

**ORDINANCE NO. O-2011-45**

**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, CREATION OF A NEW ZONE, USE REGULATIONS, SUBDIVISION DESIGN AND IMPROVEMENTS, STREETS AND THOROUGHFARES, DEVELOPMENT STANDARDS, ENVIRONMENTAL REGULATIONS, DEVELOPMENT APPROVAL PROCEDURES, ADMINISTRATION AND ENFORCEMENT, HISTORIC PRESERVATION, 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**, the recommended 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 A., "Residential Districts", is hereby amended by amending the Table in Section 10-20, "Establishment of Residential Districts", by including a category for "Residential Estate" District at the top, with no other changes to the Table, as follows:

<b>Abbreviation</b>	<b>District Name</b>
RE	Residential Estate

*Add to bottom of Table: (Ord. No. 0-2011-45; 6/8/2011)*

**PART 2:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article II., "Zoning Districts", Division A "Residential Districts", is hereby amended by amending Section 10-21 to read as follows:

**Sec. 10-21. District Purpose Statements**

- a. RE Residential Estate District

The RE district is primarily intended to accommodate development of detached, single-family housing on minimum one acre lots.

Current subsections a. through j. are re-numbered as new subsections b. through k., with no other changes.

(Ord. No 0-2010-119, 11/10/10) (Ord. No. 0-2011-45; 6/8/2011)

**PART 3:** That Tyler City Code Chapter 10, "Tyler Unified Development Code, Article II., "Zoning Districts", Division A., "Residential Districts", by amending Table 10-23 in Section

10-23 to add a column for “Real Estate District” in the first column, with no other changes, as follows:

<b>Residential Districts</b>	<u>RE</u>
<b>Minimum lot area (sq. ft.)</b>	43,560
<b>Minimum lot area per unit (sq. ft.)</b>	43,560
<b>Minimum street frontage (ft.)</b>	50
<b>Minimum frontage (ft.) to Legal access</b>	
<b>Setbacks</b>	
Front*	50
Rear	50
Side interior	12.5
Side, corner	25
District boundary	
<b>Maximum lot coverage (%)</b>	30
<b>Maximum height (ft.)</b>	42
<b>Building separation (ft.)</b>	
Minimum per dwelling unit (sq. ft.)	
Maximum width (ft.)	
<b>Maximum slope (%)</b>	

*Add to bottom of Table (Ord. No. 0-2011-45; 6/8/2011)*

**PART 4:** That Tyler City Code Chapter 10, “Unified Development Code”, Article II. “Zoning Districts”, Division B., “Commercial and Mixed Use Districts, is hereby amended by amending Section 10-27 by amending Table 10-27 to read as follows:

## Article II Zoning Districts

### DIVISION B. Commercial and Mixed Use Districts

#### 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 Distr	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 [c/f]	5 acres [c/f]	a	15,000	15,000
Minimum frontage (feet) to legal	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	45'+ 1'/a setback	45'+ 1'/a setback	45'+ 1'/a 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	10	0	a	a	a	25	25
Adjacent to R district (rear)	25 b	25 b	0 b	a b	a b	a b	25 b	25 b
Side yard setback, interior	[d]	[d]	0	a	a	a	[e]	[e]
Side yard setback, corner	15	15	0	a	a	a	15 [e]	15 [e]
Adjacent to R district (side)	b	b	b	b	b	b	25	25
Maximum lot coverage (%)	60	60	100	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. No minimum side yard setback is required except where the commercially zoned property abuts a residential district, in which case the minimum side yard setback will be 10 feet.
- e. No minimum side yard setback is required except where the industrially zoned property abuts a residential district, in which case the minimum side yard setback shall be 25 feet.
- f. 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; 6/8/2011)

**PART 5:** That Tyler City Code Chapter 10, “Unified Development Code”, Article II., “Zoning Districts”, Division B., “Commercial and Mixed Used Districts”, is hereby amended by amending Section 10-48 by amending Table 10-48 to read as follows:

**Sec. 10-48. Residential District Use Table**



<b>Lodging</b>											
Bed & Breakfast							S				P
Boarding/Rooming House							X				P
Campground											
R.V. Park											

<b>USE GROUP</b>													
<b>Use Category</b>	<b>Use Sub-Category</b>	<b>RE</b>	<b>R-1A</b>	<b>R-1B</b>	<b>R-1C</b>	<b>R-1D</b>	<b>R-2</b>	<b>R-MF</b>	<b>R-MH</b>	<b>PUR</b>	<b>PXR</b>	<b>PMF</b>	<b>Use Standards</b>
	<i>Specific Uses</i>												
<b>INDUSTRIAL</b>													
Oil & Gas Exploration (Drilling Activity)	S	S	S	S	S	S	S	S	S	S	S	S	
Oil & Gas Exploration (Producing Well)	S	S	S	S	S	S	S	S	S	S	S	S	
Sand/Gravel Extraction	S	S	S	S	S	S	S	S	S	S	S	S	
<b>OTHER</b>													
Accessory Uses	X	X	X	X	X	X	X	X	X	X	X	X	
Accessory Structures	X	X	X	X	X	X	X	X	X	P	P		
Community Center (Public or Private)	S	S	S	S									
Barber/Beauty Shop One-Chair (Residential)	S	S	S	S	S	S	S	S	S	S	S	S	
Day Care At Home (Adults) maximum 6	S	S	S	S	S	S	S	S	S	S	S	S	
Day Care At Home (Children) maximum 6	S	S	S	S	S	S	S	S	S	S	S	S	
Home Occupation	X	X	X	X	X	X	X	X	X	X	X	X	
Photography Studio	S	S	S	S	S	S	S	S	S	S	S	S	
Piano Lessons	X	X	X	X	X	X	X	X	X	X	X	X	
Swimming Lessons	X	X	X	X	X	X	X	X	X	X	X	X	
<b>Temporary</b>													
Concert, Outdoor (Temp.)	T	T	T	T	T	T	T	T	T	T	T	T	Subject to ordinance
Model Home	X	X	X	X	X	X	X	X	X	P	P	P	
Revival (Outdoor)	T	T	T	T	T	T	T	T	T	T	T	T	Subject to ordinance

(Ord. No. 0-2011-45; 6/8/2011)

**PART 6,** That Tyler City Code Chapter 10, "Unified Development Code", Article III., "Use Regulations", Division A., "Use Table Overview", is hereby amended by amending Section 10-49 by adding a category for tattoo studios to the Table to read as follows, with no other changes:

**USE GROUP**

**Use Category Use Sub-Category**

**Specific Uses**

**COMMERCIAL**

Personal and Consumer Service

Tattoo Studio	C-2 X	M-1 X	M-2 X
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Add to bottom of CHART: (Ord. No. 0-201-45, 6/8/11)

**PART 7:** That Tyler City Code Chapter 10, "Unified Development Code", Article III., "Use Regulations", Division B., "Use Category Descriptions", is hereby amended by amending Section 10-50 to read as follows:

**Sec. 10-50. Residential Use Categories**

- a. through c. No changes...
- d. Impediments to Fair Housing

The City of Tyler has many residential zoning districts which allow for a variety of housing types. The allowed housing categories include single-family detached homes, single-family attached homes (i.e. duplexes, townhouses and rowhouses), garage apartments, loft apartments, apartment complexes and manufactured homes. In addition, the zoning districts allow for a variety of lot sizes ranging from a minimum size of 3,000 square feet to 43,560 square feet (one acre). The maximum density allowed for apartment complexes is 24 units per acre, and there is no minimum density required. These zoning districts are found in all areas of the City. This affirmatively demonstrates that there are no impediments to fair housing in the City of Tyler. (Ord. No. 0-2011-45; 6/8/2011)

**PART 8:** That Tyler City Code Chapter 10, "Unified Development Code", Article III., "Use Regulations", Division D., "Accessory Buildings and Structures", is hereby amended by amending Section 10-73 to read as follows:

**Sec. 10-73. General Requirements for Accessory Buildings and Structures**

- a. through c. No changes...
- d. An accessory building or structure located closer than 10 feet to the principal building or structure will be regarded as part of the principal building for the purpose of determining the side and rear yards setbacks. Ord. No. 0-2011-45; 6/8/2011
- e. through k. No changes...

