backs should be used to secure the steel framed gates in the open position.

*Replace current illustration with:*



i. No changes...  
 (Ord. No. 0-2015-67; 6/24/15)

**PART 3:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending the portion of the Table in Section 10-408 related to Directional Signs to read as follows, with no other changes to the Table:

**Sec. 10-408. Sign Standards in Residential Districts**

<b>Directional Signs</b>					
Multi-family developments	1/ entrance	8	6	2	Company logo or insignia limited to two square feet of sign. May be substituted with a wall sign of the same size. (Ord. No. 0-2015-67; 6/24/15)

No other changes...  
 (Ord. No. 0-2011-45, 6/8/11) (Ord. No. 0-2015-67; 6/24/15)

**PART 4:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending the table in Section 10-409 to read as follows:

**Sec. 10-408. Sign Standards in Nonresidential Districts**

<b>DIRECTIONAL SIGNS</b>					
In all nonresidential districts	1 / entrance	8	6	2	Company logo or insignia limited to two square feet of sign. May be substituted with a wall sign of the same size. (Ord. No. 0-2015-67; 6/24/15)

No other changes...

(Ord. No. 0-2010-20, 3/10/10) (Ord. No. 0-2010-119; 11/10/10) (Ord. No. 0-2012-83, 10/10/12)  
Ord. No. 0-2013-41; 5/22/13) (Ord. No. 0-2015-67; 6/24/15)

**PART 5:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division J., "Outdoor Lighting", is hereby amended by amending Section 10-440 to read as follows:

**Sec. 10-440. General Requirements**

All lighting fixtures designed or placed so as to illuminate any portion of a site must meet the following requirements:

- a. No changes...
- b. Light Source (lamp)

Only incandescent, fluorescent, color-corrected high-pressure sodium, light-emitting diode (LED) or metal halide may be used. The same type must be used for the same or similar types of lighting on any one site throughout any master-planned development. (Ord. No. 0-2015-67; 6/24/15)

- c. through d. No changes...

**PART 6:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VII., "Environmental Regulations", Division G., "Floodplain Regulations", is hereby amended by re-numbering existing Sections, adopting new wording, and by amending all Sections to read as follows:

**Sec. 10-550. Statutory Authorization**

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of City of Tyler, Texas does ordain as follows:

**Sec. 10-551. Findings of Fact**

a. The flood hazard areas of the city are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

b. These flood losses are created by cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed, or otherwise protected from flood damage. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-552. Statement of Purpose**

It is the purpose of this Division to promote the public health, safety, and welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a. Protect human life and health;
- b. Minimize expenditure of public money for costly flood-control projects;
- c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
- d. Minimize prolonged business interruptions;
- e. Minimize negative impact to public streets, storm sewer systems and drainage ways;
- f. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- g. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas so as to minimize future flood blight areas; and
- h. Insure that information is available to potential buyers concerning property in a designated flood area. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-553. Methods of Reducing Flood Losses**

In order to accomplish its purposes, this Division uses the following methods:

- a. Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities;
- b. Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Controls the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- d. Controls filling, grading, dredging and other development which may increase flood damage;
- e. Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-554. Definitions**

For purposes of this Division, the following definitions shall apply. Unless specifically defined below, words or phrases used in this Division shall be interpreted to give them the meaning they have in common usage and to give this Division its most reasonable application.

**Alluvial Fan Flooding** - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**Appurtenant Structure** – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

**Area Of Future Conditions Flood Hazard** – means the land area that could be inundated by the one percent-annual chance (100 year) flood based on future conditions hydrology.

**Area Of Shallow Flooding** - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area Of Special Flood Hazard** - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHB). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

**Base Flood** - means the flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** – The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year - also called the Base Flood.

**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway Wall** – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Critical Feature** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Development** - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Elevated Building** – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Elevation Certificate** – means a form provided by the Federal Emergency Management Agency for certification of flood damage prevention measures.

**Existing Construction** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**Existing Manufactured Home Park Or Subdivision** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion To An Existing Manufactured Home Park Or Subdivision** - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood Or Flooding** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Elevation Study** – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** – see Flood Elevation Study

**Floodplain** – means an area of land subject to inundation by a 100-year frequency flood, as shown on the flood plain map of the city.

