

ORDINANCE NO. 0-2013-44

AN ORDINANCE AMENDING CHAPTER 19, "UTILITIES", ARTICLE VI, "LAKE TYLER AND LAKE TYLER EAST" OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS BY AMENDING SECTIONS 19-208 AND 19-221, "FEES APPLICABLE TO LEASES;" PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 2011, the Tyler City Council approved the first new lots to be created by the City of Tyler at Lake Tyler in many years; and

WHEREAS, those lots initially created after November 18, 2011 were designated to be handled differently than already existing lots; and

WHEREAS, in order to avoid confusion about how to handle re-subdivision of lots at Lake Tyler, the intent of this ordinance is to clarify the fees and process for subdivision of those lots created prior to a specific date from those re-subdivided after that date;

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

Part 1: That the Tyler City Code Chapter 19, "Utilities", Article VI. "Lake Tyler and Lake Tyler East," Division 5, "Leasing and Use of Lots", is hereby amended by amending Section 19-208, "Resubdivision of City owned Lots," to read as follows:

Sec. 19-208. Resubdivision of City owned Lots.

Certain lots on the Lake contain substantial acreage having been originally created as recreational areas for corporations, clubs, groups, or companies. The following criteria are established for requests for resubdivision of club lots containing two (2) or more acres.

- a. The minimum acreage for a new lot created by resubdivision shall be no less than 1.0 acre above 378' elevation (msl), and shall have a minimum of 100' waterfront access.
- b. Construction of improvements on lots created by resubdivision shall be restricted to single family residences and appurtenances built in accordance with this Article.
- c. Sewage disposal systems shall be designed and installed in accordance with state law governing private sewer systems, and shall comply with Sec. 19-206 of this Division.
- d. All costs of resubdivision (i.e. surveying fees, filing fees, engineering and drafting fees, etc.) shall be paid by the Lessee.
- e. A one-time fee per additional lot created by resubdivision, excluding the original lot subdivided when occupied by existing lessee, shall be applicable and payable to the Manager prior to official replatting. When the existing lessee transfers their interest to another, the lot fee must be paid.
- f. The lease for an additional lot(s) created by resubdivision, excluding the original lot subdivided when occupied by existing lessee, shall be a thirty (30) year term lease automatically extended at the end of the regular term, subject to compliance with lease conditions. When the existing lessee transfers their interest to another, the new lessee must take the new lease.

g. An annual lease fee will be assessed on lots created by subdivision under this section. (See Division 6) The annual rental for lots created and leased prior to November 18, 2011 shall be adjusted at each annual anniversary date in an amount equal to the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the South (the geographic area including Smith County, Texas), as published by the United States Department of Labor (or its successor document), from the year in which the last rental increase was effective to the year in which the latest rental increase is occurring times the then annual rental rate, but in no event shall the amount of increases in rental exceed ten (10) percent at any one time. In the event of a decrease in the C.P.I., no decrease in rental shall be made; however, additional increases in rental shall not be made until the C.P.I. rises above the point from which the last increase in rental was determined, using 1997 as the base year. In July of every year, City Staff will calculate any rental increases required under this paragraph and such increases shall be applicable to all leases coming due between the next October 1 and September 30 of the next year. Any such rental increase will be automatic, with Manager to give lessee notice of such increase in the next bill. For lots created and leased after November 18, 2011, the annual lease payment shall be equivalent to the city taxes which would be paid if the property and improvements were privately owned and located within the City of Tyler, Texas. Lease payments shall be established using the tax rate adopted by the Tyler City Council and applied to the initial land lease value established by the City plus any improvement values established by Smith County Appraisal District.

In the situation where a previously created large club lot is divided into 2 or more smaller lots, one of the new smaller lots would be deemed as the original lot while all the other new smaller lots would be treated as new lots subject to the new fees and process.

h. Access to each new lot created by resubdivision shall be provided by the subdivider. Such access shall be to the nearest public road, but shall remain private. The access road shall be thirty (30) feet wide.

i. Access roadways shall be built to no less than Smith County road construction standards and shall be constructed at the sole expense of the subdivider and/or lessee. A perpetual maintenance agreement shall be signed by all lessees of lots within a resubdivided plat. The agreement will establish a perpetual maintenance fund to care for the roadway. Failure to establish and maintain a perpetual maintenance agreement and fund shall be considered a violation of the lease, and thus, grounds for default. All access roadways shall be shown on the resubdivision plat. Lease documents resulting from the subdivision shall contain a provision requiring lessee to acknowledge responsibility for the maintenance of all private access roadway systems. (Ord. 0-97-52, 10/22/97)(Ord. No. 0-99-80, 10/20/99) (Ord. No. 0-2013-44, 6/12/2013)

PART 2: That the Tyler City Code Chapter 19, "Utilities", Article VI. "Lake Tyler and Lake Tyler East," Division 6, "Schedule of Fees", is hereby amended by amending Section 19-221, "Fees applicable to leases," to read as follows:

Sec. 19-221. Fees applicable to leases.

*To be waived if upon inspection, the system is found to be operational with chlorine present in the discharge.	
Fees for a permit to locate plumbing fixtures, collection, and transport components of a sanitation system to be located within the 100' setback for 378' msl	
Permit Fee	\$250.00
Inspection Fee (annual)	\$ 50.00
e. New subdivision, resubdivision, re-platting fees (Reference 19-207-208)	
Any new subdivision plat on Lake Tyler East	\$200.00 +\$1.00 per lot
Any resubdivision of an existing, approved subdivision on Lake Tyler East	\$150.00
Any replat of an existing, approved subdivision	\$150.00
One-time fee per new lot created from resubdivision of City-owned lot	\$2,500.00
Annual lease fee for new lot created from resubdivision of City-owned lot prior to November 18, 2011. In the situation where a previously created large club lot is divided into 2 or more smaller lots, one of the new smaller lots would be deemed as the original lot while all the other new smaller lots would be treated as new lots subject to the new fees and process.	\$500.00*
*After June, 1997, to be adjusted at each annual anniversary date in an amount equal to the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the South, as published by the US. Department of Labor. (See Sec. <u>19-208g.</u>)	

(Ord. 0-97-52, 10/22/97) (Ord. No. 0-99-80, 10/20/99) (Ord. No. O-2011-100, 11/16/11) (Ord. No. 0-2013-44, 6/12/2013)

PART 3: 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 4: That any person, firm or corporation violating any 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 June 14, 2013.

PASSED AND APPROVED this 12th day of June, 2013.

Barbara Bass

BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

Cassandra Brager
CASSANDRA BRAGER, CITY CLERK

APPROVED:

Gary C Landers
GARY C. LANDERS, CITY ATTORNEY