**PART 9:** That Tyler City Code Chapter 10, "Unified Development Code", Article III., "Use Regulations", Division G., "Chapter Exceptions", is hereby amended by amending Section 10-92 to read as follows:

**Sec. 10-92. Exceptions**

- a. through b. No changes...
- c. Front Yards
  - 1. No changes...
  - 2. The front yards heretofore established in AG, RE, R-1A, R-1B, R-1C, R-1D, R-MH and R-2 districts shall be adjusted in the following cases:

(a) through (c). No changes. (Ord. No. 0-2011-45; 6/8/2011)

3. The front yards heretofore established in RE, R-1A, R-1B, R-1C, R-1D, PUR and PXR districts shall be reduced to 10 feet if:

(a) through (c). No changes. (Ord. No. 0-2011-45; 6/8/2011)

d. through e. No changes...

**PART 10:** That Tyler City Code Chapter 10, "Unified Development Code", Article IV., "Subdivision Design and Improvements", by amending Section 10-104 to read to as follows:

**Sec. 10-104. Waiver of Development Exactions**

A property owner or applicant for preliminary or final plat approval may file a petition for relief from a dedication or construction requirement that is applied or imposed as a condition of approval of a conveyance plat, preliminary plat, or final plat. The procedures for filing such a waiver are set forth in this code.

a. through d. No changes...

e. Consideration of Petition for Relief

The petition for relief will be considered by the planning and zoning commission when the plat is considered. Based upon the application, supporting study and the development services engineer's report, the commission will determine whether the application of the regulations for dedication or public improvements is roughly proportional to the nature and impact created by the development. The planning and zoning commission will take one of the following actions in considering the petition for relief:

1. Deny the petition for relief, and impose the standard or condition requiring dedication or construction of capital improvements in accordance with the regulations contained within this ordinance.

2. Recommend to City Council approval of the petition for relief, in whole or in part, for any dedication or construction requirement necessary to meet the criteria for final approval.

3. Accept alternative designs for the public infrastructure system or improvements to be dedicated to the city.

4. Delay the imposition of the requirement until the building permit or a future phase of development. If a delay is granted, the future phase of development must be clearly defined. (Ord. No. 0-2011-45; 6/8/2011)

f. through i. No changes...

**PART 11:** That Tyler City Code Chapter 10, "Unified Development Code", Article V., "Streets and Thoroughfares", Division A., "Master Street Plan", is hereby amended by amending Section 10-153 to read as follows:

### **Sec. 10-153. Waivers to Right-of-Way Dedication Requirements**

#### a. Exemptions

An exemption to the master street plan right-of-way dedication requirements in Article V, Division A, will be allowed when the property is re-platted, if the following requirements are met:

1. There is an existing plat of record for the property to be replatted; and any newly created lots have an existing building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile, or residential purposes, and where minimum right-of-way was previously dedicated or;

2. The road is built to its ultimate cross section, including curb, gutter, and sidewalks.

b. Voluntary Joint Applications for Amendments No changes...  
(Ord. No. 0-2006-11, 1/11/06)

c. Appeals No changes...  
(0-99-91; 11/17/99) (O-2003-38, 7-23-03) (0-2005-29, 4/27/05) (Ord. No. 0-2006-11, 1/11/06)

d. Amendments to Master Street Plan No changes...  
(Ord. No. 0-2011-25; 4/27/11) (Ord. No. 0-2011-45; 6/8/2011)

**PART 12:** That Tyler City Code Chapter 10, "Unified Development Code", Article VI., "Development Standards", Division A., "Landscaping and Tree Preservation", by amending Sections 10-292, 10-303 and 10-305 to read as follows:

### **Sec. 10-292. Applicability**

a. The landscape standards in this division apply to all land within the city limits except for areas zoned AG, RE, R-1A, R-1B, R-1C, R-1D, R-2, or R-MH, notwithstanding the requirement that each parcel in the aforementioned districts are required to meet tree planting requirements set forth in Sec. 10-305(C). (Ord. No. 0-2011-45; 6/8/2011)

- b. No changes...
- c. No changes...

### **Sec. 10-303. Clearing and Grading Permit Required**

Pursuant to Sec. 10-527 of this code, a clearing and grading permit must be obtained from the development services engineer prior to the commencement of any development, excavation, grading, regrading, landfilling, beaming, paving, diking, clearing and grubbing, or other earth

changes made to any property within the city. A separate permit is required for each separate, non-contiguous site or lot. (Ord. No. 0-99-19; 2/24/99)

a. No changes...

b. Approval Criteria for Zoning Requiring Tree Preservation

The Development Services Engineer will approve a clearing and grading permit if the application demonstrates that the following conditions in this subsection will be met.

A 40-foot-wide undisturbed area is left in place along 75 percent of the street frontage, a 25-foot-wide undisturbed area is left along 75 percent of the rear property line, and a 25-foot-wide undisturbed area" is left along 75 percent of the side property lines. The understory growth is to be left intact to enhance the tree buffer. Each "undisturbed area" must contain an average of one tree per 314 square feet. Where trees do not exist to meet this standard, 2" DBH replacement trees of a medium or large size and species from the approved tree list that are highly drought tolerant are to be placed within the buffer within 12 months from permit date. In no event shall the number of tree plantings required within the buffers be greater than the total number of 6" DBH trees removed within the entire property as the applicant may choose to demonstrate by a tree inventory of the remainder of the property. If new plantings are required, the applicant must demonstrate adequate watering methods to ensure survivability. The applicant must replace and ensure survival of any replanted trees that may die within a one year period from the date replanting the buffer takes place. (Ord. No. 0-2009-19; 3/11/09 (Ord. No. 0-2009-88; 8/26/09) (Ord. No. 0-2011-45; 6/8/2011)

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

a. through b. No changes.

c. Trees in Residential Zones

Property zoned RE, R-1A, R-1B, R-1C, R-1D, R-2, R-MH, PUR, and PXR are required to provide a minimum one tree per residential lot prior to certificate of occupancy and will be subject to any additional tree requirements in the subdivision standards provided in Article IV of this code. (Ord. No. 0-2011-45; 6/8/2011)

d. through g. No changes...

**PART 13:** That Tyler City Code Chapter 10, "Unified Development Code", Article VI., "Development Standards", Division B., "Bufferyards", is hereby amended by amending the following portions of the Table in Section 10-321 to read as follows, with no other changes:

### **Sec. 10-321. General Requirements**

a. through d. No changes...

#### Required Bufferyard Type by Adjacent Zoning District

District	RE, R-1A, R-1B, R-1C, R-1D, PUR	<i>No other changes to Table</i>
RE, R-1, R-1B, R-1C, R-1D, PUR		

Note: The more intense use is required to provide the buffer.