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Flood-Prone Area** - Any land area susceptible to being inundated by water from any source (see definition of flooding).

**Flood Protection System** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify

flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Flood Proofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway** – see Regulatory Floodway

**Floodway Easement** – means an easement within the flood plain as defined herein which includes a channel, plus any adjacent flood plain area that must be kept free of encroachment and obstruction in order that the one hundred year frequency flood may be conveyed without increasing the flood elevation at any point on the channel by more than one foot. For streams analyzed in detail in the Federal Flood Insurance Study, its floodways and subsequent letters of map amendment will be the criteria.

**Floodway Fringe** – means the portion of the area of special flood hazard not occupied by the floodway.

**Functionally Dependent Use** - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Highest Adjacent Grade** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** - means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

**Levee** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations, or successor.

**Manufactured Home** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park Or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**New Construction** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park Or Subdivision** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Recreational Vehicle** - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Riverine** – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** – see Area of Special Flood Hazard

**Start Of Construction** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348) or successor, includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Substantial Damage** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by any local official with enforcement authority and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Variance** – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations, or successor.)

**Violation** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5), or successor, is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation** - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-555. Lands to Which this Division Applies**

This Division shall apply to all areas of special flood hazard within the jurisdiction of the City of Tyler, Texas. (Ord. No. 0-2008-130, 9/24/08) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-556. Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazard identified by the Federal Emergency Management Agency, in a scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Smith County, Texas and Incorporated Areas", dated April 16, 2014, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRMs and FBFMs) and any revisions thereto, are hereby adopted by reference and declared to be part of this Division. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2008-48; 4/23/08) (Ord. No. 0-2008-130; 9/24/08) (Ord. No. 0-2014-8; 1/22/14) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-557. Establishment of Floodplain Development Permit**

A Floodplain Development Permit is required to ensure conformance with the provisions of this Division. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-558. Compliance**

No structure or land may be located, altered or have its use changed or earth changes made without full compliance with this Division and other applicable regulations. Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-559. Abrogation and Greater Restrictions**

This Division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Division and another ordinance conflict or overlap, the more stringent restriction shall prevail. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-560. Interpretations**

In the interpretation and application of this ordinance Division, all provisions shall be considered as minimum requirements; construed in favor of the City; and deemed neither to limit nor repeal any other powers granted under State statute. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-561. Warning and Disclaimer of Liability**

The degree of flood protection required by this Division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On occasions, greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This Division does not imply that land outside the areas of special hazards or uses permitted within such areas will be free from flooding or flood damages. This Division shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on this Division or any administrative decision lawfully made hereunder. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2008-48; 4/23/08) (Ord. No. 0-2008-130; 9/24/08) (Ord. No. 0-2015-67; 6/24/15)

## **Sec. 10-562. Designation of Floodplain Administrator**

The Development Services Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Division and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations), or successor regulations, pertaining to floodplain management. (Ord. No. 0-98-91, 11/18/98; Ord. 0-2006-98, 11/21/06) (Ord. No. 0-2008-48; 4/23/08) (Ord. No. 0-2008-130; 9/24/08) (Ord. No. 0-2015-67; 6/24/15)

## **Sec. 10-563. Duties and Responsibilities of Floodplain Administrator**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- a.** Maintain and hold open for public inspection all records pertaining to this Division.
- b.** Review permit applications to determine whether to ensure that the proposed building sites project, including the placement of manufactured homes, will be reasonably safe from flooding.
- c.** Review, approve or deny all applications for development permits required by adoption of this Division.
- d.** Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344), or successor statutes, from which prior approval is required.
- e.** Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation based on information supplied by applicant.
- f.** Notify, in riverine situations, adjacent communities and the state coordinating agency, currently the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ) or successor, prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
- g.** Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- h.** When base flood elevation data have not been provided in accordance with Sec. 10-556 the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source in order to administer the provisions of Secs. 10-566 through 10-572.
- i.** When regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other

existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

- j. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Program regulations or successor, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12 or successor. (Ord. No. 0-98-91, 11/18/98; 0-2006-98, 11/21/06) (Ord. No. 0-2008-48; 4/23/08) (Ord. No. 0-2008-130; 9/24/08) (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-564. Permit Procedures**

a. Application for a development permit shall be presented to the Floodplain Administrator on City forms and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation, in relation to mean sea level, to which any nonresidential structures shall be flood proofed;

3. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Sec. 10-567.b.

