

ORDINANCE NO. O-2014-8

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 ZONING DISTRICTS, ENVIRONMENTAL REGULATIONS, ADMINISTRATION AND ENFORCEMENT, HISTORICAL PRESERVATION BOARD MEMBERSHIP, FEES 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 II., "Zoning Districts", Division B., "Commercial and Mixed Use Districts", is hereby amended by amending Table 10-27 in Section 10-27 to read as follows:

Sec. 10-27. Dimensional Standards

All development in commercial and office districts must comply with the standards in Table 10-27.

Table 10-27 Dimensional Standards for Commercial and Industrial Districts

Commercial and Industrial Districts	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	M-1	M-2
Minimum lot area (square feet)	7,000	14,000	2,500	5 acres cd	5 acres cd	a	15,000	15,000
Minimum frontage (feet) to legal access	70	80	25	a	a	a	80	80
Minimum building sep. (same lot)	15	15	0	a	a	a	15	15
Maximum height (feet)	42	45		55	165	g e	45'+ 1' addl 1' setback	45'+ 1' addl 1' setback
Minimum height or story	1	1	25 ft	25 ft	25 ft	a	na	na
Maximum height (stories)	2.5		20	5	15	a	na	na
Minimum setbacks								
Front yard setback	10	10	0	a	a	a	10	10
Rear yard setback	10 b	10 b	0 b	a b	a b	a b	25 b	25 b
Adjacent to R district (rear)	25 b	25 b	0 b	a b	a b	a b	25 b	25 b
Adjacent to R district (side)	10 b	10 b	b	b	b	b	25 b	25 b
Side yard setback, interior	0 b	0 b	0 b	a b	a b	a b	0 b	0 b
Side yard setback, corner	15	15	0	a	a	a	15	15
Maximum lot coverage (%)	60	60	f	a	a	a	50	60

a. Determined by the developer and subject to approval by the planning and zoning commission and city council as part of the site development plan.

- b. See Article VI, Division B for bufferyard requirements which are part of the setback.
- c. Recommended; total development area for a PMXD-1 or PMXD-2 may be fewer than 5 acres subject to approval by the planning and zoning commission and city council as part of the site development plan.
- d. Exceptions to the 5-acre minimum: 1) projects smaller than five acres that are considered to be a phase or extension of an existing mixed use development and 2) single buildings or a building complex in which a mix of two or more land uses is proposed (e.g., condominiums and retail stores). (Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2011-45; 6/8/11)
- e. Maximum height is 45 feet plus 1 foot additional for each additional foot beyond a 10 feet setback when abutting a non-residential district and a 25 feet setback when abutting a residential district.
- f. 100% building coverage is allowed, however, all parking lots must reserve 15% of the total parking area for landscaping. See Section 10-295 for landscape area requirements. (Ord. No. 0-2012-38; 4/25/12) (Ord. No. 0-2014-8; 1/22/14)

PART 2: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VII., "Environmental Regulations", Division G., "Floodplain Regulations", is hereby amended by amending Section 10-553 to read as follows:

Sec. 10-553. 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 ordinance. (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)

PART 3: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article X., "Administration and Enforcement", Division A., "Review and Approval Bodies", is hereby amended by amending Section 10-772 to read as follows:

Sec. 10-772. Tyler Historical Preservation Board

a. Establishment, Membership, and Vacancies

1. Regular, voting board members. There is hereby created in and for the City a board to be known as the "Tyler Historical Preservation Board," which shall be composed of nine (9) regular voting members who shall serve without compensation and who shall be appointed by the City Council. Regular members shall serve for terms as set forth in Section 1-20. Regular Board membership appointed by the City Council shall include 1) an architect, planner, or design professional; 2) a historian, archeologist, or related profession; 3) a real estate professional; 4) an attorney; and 5) an owner of historic landmark or property in historic district. Such regular membership requirements may also be met if a Board member falls into more than one of the listed classifications. All regular voting members shall have a demonstrated interest, competence or knowledge in historic preservation within the City.