\*Buffer yards are only required in DBAC when adjacent to residential districts. Requirement may be waived upon the submittal of a letter of support from adjacent, affected property owner. (Ord. No. 0-2009-19; 3/11/09; (Ord. No. 0-2010-119; 11/10/10) (Ord. No. 0-2011-45; 6/8/2011)

**PART 14:** That Tyler City Code Chapter 10, "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**

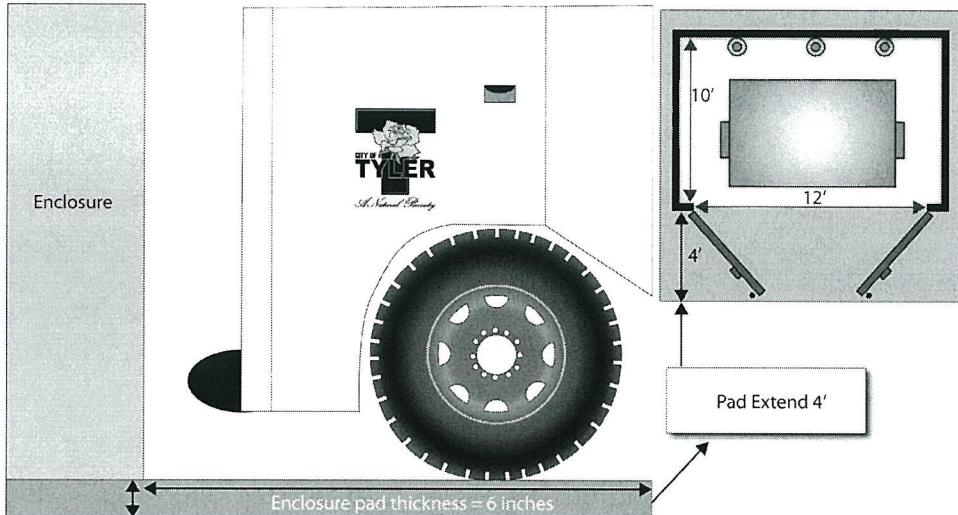
All Dumpsters and other similar trash containers must meet the following standards for placement on a site, screening, and screening materials:

a. No changes...

b. No changes...

c. No changes...

d. Placed on a minimum six-inch reinforced slab, sloped to drain. The pad must extend four (4) feet in front of enclosure to accommodate refuse collection vehicles.

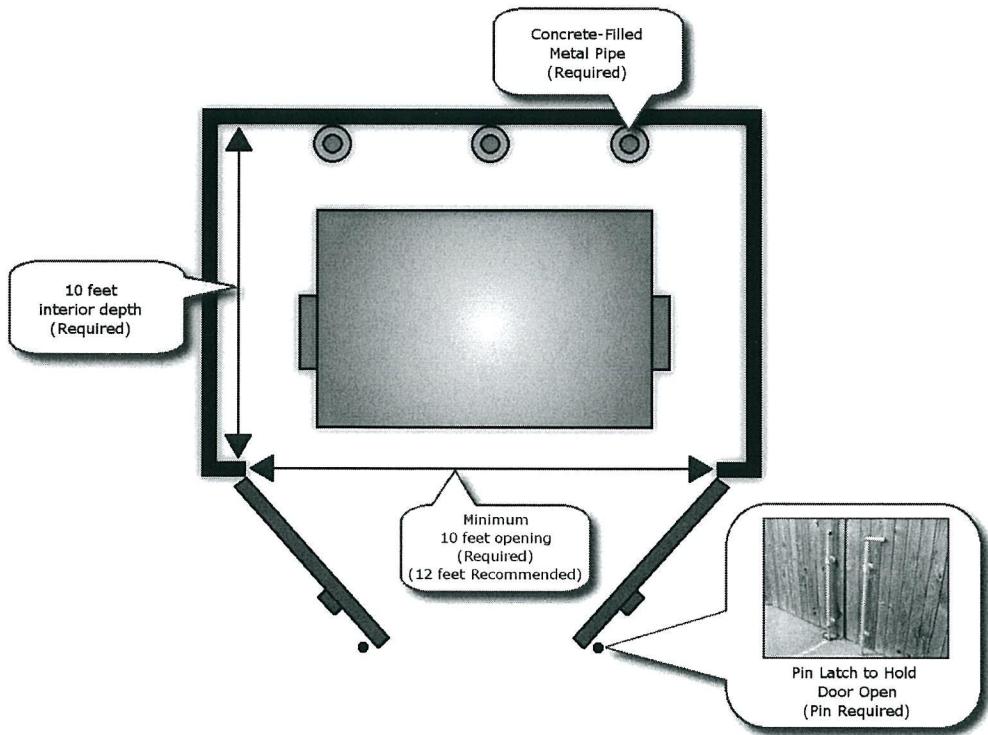


e. No changes...

f. No changes...

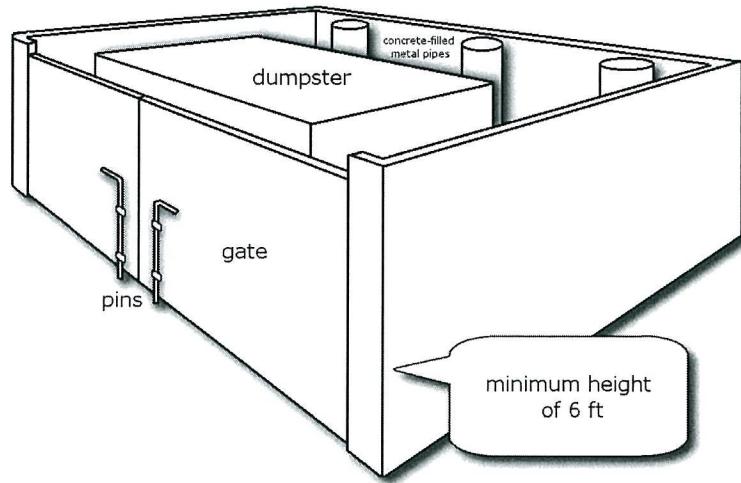
g. No changes...

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 10 feet clear opening (should be increased if multiple refuse containers are required) and provide pin latches to hold the gates open. When in use, tie-backs should be used to secure the steel framed gates in the open position.



- i. Trash enclosure screening must be maintained by the property owner at all times.

*Delete current Illustration*



(Ord. No. 0-2011-45; 6/8/2011)

**PART 15:** That Tyler City Code Chapter 10, "Unified Development Code", Article VI., "Development Standards", Division E., "Off-Street Parking and Loading", is hereby amended by amending Section 10-360 by amending the following portions of Table 10-360, with no other changes, to read as follows:

Use Category	Specific Use	General Requirement	Additional Requirement
Commercial Uses			
Entertainment	Indoor	1/250 ft. GFA for all non- enumerated uses; 1/50 ft. GFA for bingo halls; 1/4 seats for theaters	<i>No other changes to Table</i>

*Add to bottom of Table (Ord. No. 0-2011-45; 6/8/2011)*

**PART 16:** That Tyler City Code Chapter 10, “Unified Development Code”, Article VI., “Development Standards”, Division H., “Sign and Billboard Regulations”, is hereby amended by amending Section 10-401 to read as follows:

**Sec. 10-401. General Sign Regulations**

a. through b. No changes...

c. Advertisement will be allowed on the windows of Tyler Transit vehicles subject to the following general requirements:

1. Ads shall solely be for the purpose of promoting a business transaction or service;
2. Ads shall not contain:
  - (a) Advertising which is false, misleading, or deceptive;
  - (b) Advertising that relates to illegal activity
  - (c) Advertising that includes language that is obscene, vulgar, profane, or otherwise unlawful.
  - (d) Advertising that depicts violence and/or anti-social behavior
  - (e) Advertising that relates to any sexual activity
  - (f) Advertising that may be inappropriate for minors
  - (g) Advertising for fund raising events
3. Ads shall not promote the sale of alcohol or tobacco products
4. Ads shall not promote firearms or firearm related products
5. All Ads on Tyler Transit vehicles shall be subject to approval by the City of Tyler and Tyler Transit

6. Ads shall conform to all current ordinances and codes adopted by the City of Tyler.

(Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2010-20, 3/10/10) (Ord. No. 0-2010-119; 11/10/10) (Ord. No. 0-2011-45; 6/8/2011)

**PART 17:** That Tyler City Code Chapter 10, "Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending Section 10-408 by amending the following portions of the Table to read as follows, with no other changes: (N/A)

**PART 18:** That Tyler City Code Chapter 10, "Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending Section 10-409 by amending the following portions of the Table to read as follows, with no other changes:

#### **Sec. 10-409. Sign Standards in Nonresidential Districts**

Sign Type district/use	Max. Number	Max. Area (Max. (feet)	Max. Project Min. Setback	Additional Requirements
<b>Wall Sign / Façade Sign</b>			<b>Projection</b>	
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.
<b>Freestanding Signs</b>			<b>Setback</b>	
All other uses in INT, OSP, C-1, C-2, DBAC, M-1, and M-2 district	1/ frontage	100	35	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.
<b>DIRECTIONAL SIGNS</b>				
In all nonresidential districts	1 / entrance	8	6	Directional signs may not display a company logo or any commercial message. May be substituted with a wall sign of the same size.

(Ord. No. 0-2010-20, 3/10/10) (Ord. No. 0-2010-119, 11/10/10) (Ord. No. 0-2011-45; 6/8/2011)

**PART 19:** That Tyler City Code Chapter 10, "Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending Sections 10-410, 10-415, and 10-416 to read as follows:

#### **Sec. 10-410. Master Signage Plans**

A master signage plan is an administrative permit which establishes standards (size, design, location, etc.) for all exterior signs associated with a multi-tenant/multi-building development with two or more tenants, whether on a single lot or multiple lots. The sign standards of the code provide clear regulations for the permitting, design, location, construction, modification, use, maintenance, and removal of signs in the City of Tyler.

- a. No changes

- b. No changes...
- c. Application Submittal Requirements

- 1. Master Application Form
- 2. \$80 Filing Fee

3. The applicant shall provide two paper copies and one digital copy of the proposed site plan consistent with the information from the Site Development Plan Check List.

- d. No changes...

- e. No changes...

- f. No changes...

(Ord. No. 0-2011-45; 6/8/2011)

#### **Sec. 10-415. Electronic Message Center Signs**

a. In addition to the standards set forth in Table, all electronic message centers (EMC) signs located in the city must adhere to the following requirements:

- 1. through 14. No changes...

15. EMC signs must not face single family zoned property consisting of the following zoning designations: RE, R-1A, R-1B, R-1C, R-1D, R-2, PXR and PUR or property used for single family regardless of zoning. Property used for institutional uses regardless of zoning may face single family zoned property or property used for single family.

- (a) No changes...

- (b) No changes...

b. No changes... (ORD. 0-97-62, 12/10/97) (Ord. No. 0-2007-94; 7/25/07). (Ord. No. 0-2009-100, 9/23/09) (Ord. No. 0-2011-45; 6/8/2011)

#### **Sec. 10-416. Temporary Signs and Holiday Decorations**

- a. General Requirements

Only temporary signs listed in this section are allowed.

- 1. No changes...
- 2. No changes...
- 3. No changes...

4. No changes...
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 must be setback a minimum of 60 feet from the property line to be considered interior to the lot. (Ord. No. 0-2011-45; 6/8/2011)

- b. No changes...

**PART 20:** That Tyler City Code Chapter 10, "Unified Development Code", Article VII., "Environmental Regulations", Division A., "Drainage and Water Utility Improvements", is hereby amended by amending Sections 10-472 and 10-475 to read as follows:

**Sec. 10-472. Requirements by Size of Drainage Area**

- a. through b. No changes...
- c. Greater Than One Square Mile

Drainage areas having a contributing watershed greater than one square mile shall be provided for by one of the following methods:

1. The stream may be left in its natural state with minor improvements and no development within its floodplain. Minor improvements include the removal of dead trees, discarded debris, and obstructions that would hinder the conveyance of water. In zones other than RE, R1-A, R1-B, R-2, and PUR zones, the entire floodplain shall be platted and dedicated to the city as a floodway easement. The city will maintain the easement in the same condition as provided when the easement is within the city limits. In RE, R1-A, R1-B, R-2, and PUR zones the entire floodplain shall be platted as a separate lot and dedicated to the city or homeowner's association for maintenance. The city will maintain the easement in the same condition as provided when the easement is within the city limits. The commission may waive this dedication requirement only for the following exceptions:

- (a) Replots which were originally platted prior to the dedication requirements.
- (b) Subdivisions of five lots or less.

2. The floodplain fringe may be reclaimed for use as long as the floodway is protected and the 100-year flood elevation is not raised more than one foot. This method of development may require erosion control to offset changes in the stream regimen caused by development of the property and drainage improvements in accordance with this Article. In zones other than RE, R-1A, R-1B, R-1C, R-2, PXR, PUR, PMF the entire floodway must be platted and dedicated to the city as a floodway easement. The city will maintain the easement in the same condition as provided when the easement is within the city limits. In RE, R-1A, R-1B, R-1C, R-2, PXR, PUR, and PMF zones the entire floodway shall be platted as a separate lot and dedicated to the city or homeowner's association for maintenance. The city will maintain the easement in the

same condition as provided when the easement is within the city limits. The commission may waive this dedication requirement only for the following exceptions:

- (a) Replats which were originally platted prior to the dedication requirements.
- (b) Subdivisions of five lots or less.

3. The stream may be reconstructed or relocated to accommodate development. The new channel shall be sufficient to convey the 100-year flood. The design will include erosion control such as seeding, sodding, channel lining, or a combination of these. In zones other than RE, R-1A, R-1B, R-1C, R-2, PXR, and PUR zones, the entire floodway with proper access easements must be platted and dedicated to the city as a floodway easement. The city will maintain the easement in the same condition as provided when the easement is within the city limits. In RE, R-1A, R-1B, R-1C, R-2, PXR, and PUR zones the entire floodway and proper access easement shall be platted as a separate lot and dedicated to the city or homeowner's association for maintenance. The city will maintain the easement in the same condition as provided when the easement is within the city limits. The commission may waive this dedication requirement only for the following exceptions:

- (a) Replats which were originally platted prior to the dedication requirements.
- (b) Subdivisions of five lots or less.