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

5. Maintain a record of all such information in accordance with Sec.10-563.a.

b. Approval or denial of a Floodplain development permit by the Floodplain Administrator shall be based on this Division and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location where applicable;

9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

10. The relationship of the proposed use to the comprehensive plan for that area.  
(Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

### **Sec. 10-565. Variance Procedures**

- a.** The Construction Board of Adjustment and Appeals (the Board) shall hear and render judgment of requests for variances from the requirements of this division.
- b.** The board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this Division.
- c.** Any person(s) aggrieved by the decision of the Board may appeal such decision to a court of competent jurisdiction.
- d.** The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- e.** Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Division.
- f.** Variances may be issued for new construction and substantial improvements to be erected on a lot on one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Sec. 10-564.b. have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- g.** Upon consideration of the factors noted above and the intent of this Division, the board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance as set forth in Sec. 10-552.
- h.** Variances may not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- i.** Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. Also, any repair or rehabilitation to a structure that has been designated as a Tyler Historic Landmark must comply with any applicable Certificate of Appropriateness or other applicable requirements in the historic preservation regulations in Article XI. of this Code.
- j.** Prerequisites for granting variances:
  1. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances may only be issued upon (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**k.** Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

1. the criteria outlined in Sec. 10-565.a. through k. are met; and
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-566. General Standards for Flood Hazard Reduction**

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- a.** All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b.** All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- c.** All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- d.** All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding;
- e.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- f.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- g.** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. No. 0-98-91, 11/18/98)

## **Sec. 10-567. Specific Standards for Flood Hazard Reduction**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in sections 10-556, 10-563.h., and 10-566 the following are required:

### **a. Residential construction**

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one foot above the base flood elevation. A registered professional engineer or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection is satisfied and that the standard of this subsection as proposed in Sec. 10-564.a. is satisfied.

### **b. Nonresidential construction**

New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are flood proofed, shall be maintained by the floodplain administrator.

### **c. Enclosures**

New construction and substantial improvements with fully enclosed areas below the floor that are subject to flooding shall be designed to equalize automatically the hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided.
2. The bottoms of all openings shall be no higher than one foot above grade.
3. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit automatic entry and exit of floodwaters.

### **d. Manufactured homes**

1. All manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This

requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

2. Require that manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the City's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the City's FIRM that are not subject to paragraph d.1. and d.2. of this section be elevated so that either:
  - a) the lowest floor of the manufactured home is at or above the base flood elevation; or
  - b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

**e. Recreational Vehicles**

1. Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
  - (a) be on the site for fewer than 180 consecutive days,
  - (b) be fully licensed and ready for highway use, or
  - (c) meet the permit requirements of Section 10-564.a. and the elevation and anchoring requirements for "manufactured homes" in subsection (d) of this section.
2. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

**Sec. 10-568. Standards for Subdivision Proposals**

- a. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Secs. 10-551, 10-552, and 10-553 of this Division.
- b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain

Development Permit requirements of Secs. 10-557, 10-564, and 10-566 through 10-573 of this Division.

- c. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 30 lots or three acres, whichever is lesser, if not otherwise provided pursuant to Secs. 10-556 or 10-563.h. of this Division.
- d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewers, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. No. 0-98-91, 11/18/98)

#### **Sec. 10-569. Floodways**

Floodways located within areas of special flood hazard established in Sec. 10-556 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following shall apply:

- a. Encroachments are prohibited, including fill, new construction, substantial improvements, and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. If paragraph a. above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Secs. 10-566 through 10-569. (Ord. No. 0-98-91, 11/18/98)
- c. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, or successors, the City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the City first completes all of the provisions required by Section 65.12 or successor. (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-570. City's Participation in Flood Control**

- a. The City's participation in controlling flooding and erosion within creeks and drainage courses is hereby established as follows:
  1. Creek clearing and cleaning: If the City deems a project practical, economical and in the best interest, the City shall provide the equipment and labor for clearing, dredging and hauling materials such as brush, trees and other rubbish and debris from the creek bottom. This will be done at no expense to the property owners.

