

ORDINANCE NO. O-2013-41

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 USE REGULATIONS, STREETS AND THOROUGHFARES, DEVELOPMENT STANDARDS, SIGNS, DEVELOPMENT APPROVAL PROCEDURES, ADMINISTRATION AND ENFORCEMENT, BILLBOARD AND SIGN REGULATIONS, 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 V., "Streets and Thoroughfares", Division A., "Master Street Plan", is hereby amended by amending Section 10-154 to read as follows:

Sec. 10-154. Street Dedications and Reservations

- a. Dedication of Right-of-Way No changes...
- b. Perimeter Streets No changes...
- c. Slope Easements No changes...
- d. Release of Reserved Right-of-Way

Right-of-way dedications from Master Street Plans that are no longer included in the current Master Street Plan are released from dedication. (Ord. No. 0-2013-41; 5/22/13)

PART 2: 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 following portions of the Table in Section 10-409 to read as follows, with no other changes:

Sec. 10-409. Sign Standards in Nonresidential Districts

Sign Type district/use	Max. Number	Max. Area (sq. ft.)	Max. Height (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements
PERMANENT SIGNS					
Wall Sign / Façade Sign				Projection	
RPO district	1 / business or tenant	16		1	Max. aggregate gross sign area: 48 sq. ft.; when total floor area exceeds 7,500 sq. ft., 1 additional 32 sq. ft. business directory sign is allowed.
All uses in PCD, PMXD-1, and PMXD-2 districts	1 / 500' of frontage or fraction thereof	100		1.5	Base zone standards apply; can be modified w/ approved Site Development Plan. In no case shall a sign be allowed to exceed the sign standards for C-2.
C-1 district					
100-1999 sq. ft. in façade area	1 / façade	100		1.5	

Sign Type district/use	Max. Number	Max. Area (sq. ft.)	Max. Height (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements								
2000+ sq. ft. in façade area	1 / façade	9% of façade		1.5	Additional 3% of façade area may be used for ancillary signs.								
INT, OSP, C-2, DBAC, and M-1 and M-2 districts	1 / facade												
100-1999 sq. ft. in façade area	1/ facade	100	na	1.5	Min. clearance 8 ft. above first floor ground level.								
2000+ sq. ft. in façade area	1/ facade	9% of façade	na	1.5	Additional 3% of façade area may be used for ancillary signs.								
On lower two floors of multi-story building	1/tenant	100	4		Tenant must have a direct, outside entrance or storefront. No letter, insignia, or symbol may exceed 48" in height.								
On upper floor of façade	1/facade	9% of façade above the first floor	4		Shall announce the name of the building or the name of the principal tenant. No letter, insignia, or symbol may exceed 48" in height. See Sec. 10-410.								
Awning Signs In all commercial, institutional, office, and manufacturing districts	1/ frontage		6	Max 4 ft. projection from wall	See Sec.10-414								
Projecting Signs (includes blade signs) INT, C-1, C-2, PCD, M-1, and M- 2 districts	1/ tenant	24	4	See chart	<table><tr><th>Vertical Clearance</th><th>Max Projection</th></tr><tr><td><7 ft.</td><td>3"</td></tr><tr><td>7-8 ft.</td><td>12"</td></tr><tr><td>>8 ft.</td><td>4'</td></tr></table>	Vertical Clearance	Max Projection	<7 ft.	3"	7-8 ft.	12"	>8 ft.	4'
Vertical Clearance	Max Projection												
<7 ft.	3"												
7-8 ft.	12"												
>8 ft.	4'												
Projecting Signs (includes blade signs) In PMXD-1, PMXD-2, and DBAC districts	1/ frontage	48	15	See chart									
Electronic message center (EMC) on marquee, DBAC	1/ marquee face	40	n/a	n/a	Requires Special Use Permit; DBAC properties within the downtown planning area defined in the Comprehensive Plan See Sec. 10-415 (<i>Ord. No. 0-2013- 41; 5/22/13</i>)								
Freestanding Signs				Setback									
Group living	1/ frontage	32	8	5	May be substituted with façade sign of same size or combination thereof.								
Bed and breakfast	1/ frontage	24	8	5	May be substituted with façade sign of same size or combination thereof.								
All other uses in RPO district	1/ frontage	32	25	5									
All uses in PCD, PMXD-1, and PMXD-2 districts	1/ frontage	200	35	5	Consistent with approved base zoning and Site Development Plan								
Development signs, C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 districts	1 / thoroughfare with direct access	300	35	5	Applies to developments of 10 to 50 acres								
Major Development signs, C-1, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 districts	1 / thoroughfare with direct access	500	50	5	Applies to developments of 50 acres or more								