(Ord. No. 0-2011-45; 6/8/2011)

### **Sec. 10-475. Access and Dedication of Drainage Easements**

a. Access to Floodway Easements

No changes...

b. Drainage Easements

Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual, unobstructed easements must be provided. The minimum width of the easements must be 12 feet in R-1B zoning and 15 feet in RE and R-1A zones. Depending on depth and size of drainage facility, the development services engineer may require wider easements. Easements must be indicated on the plat. Drainage easements must extend from the street to a natural watercourse or to other drainage facilities. When a proposed drainage system will carry water across private land outside the subdivision or addition, when not a natural drainage course, appropriate drainage easements must be secured. (Ord. No. 0-2011-45; 6/8/2011)

**PART 21:** That Tyler City Code Chapter 10, "Unified Development Code", Article VII. "Environmental Regulations", Division E., Erosion and Sedimentation Control", is hereby amended by amending Sections 10-520 through 10-532 to read as follows:

### **Sec. 10-520. Findings of Fact and Purpose**

When development or construction activities result in earth changes, soil erosion is likely to occur which will result in hazards to health and safety with damage to property under both normal rainfall events and/or heavy rainfall/flooding events, unless erosion and sedimentation control measures are implemented. (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/2011)

The purpose of this division is to promote the public health, safety, and welfare and to minimize public and private losses due to erosion and sedimentation in all areas by provisions designed to:

- a. Protect human life and health;
- b. Minimize expenditure of public money for costly erosion control projects;
- c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at public expense;
- d. Minimize negative impacts to adjacent properties due to erosion and sedimentation and prevent water pollution;
- e. Minimize prolonged business interruptions;
- f. Minimize negative impact to public streets, storm sewer systems and drainage ways;
- g. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges; and
- h. Help maintain a stable tax base by providing for the sound use and development of property so as to minimize erosion. (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/2011)

**Sec. 10-521. Reserved.**

**Sec. 10-522. No changes...**

**Sec. 10-523. Establishment of Clearing and Grading Permit**

A clearing and grading permit is required to ensure conformance with the requirements of this Code prior to any agricultural timbering, predevelopment clearing, or depositing of fill on an undeveloped site. (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/2011)

**Sec. 10-524. Compliance with Clearing and Grading Permit**

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. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/2011)

**Sec. 10-525. No changes...**

**Sec. 10-526. Erosion and Sediment Control Plan**

a. The Erosion and Sediment Control Plan shall comply with the requirements of the State of Texas TPDES Permit TXR 15000.

b. Design requirements shall comply with the requirements of the State of Texas TPDES Permit TXR 15000.

c. Inspections required and/or performed shall comply with the requirements of the State of Texas TPDES Permit TXR 15000. (Ord. No. 0-2011-45; 6/8/2011)

### **Sec. 10-527. Clearing and Grading Permit Required**

a. No changes...

b. Approval Criteria

The development services engineer will approve a clearing and grading permit if the application complies with section 10-529 and demonstrates the following conditions will be met:

1. The applicant must comply with Tree Preservation in accordance with Chapter 10, Article VI., Division A., Sections 10-301 through 10-304, as applicable.

2. No person shall be granted a permit for land-disturbing activity which would require grading without the approval of an Erosion and Sedimentation Control Plan by the City of Tyler.

3. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.

4. The City of Tyler will review each application for a permit to determine its conformance with the provisions of this local regulation. Within ten (10) working days after receiving an application, the City of Tyler shall, in writing:

(a) Approve the application; or

(b) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulations, and issue the permit subject to these conditions; or

(c) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

Failure of the City of Tyler to act on original or revised applications under this Section within thirty (30) calendar days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Tyler. (Ord. No. 0-2011-45; 6/8/2011)

### **Sec. 10-528. Policies for Issuance**

a. through c. No changes...

d. Earth changes will be permitted which will not unreasonably increase surface runoff. However, this Article does not preclude or prevent the use of regional or off-site stormwater detention or retention facilities provided that adequate facilities to convey increased rates of stormwater runoff to the regional or off-site detention or retention facility are provided. (Ord. No. 0-2011-45; 6/8/2011)

e. through f. No changes...

### **Sec. 10-529. Clearing and Grading Permit Requirements**

A grading permit must consist of a Drainage Plan or Abbreviated Drainage Plan, and an Erosion Control Plan. The grading permit for any lot to be used for building construction may not be issued unless the plan has been reviewed and accepted by the City.

#### **a. Drainage Plan Contents**

A drainage plan must consist of engineering drawings, contour maps, erosion control plan and all supporting engineering calculations, as applicable to the land area covered by the plan, which are required to demonstrate substantial compliance with this chapter, the Design Guidelines for Subdivision Improvements, Best Management Practices of the U.S. Corp. of Engineers, Texas Council of Governments, or other best management practices acceptable to the City of Tyler.

#### **b. Abbreviated Drainage Plans**

Upon review of a grading permit application, the City will determine if an abbreviated drainage plan is necessary in order to meet the purposes of this article. If an abbreviated drainage plan is required, it must be submitted to and reviewed by the City prior to granting of the grading permit. Although the abbreviated drainage plan does not require the seal or signature of a registered professional engineer, it must be prepared according to the city format, as shown in the exhibit below. An abbreviated drainage plan will generally be sufficient for construction of single-family residences on subdivision lots. An erosion control plan is required. An abbreviated drainage plan is applicable to development sites of less than one acre, and for all single-family residential lots.

#### **c. Drainage Plan Required**

1. Upon review of an application for a grading permit, the City will determine if a drainage plan is necessary to meet the purposes of this chapter. A drainage plan is required. It shall be submitted to and reviewed by the city engineer prior to granting of the grading permit. Drainage plans are required on all development sites greater than 1-acre, except for single-family residential lots.

2. The drainage plan, but not the abbreviated drainage plan, must be prepared under the direct supervision of a registered professional engineer, licensed to practice in the state, according to a City format. Each plan submitted for final review and acceptance must bear the signature and seal of the submitting engineer under the following statement: "I hereby certify that I am familiar with the adopted codes, regulations, standards and policies of the City governing

development, that these plans have been prepared under my supervision, and that this drainage plan complies with all governing codes and regulations to the best of my knowledge."

3. No changes...

(Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/2011)

### **Sec. 10-530. Exemptions**

A grading permit is not required for the following:

- a. No changes...
- b. No changes...
- c. No changes...
- d. Clearing and grading on a lot for which a building permit has been approved.
- e. Clearing and grading related to the installation of public improvements (utilities, streets and/or drainage) within dedicated right-of-way or easements. (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/2011)

### **Sec. 10-531. No changes...**

### **Sec. 10-532. Compliance**

a. Unless exempted under this chapter, it is unlawful to conduct any development, excavating, grading, regrading, excavating, landfilling, berthing, paving, diking, clearing, and grubbing, or other earth changes either without a grading permit required under this article, or contrary to the terms of a grading permit issued under this article.

b. Upon revocation or suspension of a grading permit issued under this article, it shall be unlawful to continue to conduct any development, excavating, grading, regrading, landfilling, berthing, paving, diking, clearing and grubbing, or other earth changes without having a valid grading permit in effect.

c. through f. No changes.... (Ord. No. 0-2011-45; 6/8/2011)

### **Sec. 10-533 - 536. Reserved.**

**PART 22:** That Tyler City Code Chapter 10, "Unified Development Code", Article VII., "Environmental Regulations", is hereby amended by adding a new Division F., "Control of Post Construction Stormwater Runoff", to read as follows:

## **DIVISION F. Control of Post Construction Stormwater Runoff**

### **Sec. 10-537. General Provisions**

#### **a. Findings of Fact**

It is hereby determined that:

1. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;

2. This stormwater runoff contributes to increased quantities of water-borne pollutants, and Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

3. Therefore, the City of Tyler establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will help minimize threats to public health and safety.

#### **b. Purpose**

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This ordinance seeks to meet that purpose through the following objectives:

1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality

3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.

4. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

**c. Applicability**

This ordinance shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Tyler under the specifications of Sec 10-540 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

To prevent the adverse impacts of stormwater runoff, the City of Tyler has developed a set of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing 5,000 or more square feet of land. The following activities may be exempt from these stormwater performance criteria:

1. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the Development Services Department or designated agent, as applicable.
2. Additions or modifications to existing single family structures
3. Developments that do not disturb more than 5,000 square feet of land, provided they are not part of a larger common development plan;
4. Repairs to any stormwater treatment practice deemed necessary by the City of Tyler.
5. Any permit issued or construction activity legally begun on or any planned development site plan approved before the effective date of this ordinance.