2. Non-voting members. In addition to the nine (9) regular voting Board members, the City Council shall also appoint up to a maximum of three (3) representatives, which shall include one representative from Historic Tyler, Inc., one representative from Heart of Tyler, and one representative from another local organization with a demonstrated interest in historic preservation to serve as non-voting members of the Board. Said non-voting members shall serve in an advisory capacity only to the regular Board, and shall serve for terms as set forth in Section 1-20. All non-voting members appointed pursuant to this Section shall be unpaid, and shall have a demonstrated interest, competence or knowledge in historic preservation within the City. (Ord. No. 0-2014-8; 1/22/14)

b. No changes...

c. No changes...

PART 4: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article X., "Administration and Enforcement", Division B., "Fees", is hereby amended by amending Section 10-776 to read as follows:

Sec. 10-776. Fees

Application, Permit, Test, or Deposit	Fee
Annexation (Voluntary)	\$420.00 [a] [b] + [c]
Billboard Annual Registration	\$200.00 per billboard initially and annually thereafter
Historic Landmark Markers (Landmark and Subject)	\$300.00 Markers
Master Sign Plan	\$80.00
Plats	
Minor Plat (four lots or less with no street or utility extensions)	\$200.00 + \$5 per lot + [c]
Major Plat	\$300.00 + \$5 per lot + [c]
Preliminary Plat (Residential or Commercial)	\$300 + \$5 per lot
Vacation (Plat Vacation or Vacating Plat)	\$100.00 + [c]
Pre Plat Agreement	\$200.00
Quality Control Testing (Ord. 0-2006-79, 9/13/2006)	1% (inside City limits) 3% (outside City limits)
Right-of-way Closure	\$350.00 [a]
Sexually Oriented Business License	\$600.00 Initially and annually thereafter
Street Name Change	\$200.00 [a]
Special Use Permit	\$370.00 [a] [b]
Temporary Sign Permit	\$10.00
Temporary Use Permit	\$35.00
Outdoor Transient Vendor Permit	\$150.00 [d]
Variance	\$300.00 [a] + [c]
Zoning Change / Beer and Wine Site Inspection Verification /	\$500.00 [a] [b]

Zoning Site Inspection Verification	
Zoning Change Planned Development	\$930.00 [a] [b]
Zoning Site Plan Amendment (Non-administrative)	\$930.00 [a] [b]
Zoning Site Plan Amendment (Administrative)	\$80.00
Zoning Verification Letter Request	\$25.00

Notes:

- a. Includes mandatory \$30 publication and \$20 mailed notification required for owners whose property is within 200 feet of the proposed action.
- b. Includes \$20 Zoning Sign Deposit (refundable upon sign's return)
- c. Includes the City fee only. An additional recording fee in the amount published by the Smith County Clerk must also be paid.
- d. The Outdoor Transient Vendor permit fee shall not be required for a Non-Profit.

Non Profit – An organization or entity formed for the purpose of serving a purpose of public or mutual benefit other than the pursuit or accumulation of profits, i.e., 501(c)(3)s, schools, religious organizations, governmental organizations. Proof of nonprofit status is required. All other entities/individuals will be charged the regular rate. (Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2009-88; 8/26/09) (Ord. No. 0-2010-99; 9/22/10) (Ord. No. 0-2012-69, 9/12/12) (Ord. No. 0-2012-83; 10/12/12) (Ord. No. 0-2012-91; 11/13/12) (Ord. No. 0-2013-16; 2/27/13) (Ord. No. 0-2014-8; 1/22/14)

PART 5: That Tyler City Code Chapter 10, “Tyler Unified Development Code”, Article XIII., “Definitions”, Division A., “Definitions”, is hereby amended by amending the following definitions in the appropriate alphabetical order to read as follows:

Billboard

An off-premise sign used to direct attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. Billboard face includes the part of the sign that contains the advertising or information contents and all of the interrelated parts and materials, such as beams, poles, braces, apron, catwalk, and stringers, that are used, designed to be used, or intended to be used to support or display a sign face. (Ord. No. 0-2014-8; 1/22/14)

PART 6: 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 7: 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 January 24, 2014.

PASSED AND APPROVED this 22nd day of January, A. D., 2014.

Barbara Bass

BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

Cassandra Brager
CASSANDRA BRAGER, CITY CLERK

APPROVED:

Deborah G. Pullum
DEBORAH G. PULLUM,
CITY ATTORNEY