2. Drainage improvement project initiations:

- (a) The City, upon petition of a majority of the involved property owners and approval of the project, may survey, design, and provide for construction of improvements to the drainage course in accordance with established City criteria.
- (b) A work order for construction of improvements may be issued after completion of arrangements for the financing of this project.
- (c) Upon agreement by 100 percent of the involved property owners, completion of the following shall be considered adequate: Execution of mechanic's lien contracts by all participants to secure payment of the property owners' share or payment in advance of the property owners' entire share.
- (d) Upon agreement of less than 100 percent of the property owners, the City Council may, if it deems the project in the public interest, proceed to convene a public hearing and establish assessments in accordance with state law against the property improved by the project.

**b. Cost Distribution**

- 1. Contract jobs. A portion of the costs of said improvements will be assessed to abutting property owners on the following basis:
  - (a) When the creek is on common lot line:
    - (1) Property owners shall be responsible for payment of a maximum one-third of the cost of improvements abutting the property.
    - (2) The City shall be responsible for the cost of the balance of the contract.
  - (b) When the creek lies across single property:
    - (1) If the City determines that said improvements would allow subdivision of the property into two or more lots, each capable of separate development, the property owners shall be responsible for payment of a maximum of two-thirds of the cost of improvements.
    - (2) If the City determines that the improvements serve only to join inaccessible portions to the remainder of the lot, the property owner shall be responsible for a maximum of one-half of the cost of improvements.
- 2. Project in which work is done by City crews. The following are examples of methods of allocating participation in drainage improvements which are constructed in whole or in part by City crews. The following list illustrates common means of sharing participation which result in cost distributions very near that expressed in the policy for contract jobs in subsection b.1(b)(1) above. It is not intended to preclude other types of participation where special conditions warrant. The City Council will determine on a case-by-case basis whether such allocations of cost or effort are appropriate:
  - (a) The City provides equipment and labor, while the property owner pays for the concrete necessary to cover the bottom of an improved creek channel.

- (b) The property owner pays for and constructs the sidewalls of the channel, while the City provides labor, equipment and pays for materials to be placed in the bottom of the channel.
- (c) The City provides equipment and labor for the installation of pipe. The cost of the pipe is charged back to the adjacent property owners.

3. If the property owner wishes to participate in a project in which costs are allocated in accordance with subsection b. 1(b)(2) above, the following apply:

- (a) The property owner shall make written request to the City engineer for a study prior to securing materials.
- (b) Upon approval of the project, the property owner will be notified as to scheduling of work.
- (c) Material furnished must be approved by the City Engineer, delivered to the job site, and the City notified of such delivery before the date agreed upon for beginning work. In the event of any delay in the receipt of materials, the City must be notified so that the project may be rescheduled. Failure to supply materials properly or notify the City may result in the project being bypassed or deleted altogether.

4. Unless other financial arrangements are approved by the City Council, the property owners' pro rata cost for improvements may be payable to the City in five successive annual payments, the first being due upon notice by the City of acceptance of the work.

5. A time differential charge of eight percent annual interest on the unpaid balance shall be added to any installment contract pursuant to this Division.

**c. Easements**

No work of any nature shall be performed until written drainage easements, approved by the Legal Department, are granted to the City. When easements are provided at no cost, that contribution may offset the assessments described above.

**d. Materials and Workmanship**

All work shall be in accordance with City plans and specifications.

**e. Limitations**

1. It is the intent of this policy to provide relief from flooding, erosion and health hazards beyond the scope of normal homeowner maintenance to developed residential properties.
2. Nothing in this policy shall be construed as authorizing City participation in the development of private property for resale or the improvement of commercial property.
3. The City reserves the right to refuse to participate in any project deemed to be impractical, uneconomical, or otherwise not in the City's best interest.