**d. Compatibility with Other Permit and Ordinance Requirements**

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

**e. Development of Stormwater Design Guidelines**

The City of Tyler may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and may provide such information in the Subdivision Design Guidelines. This manual will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be

presumed to meet the minimum water quality performance standards. (Ord. No. 0-2011-45; 6/8/2011)

## Sec. 10-538. Definitions

**“Accelerated Erosion”** means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

**“Applicant”** means the owner of land proposed to be subdivided or its representative who must have express written authority to act on behalf of the owner. Consent is required from the legal owner of the premises.

**“Building”** means a combination of materials to form a construction that is safe and stable, and designed to be built for the support, enclosure, shelter or protection of persons, animals, cattle or property of any kind including, but not limited to, permanent or continuous occupancy for assembly, business, education, industrial, institutional, mercantile, residential or storage purposes. The term building shall be construed to include the term "structure," and as if followed by the words, "or portion thereof." When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

**“Channel”** means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**“Dedication”** means the deliberate appropriation of property by its owner for general public use.

**“UDC Dedication Plat”** means a plat prepared for the purpose of dedicating land or easements for rights-of-way to the City.

**“Detention”** means the temporary storage and controlled release of stormwater runoff.

**“Detention Facility”** means a facility that provides temporary storage of stormwater runoff and controlled release of this runoff.

**“Developer”** means a person, business, corporation, or association responsible for the development of a subdivision, addition, or other any other residential, commercial, industrial, or institutional properties. In most contexts the terms developer and property owner are used interchangeably in these regulations.

**“Drainage Easement”** means a parcel of land or portion thereof dedicated for passage of stormwater either overland or underground. No fences, alterations, improvements, or structures which hinder or impede the flow of stormwater must be constructed within such parcels or portions of parcels of land. The city may remove any encroachments within drainage easements which, in the opinion of the administrator, constitute a hindrance or obstruction to maintenance or the flow of stormwater.

**“Erosion and Sediment Control Plan”** means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used controlling sediment and erosion on a development site before, during and after construction.

**“Fee in Lieu”** means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

**“Hotspot”** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

**“Hydrologic Soil Group (HSG)”** means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

**“Impervious Cover”** means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**“Industrial Stormwater Permit”** means an National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**“Infiltration”** means the process of percolating stormwater into the subsoil.

**“Infiltration Facility”** means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

**“Jurisdictional Wetland”** means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**“Land Disturbance Activity”** means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

**“Landowner”** means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**“Maintenance Agreement”** means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

**“Nonpoint Source Pollution”** means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**“Off-Site Facility”** means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

**“On-Site Facility”** means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

**“Recharge”** means the replenishment of underground water reserves.

**“Stop Work Order”** means an order issued which requires that all construction activity on a site be stopped.

**“Storm Water Management”** means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

**“Storm Water Retrofit”** means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

**“Stormwater Runoff”** means flow on the surface of the ground, resulting from precipitation.

**“Watercourse”** means any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water. (Ord. No. 0-2011-45; 6/8/2011)

## **Sec. 10-539.                    Stormwater Management Plan Requirements**

### **a.                    Stormwater Management Plan Required.**

The plans and documentation submitted for a Building Permit or Land Subdivision Construction Plans shall include the Stormwater Management Plan to be used on the project. No land owner, land operator, or contractor shall receive plan approval for a building permit, or a land development permit required for land disturbance activities without first meeting the requirements of this ordinance.

### **b.                    Stormwater Management Plan Requirements**

The stormwater management plan shall be prepared to meet the requirements of Sec. 10-541 of this ordinance, and the maintenance agreement, if required, shall be prepared to meet the requirements of Sec. 10-545 of this ordinance. (Ord. No. 0-2011-45; 6/8/11)

## **Sec. 10-540.                    Waivers to Stormwater Management Requirements**

### **a.                    Waivers for Providing Stormwater Management**

1. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Tyler for approval. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives found in Sec. 10-537. b. of this ordinance.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Tyler and the implementation of the plan is required by local ordinance.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

(d) The City of Tyler finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

(e) Non-structural practices will be used on the site that reduce (i) the generation of stormwater from the site, (ii) the size and cost of stormwater storage and (iii) the pollutants generated at the site. These non-structural practices are explained in detail in the Subdivision Design Guidelines and the amount of credit available for using such practices shall be determined by the City of Tyler.

2. In instances where one of the conditions above applies, the City of Tyler may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the City of Tyler that the variance will not result in the following impacts to downstream waterways:

- (a) Deterioration of existing culverts, bridges, dams, and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated streambank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life, property.

3. Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the City of Tyler. Mitigation measures may include, but are not limited to, the following:

(a) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat,

(b) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance,

(c) Monetary contributions (Fee-in-Lieu) to fund stormwater management activities such as monitoring of stormwater management practices or funding capital improvement projects.

**b. Fee in Lieu of Stormwater Management Practices.**

Where the City of Tyler waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City of Tyler.

When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with a fee negotiated with and established by the City of Tyler, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to the City of Tyler stormwater utility fund, and shall be made by the developer prior to the issuance of any building permit for the development.

**c. Dedication of land**

In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City of Tyler for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City of Tyler prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit. (Ord. No. 0-2011-45; 6/8/2011)

**Sec. 10-541. General Performance Criteria for Stormwater Management**

Unless judged by the City of Tyler to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

**a.** Site designs should establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

**b.** All stormwater runoff generated from new development shall be treated to the maximum extent practicable by minimum best management practices (BMPs) before discharging directly into a jurisdictional wetland or local water body. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of Tyler. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the appropriate State Agency responsible for natural resources.

**c.** Groundwater recharge shall be encouraged, by promoting infiltration through the use of structural and non-structural methods.

**d.** To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the current stormwater design manual.

**e.** Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

**f.** Certain industrial sites, as defined in the Texas Pollutant Discharge Elimination System (TPDES) general permit, are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the TPDES general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

**g.** Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, may require the use of specific structural STPs and pollution prevention practices.

**h.** Prior to design, applicants are required to consult with the City of Tyler to determine if they are subject to additional stormwater design requirements.

**i.** The calculations for determining peak flows as found in the Subdivision Design Guidelines shall be used for sizing all stormwater management practices. (Ord. No. 0-2011-45; 6/8/2011)

#### **Sec. 10-542. Basic Stormwater Management Design Criteria**

##### **a. Minimum Best Management Practices**

The Best Management Practices to be included in the Stormwater Management Plan are shown in Table 10-542 “Post Construction Best Management Practices”. For each zoning class or land use designation, the minimum number and type of BMP required for the Stormwater Management Plan is shown.