Sign Type district/use	Max. Number	Max. Area (sq. ft.)	Max. Height (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements
Drive-thru menu board sign, C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 district	1 / drive-thru line per business	32	6	8	Must be spaced at least 10' from any other menu board sign
Electronic message center (EMC), C-1 district	1 / lot	32	8	5	Additional allowance based on established thoroughfare speed See Sec.10-415 (<i>Ord. No. 0-2013-41; 5/22/13</i>);
Electronic message center (EMC), C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 district	1/ lot	64	8	5	See Sec.10-415
Electronic message center (EMC), institutional uses and INT district	1 / lot	24	8	5	Additional allowance based on established thoroughfare speed See Sec. 10-415 (<i>Ord. No. 0-2013-41; 5/22/13</i>); For included uses see Sec. 10-33 (<i>Ord 0-2009-100, 9/23/09</i>)
All other uses in INT, OSP, C-1, C-2, DBAC, M-1, and M-2 district	1/ frontage	100	35	5	Additional signage for multiple tenants: 2 sq. ft. per 10 ft. of frontage, up to 200 sq. ft. when district allows building height >35ft., sign may be affixed at allowed building height. 1 reader board sign allowed per lot, up to 32 sq. ft.
MONUMENT SIGNS					
INT, OSP, C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 districts	1/ frontage	100	10	2	
DIRECTIONAL SIGNS					
In all nonresidential districts	1 / entrance	8	6	2	Directional signs may not display a company logo or any commercial message. May be substituted with a wall sign of the same size.
FLAGS					
In all nonresidential districts	3	24	35	5	See Sec. 10-411
TEMPORARY SIGNS					
On-premise commercial advertising in, RPO, C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, M-2	1	50	6		See Sec.10-416 One temporary sign is allowed per lot, per street frontage. If the lot has more than 500 feet of frontage, one temporary sign per 500 feet of frontage may be displayed on the same lot.
Commercial Banners - Pole-mounted banners (displayed vertically) in C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2	Set of 10 = 1 Banner	8	4	2	Pole-mounted banners must be placed interior to the lot See Sec.10-416
Decorative noncommercial banners		50	6		Planning director to determine number See Sec. 10-416

Sign Type district/use	Max. Number	Max. Area (sq. ft.)	Max. Height (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements
In all districts					
Construction sign	1 / frontage	64	25	5	Displayed only during construction phase
Development sign	1 / 30 acres	100	25	5	Removed upon completion of project
Real estate sign for multi-family and nonresidential Districts	1 / frontage	32	10	2	Developments of 10 acres or more are allowed one 64 SF sign per 500 ft. of frontage. Signs may not exceed 15 ft. in height.
Sandwich board signs in DBAC	1	8	6		
BILLBOARDS					
In M-1, M-2 districts and ETJ	1 / lot within city limits, In ETJ, subject to spacing requirements.	672	35	2 times sign height	See Sec.10-430

(Ord. No. 0-2010-20, 3/10/10) (Ord. No. 0-2010-119, 11/10/10)(Ord. No. 0-2011-45, 6/8/11) (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2013-41; 5/22/13)

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 Section 10-415 to read as follows:

Sec. 10-415. Electronic Message Center Signs

a. No changes...

1. through 4. No changes...

5. EMCs may be used for all or part of an on-premise sign that displays a commercial or noncommercial message. EMCs may not display off-premises commercial advertising, unless located in DBAC properties within the downtown planning area defined in the Comprehensive Plan and meeting all requirements of subsection 16. below

6. through 15. No changes...