4. The City reserves the right to establish priorities for rescheduling work to be done. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-571 Severability**

If any section, clause, sentence, or phrase of this Division is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Division. (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-572 Penalties for Non Compliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Division and other applicable regulations. Any violation of the provisions of this Division or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) is unlawful and shall the subject the violator to a penalty as set forth in Section 1-4. Nothing herein contained shall prevent the City of Tyler from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 0-2015-67; 6/24/15)

#### **Sec. 10-573 - 579. Reserved.**

**PART 7:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VIII., "Development Approval Standards", Division D., "Subdivisions", is hereby amended by amending Section 10-630 to read as follows:

#### **Sec. 10-630 General**

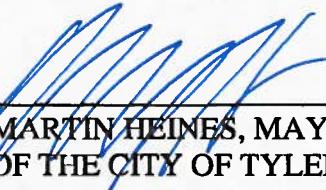
- a. thru e. No changes...
- f. Statutory Compliance Procedure

The Planning Director must place a complete application on the agenda of a Planning and Zoning Commission meeting that is scheduled within 30 days following the official submission date. An applicant may submit a Waiver of Right to 30-day Action which must be submitted in writing no less than ten days before the scheduled Planning and Zoning Commission meeting. The Commission must approve or disapprove the application at the meeting. If the Commission fails to approve or disapprove an application within 30 days of the official submission date and the applicant has not submitted a Waiver of Right to 30-day Action, the application must be deemed approved in accordance with Section 212.009 of the Texas Local Government Code or successor. Unless the Commission unconditionally disapproves the plat application within such period, the City will continue to process the application for compliance with these regulations. The Commission must consider the application within 30 days absent a Waiver of Right submitted by the applicant. (Ord. No. 0-2015-67; 6/24/15)

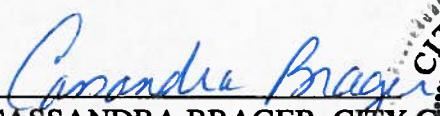
**PART 8:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PART 9:** 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 26, 2015.

**PASSED AND APPROVED** this the 24<sup>th</sup> day of June, A.D., 2015.

  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK  
  
DEBORAH G. PULLUM,  
CITY ATTORNEY

APPROVED:



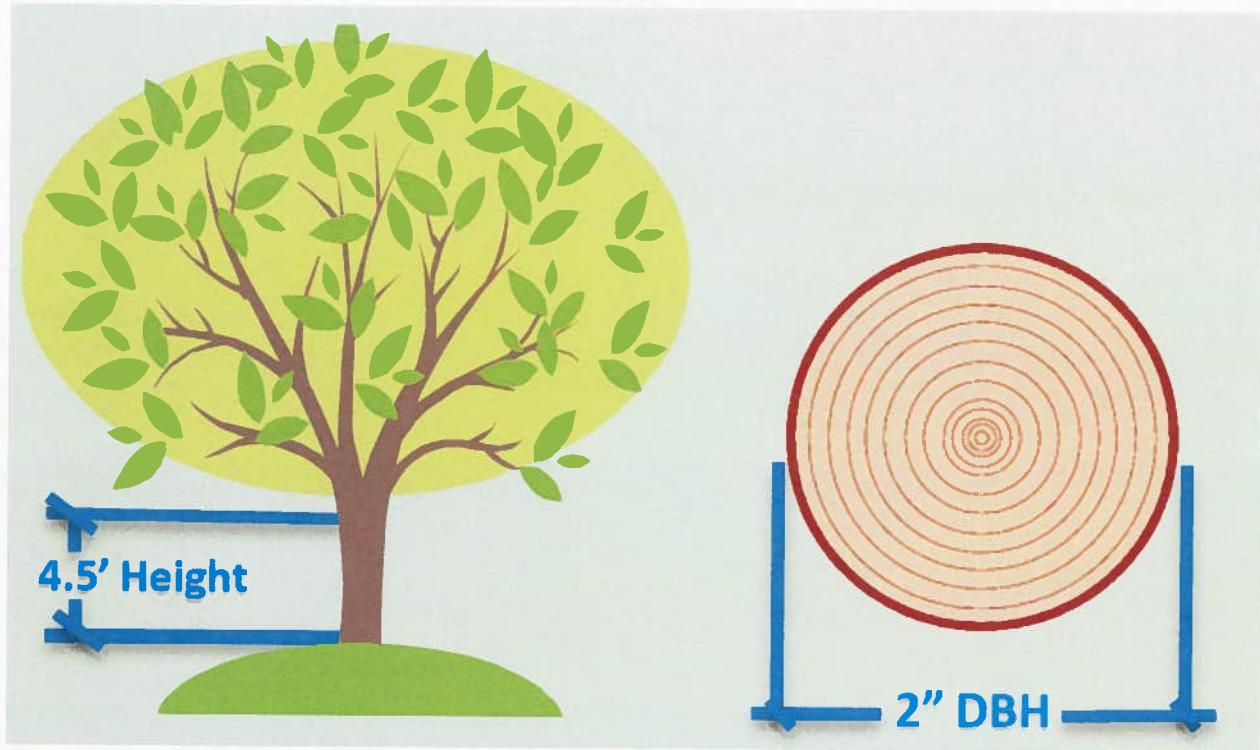
**ORDINANCE NO. O-2015-67  
EXHIBIT "A"  
UPDATE MATRIX AND GRAPHICS  
1 of 3**