Table 10-542. Post Construction Best Management Practices

	Allowed Best Management Practices	UDC Best Management Practices	Zoning/ Land Use Designation					
			Single Family/Two Family Residential	Multi-Family Residential	Office	Commercial	Industrial	Institutional
			Minimum Number of BMPs required for each Zoning/ Land Use Designation					
			4	11	11	11	11	11
<b>BMP TYPE</b>	(Refer to BMP Chart Guidelines)		"X" Denotes UDC Required BMPs "O" Denotes UDC pre-approved optional BMPs					
SC-1	Rain Water Harvesting							
SC-2	Bioretention (Rain Garden)							
SC-3	Stormwater Planters/Planter Boxes							
SC-4	Downspout Drywell (Perforated Manhole)							
SC-5	Green Roof							
SC-6	Urban Forestry/ Preservation of existing tree canopy/Tree Planting							
SC-6A		Sec 10-295- Landscaping- (d.) Required tree plantings.		X	X	X	X	X
SC-6B		Sec 10-301-Trees-(f.)- Public Tree Care						
SC-6C		Sec 10-302-Pre-Development Tree Buffers are required.		X	X	X	X	X
SC-6D		Sec 10-303- Tree Preservation is required.		X	X	X	X	X
SC-6E		Sec 10-305-(c.) Residential tree plantings are required	X					
SC-6F		Sec 10-320- Post-Development Tree Bufferyards are required.		X	X	X	X	X
SC-7	Landscaping/Natural Landscaping							

SC-7A		Sec 10-295 Landscaping- (c.) Non-residential lots are required to have 15% landscaping (green area).		X	X	X		X
		Sec 10-295 Landscaping- (c.) Industrial lots are required to have 5% landscaping (green area).					X	
SC-7B		Sec 10-295 Landscaping- Residential Lots are required to have not more than 50% building coverage.	X					
SC-7C		Sec 10-296-Street Trees- Street parkways must be planted with grass, or groundcover.	X	X	X	X	X	X
SC-7D		Sec 10-296-Street Trees- Street trees are allowed in parkways.	O	O	O	O	O	O
SC-7E		Sec 10-297- Landscaping- (f.) Lot surfaces must have sod or ground cover.	X	X	X	X	X	X
SC-7F		Sec 10-298-Irrigation- Irrigation required.		X	X	X	X	X
SC-8	Xeriscaping							
SC-9	Soil Amendments/Alum Treatment							
SC-10	Green Parking							
SC-11	Porous Concrete/Asphalt							
SC-12	Modular Porous Paver System							
SC-13	Create Parking Lot Storm Water "Islands"							
SC-13A		Sec 10-299-Parking Lots- Landscaped islands are required in parking lots.		X	X	X	X	X
SC-14	Alternative Turnaround	Fire Department allows alternate Turn-Around Designs according to Appendix D of IFC.		O	O	O	O	O
TC-1	Dry Extended Detention Basin	Sec 10-473 Allows detention facilities.	O	O	O	O	O	O
TC-2	Multi-Purpose Detention Areas							
TC-3	Underground Detention							
TC-4	Underground Wet Vault							
TC-5	Wet Pond							

TC-6	Storm Water Wetland						
TC-7	Retention and Irrigation						
TC-8	Street Surface and Subsurface Storage						
TC-9	Infiltration Basin						
TC-10	Infiltration Trench						
TC-11	Open Sand Filters						
TC-12	Organic Filter						
TC-13	Underground Sand Filter						
TC-14	Soakage Trench (Variation of Infiltration Trench)						
TC-15	Semi-pervious Channel Paving						
TC-16	Interceptor Swales/Grass Channel/Vegetated Swale						
TC-17	Enhanced Swales						
TC-18	Grassed Filter Strips/Vegetated Buffer Strip						
TC-19	Open Conveyance Channel/Natural Drainage ways						
TC-20	Inlet Inserts						
TC-21	Water Quality Inlet - Gravity (Oil-Grit) Separator/Hydrodynamic Separator						
TC-22	Proprietary Structural Controls (Vortex hydrodynamic separators, catch basin media inserts)						
TC-23	Stream Restoration						
TC-24	Forest/Prairie/Meadow Restoration						
TC-25	Microbial Disinfection						
SD-1	Open Space Design/Cluster Development						
SD-2	Preserve Riparian Buffers / Use Buffers and Undisturbed Areas/Avoid Floodplains	Sec 10-472-(b.2) Dedication of floodplain as greenbelt is allowed.	0	0	0	0	0
		Sec 10-472-(c.1) Dedication of floodplain as reserved floodway easement is allowed.	0	0	0	0	0
		Sec 10-554 Floodplain Management					

SD-3	Preserve Undisturbed Natural Areas	Sec 10-472-(b.2) Dedication of floodplain as greenbelt is allowed.	O	O	O	O	O	O
		Sec 10-472-(c.1) Dedication of floodplain as reserved floodway easement is allowed.	O	O	O	O	O	O
SD-4	Fit Design to the Terrain	Sec 10-492 Low Impact Development allows alternate paving, storm water conservation easements, permeable pavements, and island placement adjustments.	O	O	O	O	O	O
SD-5	Locate Development in Less Sensitive Areas							
SD-6	Reduce Limits of Clearing and Grading							
SD-7	Minimize Siting on Porous or Erodible Soils							
SD-8	Avoid Steep Slopes / Use Retaining Walls							
SD-9	Reduce Setbacks and Frontages	Sec 10-490 Allows Low Impact Development.	O	O	O	O	O	O
SD-10	Dedication of Linear Park	Sec 10-472-(b.2) Dedication of floodplain as greenbelt is allowed.	O	O	O	O	O	O
		Sec 10-472-(c.1) Dedication of floodplain as reserved floodway easement is allowed.	O	O	O	O	O	O
SD-11	Conservation Easements							
SD-12	Consider Creative Design (LEED, Smart Growth)							
SD-14	Narrower Roadway ROW	Sec 10-155 Right of Way Width- Allows cul-de-sacs and local residential streets to have only 55' ROW. (Narrow right-of-way).	O					
SD-15	Narrower Residential Streets/Reduce Roadway lengths and widths	Sec 10-155 Street Construction- Allows cul-de-sacs and local residential streets to be only 28' F-F. (Narrow streets).	O					
SD-16	Eliminating Curbs and Gutters/Use Vegetated Swales	Sec 10-162 Curb and Gutter-Curb and gutter not required in a subdivision with all lots greater than 2 acres	O					

SD-17	Modify Driveway Standards/Alternative Driveway Surfaces/Shared Driveways	Sec 10-380- Surfacing- (c.) Maximum Parking Areas.	O	O	O	O	O
SD-18	Reduce the Parking Footprint/Shared Parking						
SD-18A		Sec 10-357-Parking Space Design- designs that minimize paved areas are allowed.	X	X	X	X	X
SD-18B		Sec 10-362- Shared parking arrangements- arrangements that minimize paved areas are allowed.	O	O	O	O	O
SD-20	Reduce Directly Connected Impervious Area/Drain Rooftop Runoff to Pervious Area						
SD-21	Reduce Building Footprints						
SD-22	Design of Fueling Areas						
SD-23	Design of Maintenance Bays and Docks						
SD-24	Design of Trash Storage Areas	Sec 10-340-Trash Enclosures are required.	X	X	X	X	X
SD-25	Design of Vehicle Washing Areas						
SD-26	Design of Outdoor Material Storage Areas						
SD-27	Design of Outdoor Work Areas						
SD-28	Design of Outdoor Processing Areas						

For stormwater management practices requiring run-off calculations, the designs will be based on the Subdivision Design Guidelines.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Tyler reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

For site design feasibility, conveyance issues, pretreatment requirements, treatment/geometry conditions or other design criterion, refer to the Subdivision Design Guidelines.