16. EMC marquee signs in DBAC properties within the downtown planning area defined in the Comprehensive Plan shall be placed on a projecting marquee feature for on-premise and/or off-premise advertising and may only be permitted through a Special Use Permit approved by City Council. When considering a Special Use Permit for an EMC marquee sign, the City Council may consider the following:

(a) Sign is contextual to the architecture and/or historical image of building and DBAC district in general.

(b) Sign includes time dedicated to promoting downtown Tyler.

(c) Sign meets the intent to restore and rehabilitate historically used marquees.

(d) Sign color scheme promotes downtown sense of place.

17. EMC signs in INT and C-1 districts are permitted additional area allowances given the speed limit of the street adjacent to the sign, as shown in the following table supplied by United States Sign Council:

<u>Speed of street adjacent to sign (MPH)</u>	<u>Sign Size (square feet)</u>
<u>40</u>	<u>32</u>
<u>45</u>	<u>40</u>
<u>50</u>	<u>50</u>
<u>55</u>	<u>60</u>

(Ord. No. 0-2013-41; 5/22/13)

b. No changes...

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 Section 10-416 to read as follows:

Sec. 10-416. Temporary Signs and Holiday Decorations

a. General Requirements. No changes...

1. through 5. No changes...

6. Location

A temporary sign must be placed on the property which it is advertising and not in the public right-of-way. Pole-mounted banners on all street frontages must be setback a minimum of 60 feet from the property line to be considered interior to the lot.

(Ord. No. 0-2011-45; 6/8/11) (Ord. No. 0-2013-41; 5/22/13)

PART 5: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VIII., "Development Approval Procedures", Division D., "Subdivisions", is hereby amended by amending Section 10-635 to read as follows:

Sec. 10-635. Final Plat

No changes to Flow Chart

a. Applicability No changes...

b. Application Procedure and Requirements No changes...

1. through 8. No changes...

9. Remove Notary signature block from Statement, with no other changes.

(Ord. No. 0-2013-41; 5/22/13)

10. No changes...No changes to ATTACHMENTS "A" and "B".

c. through k. No changes...

PART 6: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VIII., "Development Approval Procedures", Division F., "Variances", is hereby amended by amending Section 10-665 to read as follows:

Sec. 10-665. Administrative Approval

- a. Requests for variances from this ordinance that are ≤ 10 percent of the applicable standard may be approved by the planning director.
- b. The planning director may approve variance requests for residential setbacks from the applicable standard, and such variances are allowed by right if all of the following conditions are met:
 1. The variance request is intended to correct an encroachment of an existing structure into a setback yard; and
 2. The variance request is not meant to circumvent development standards; and
 3. The variance request is consistent with the overall plan of development of the general area. (Ord. No. 0-2013-41; 5/22/13)

PART 7: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article IX., "Permits", Division A., "Special Use Permits", is hereby amended by amending Section 10-728 to read as follows:

Sec. 10-728 Conditions

- a. Term and Duration of Approval No changes...
- b. Violations No changes...
- c. Compliance with Conditions No changes...
- d. No variance may be granted through issuance of a special use permit, except for variances granted to the alcohol distance requirements by the City Council pursuant to Section 10-96. The planning director may grant minor changes to the conditions imposed as long as those changes conform to the intent of the commission. No building permit involving a special use must be issued by the building official unless all of the requirements of this division have been met. (Ord. No. 0-2013-41; 5/22/13)

PART 8: 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:

Marquee

A permanent roofed structure attached to and supported entirely by a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather. (Ord. No. 0-2013-41; 5/22/13)

Super Graphic Sign

A large attached premise or off-premise sign on a mesh or fabric surface. (Ord. No. 0-2013-41; 5/22/13)

PART 9: 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.

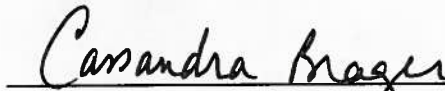
PART 10: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, 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 24, 2013.

PASSED AND APPROVED this 22nd day of May, A. D., 2013.



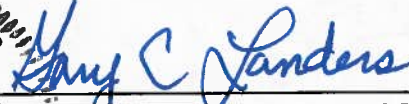
BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK

APPROVED:



GARY C. LANDERS, CITY ATTORNEY