SUBSTANTIVE AMENDMENTS					
Section	Item Changed	How Changed	New	Whose Suggestion	Potential Effect
<b>Article I Introductory Provisions</b>					
		Article II Zoning Districts			
		Article III Use Regulations			
<b>Article IV Subdivision Design and Improvements</b>					
		Article V Streets and Thoroughfares			
<b>Article VI Development Standards</b>					
10-409	Freestanding Signs	Directional signs restricted from displaying logos or any commercial message.	Allow directional signs to include up to two squares feet of commercial logo/insignia.	City Staff	Flexibility in sign standards
			Article VII Environmental Regulations		
			Article VIII Development Approval Procedures		
10-630	Subdivision Statutory Compliance Procedure	30 day review requirement per LGC	Ability for applicant to submit waiver to 30 day action requirement	City Staff	Provide applicants ability to waive plat action to prevent need to resubmit and prevent the need to deny at P&Z Commission.
			Article IX Permits and Fees		
			Article X Administration and Enforcement		
			Article XI Historic Preservation		
			Article XII Annexation		
			Article XIII Definitions		

**ORDINANCE NO. O-2015-67**  
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Section		Item Changed	Planning and Zoning Commission recommendations highlighted in yellow		Whose Suggestion	Potential Effect
			Old	New		
<b>CLARIFICATION AMENDMENTS</b>						
		Article I Introductory Provisions				
		Article II Zoning Districts				
		Article III Use Regulations				
		Article IV Subdivision Design and Improvements				
		Article V Streets and Thoroughfares				
		Article VI Development Standards				
10-305	Tree Planting Standards and Specifications	a. 2(a) Canopy trees must be a minimum two inches in DBH ( <b>4.5 feet above grade</b> ); a minimum branching height of six feet; and a minimum overall height of eight feet at the time of planting.			City Staff	Clarify tree size requirements
10-340	Trash Enclosures	Trash enclosures shall have a minimum depth of 10 feet and must have steel-framed gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. The gates must allow for a minimum 10 feet clear opening ... b. Light Source (lamp)	Trash enclosures shall have a minimum depth of 10 feet and must have steel-framed gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. The gates must allow for a minimum <b>12</b> feet clear opening... Only incandescent, fluorescent, color-corrected high-pressure sodium, or metal halide may be used. The same type must be used for the same or similar types of lighting on any one site throughout any master-planned development.		City Staff	Consistency with trash truck capabilities
10-440	Outdoor Lighting				Development Community	Account for new technology
Division G	Floodplain Regulations	Various		Consistency with FEMA model ordinance	City Staff	Consistency with FEMA model ordinance
			Article VIII Development Approval Procedures			
			Article IX Permits and Fees			
			Article X Administration and Enforcement			
			Article XI Historic Preservation			
			Article XII Annexation			
			Article XIII Definitions			

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Graphic showing where the DBH measurement is taken on a tree.