#### **b. Maintenance Agreements**

If used and required by the City, stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper

functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

**c. Non-Structural Stormwater Practices**

The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. These non-structural practices are explained in detail in the Subdivision Design Guidelines. (Ord. No. 0-2011-45; 6/8/2011)

**Sec. 10-543. Requirements for Stormwater Management Plan Approval**

**a. Stormwater Management Plan Required for All Developments**

No Building Permit application or Land Subdivision Construction Plans for development will be approved unless it includes a stormwater management plan outlining the Best Management Practices to be used. This plan must be prepared by a Professional Engineer licensed to practice in the State of Texas and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. (Ord. No. 0-2011-45; 6/8/11)

**Sec. 10-544. Maintenance and Repair of Stormwater Facilities**

**a. Maintenance Easement**

Prior to the issuance of any Certificate of Occupancy for a Building Permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City of Tyler, or their contractor or agent. The agreement shall also provide for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the City of Tyler in the land records.

**b. Maintenance Covenants**

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Tyler and recorded into the land record prior to a Certificate of Occupancy for a Building Permit. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts. The City of Tyler, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**c. Requirements for Maintenance Covenants**

All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the City of Tyler, and the inspection and

maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.

**d. Inspection of Stormwater Facilities**

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

**e. Right-of-Entry for Inspection**

When any new stormwater management facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the City of Tyler the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

**f. Records of Installation and Maintenance Activities**

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 5 years. These records shall be made available to the City of Tyler during inspection of the facility and at other reasonable times upon request.

**g. Failure to Maintain Practices**

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Tyler, after written notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Tyler shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner. After written notice, the City of Tyler may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property. (Ord. No. 0-2011-45; 6/8/2011)

**Sec. 10-545. Enforcement and Penalties**

**a. Violations**

Any development activity that is commenced or is conducted contrary to this Ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

**b. Notice of Violation**

When the City of Tyler determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. the name and address of the owner or applicant;
2. the address when available or a description of the building, structure or land upon which the violation is occurring;
3. a statement specifying the nature of the violation;
4. a description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
5. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

**c. Stop Work Orders**

Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until the City of Tyler confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation within 30 days can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

**d. Criminal Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Ordinance shall be punished by a fine up to \$2,000.00 as provided for in Chapter 1 Article I Section 1-4.

**e. Restoration of lands**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within 30 days after notice, the City of Tyler may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**f. Holds on Occupation Permits**

Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted by the City of Tyler. (Ord. No. 0-2011-45; 6/8/2011)

**Sec. 10-546 – 549. Reserved.**

**PART 23:** That Tyler City Code Chapter 10, "Unified Development Code", Article VII., "Environmental Regulations", is hereby amended by re-numbering current Division F., "Floodplain Regulations", as new Division G., with no other changes.

**PART 24:** That Tyler City Code Chapter 10, "Unified Development Code", Article VIII., "Development Approval Procedures", Division A., "General/Common Procedures", is hereby amended by amending Section 10-586 by re-number current subsections d. and e. as new subsections a. and b., respectively, with no other changes

**PART 25:** That Tyler City Code Chapter 10, “Unified Development Code”, Article VIII., “Development Approval Procedures”, Division H., “Landscaping and Tree Preservation”, is hereby amended by deleting current Division I., “Neighborhood Conservation District Designation”, including Sections 10-700 through 10-713, in its entirety.

**Sec. 10-682 -713. Reserved**

**PART 26:** That Tyler City Code Chapter 10, “Tyler Unified Development Code”, Article VIII., “Development Approval Procedures”, Division J., “Historic District Overlay Designation”, is hereby amended by re-numbering current Division J. as new Division I., and amending Section 10-714 to read as follows:

**Division I. Historic District Overlay**

**Sec. 10-714. Historic District Overlay.**

a. through c. No changes...

d. HD-O Criteria. An HD-O may be established to preserve areas of exemplary architectural, archaeological, cultural, or historic value provided such areas are located within an area contained within the *Historic Resources Survey, when such survey conforms to survey guidelines established by the Texas Historical Commission and the National Park Service, is on file at the City*, and which meet one or more of the following characteristics:

1. through 6. No changes... (Ord. No. 0-2011-45; 6/8/11)

e. No changes...

f. Authority to designate. Designation of a HD-O may be accomplished by ordinance of the City Council if all of the following requirements are met:

1. No changes...

2. No changes...

3. Favorable vote of a simple majority of the members of the City Council.

g. Notice requirements. Notice shall be provided as set forth in Section 10-586.

h. No changes...

No changes... (Ord. No. 0-2011-45; 6/8/11)

**PART 27:** 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 Sections 10-771 and 10-772 to read as follows:

**Sec. 10-771. Zoning Board of Adjustment**

- a. No changes...
- b. No changes...
- c. Authority to File

Appeals to the board may be taken by any person aggrieved or affected by any decision of any administrative official. Such appeal must be taken within 30 days, by filing with the planning department and with the board a notice of appeal specifying the grounds thereof. The planning department will forward to the board all papers constituting the record upon which the action appealed from was taken. (Ord. No. 0-2011-45; 6/8/11)

- d. through h. No changes...

#### **Sec. 10-772. Tyler Historical Preservation Board**

- a. No changes....
- b. The purposes of the Historical Preservation Board are:
  - 1. through 15. No changes...

16. To establish guidelines and to designate people, places and events to be included in the Half Mile of History cultural and historic landmark program. The Board's decision regarding inclusion on the Half Mile of History cultural and historic program may be appealed to the City Council pursuant to Chapter 1, Article IV. (Ord. No. 0-2011-45; 6/8/11)

- c. No changes...

**PART 28:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article XI., "Historic Preservation", Division B. "Certificate of Appropriateness" is hereby amended by amending Sections 10-785 and 10-788 to read as follows:

#### **Sec. 10-785. Applicability**

No person or entity may construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or relocate any building or structure designated on the Tyler historic landmark register, within a historic district overlay, or properties within a National Historic District designated as High or Selected Medium priority, according to the Historic Research Survey, unless a Certificate of Appropriateness or Certificate of Demolition has been issued pursuant to this Division. The term "exterior architectural feature" shall include, but not limited to, the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights, signs and other exterior features. (Ord. No. 0-2009-99; 9/23/09) (Ord. No. 0-2011-45; 6/8/11)

#### **Sec. 10-788. Review Process for Certificates of Appropriateness or Certificates of Demolition**

Upon review of the application, the board must determine whether the proposed work will adversely affect any exterior architectural feature or adversely affect the historical character of the building, structure or site, whether any proposed rehabilitation of an historic building, structure or site is consistent with the guidelines in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and whether such work is appropriate and consistent with the spirit and intent of this article. If the proposed work is consistent with the Secretary of Interior Standards, a Certificate of Appropriateness may be administratively approved by the Historic Preservation Officer. As described above, the Historic Preservation Officer or the board shall have final authority to grant a Certificate of Appropriateness, except as follows:

1. No changes...
2. No changes... (Ord. No. 0-2009-99; 9/23/09) (Ord. No. 0-2011-45; 6/8/11)

**PART 29:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article XIII., "Definitions", Division A., "Definitions", is hereby amended by adding and/or amending the following definitions in the appropriate alphabetical order to read as follows:

**Adjacent**

Adjacent refers to lots which directly touch. Lots separated by a street do not apply. (Ord. No. 0-2011-45; 6/8/11)

**Directional Sign**

A sign or signs located near the entrance or exit to a property intended to guide pedestrian or vehicular traffic. (Ord. No. 0-2011-45; 6/8/11)

**PART 30:** 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 31:** 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 June 10, 2011.

**PASSED AND APPROVED** this 8th day of June, A. D., 2011.

  
BARBARA BASS, MAYOR OF  
THE CITY OF TYLER, TEXAS

ATTEST:

 CASSANDRA BRAGER, CITY CLERK



APPROVED:

 GARY C. LANDERS, CITY ATTORNEY