

**ORDINANCE NO. 0-2011-99**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 7, "COMMUNITY DEVELOPMENT", ARTICLE III, "MINIMUM URBAN STANDARDS", AND CHAPTER 18, "STREETS", ARTICLE II., "WEEDS AND DEBRIS", SEC. 18-24, "ASSESSMENT OF CITY'S EXPENSES; BILLING; LIEN" OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, AUTHORIZING THE CITY MANAGER, UNDER APPROPRIATE CIRCUMSTANCES, TO WAIVE AND/OR APPROVE THE RELEASE OF A WEED/DEBRIS LIENS AND DEMOLITION LIENS UP TO THE AMOUNT OF \$10,000.00 OR UP TO ANY DOLLAR AMOUNT WHEN AN APPLICANT COMPLETES PAPERWORK WITH THE CITY NEIGHBORHOOD SERVICES DEPARTMENT VERIFYING CERTAIN CRITERIA; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to protect the public health, safety and welfare; and

**WHEREAS**, it is the intent of the City Council to improve customer service; and

**WHEREAS**, municipalities may, under their police powers, enact reasonable regulations not in conflict with State law that promote the health, safety and 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 51.001(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**, Texas Health & Safety Code Section 342.004 provides that the governing body of a municipality may require the owner of a lot in the municipality to keep the lot free from weeds, rubbish, brush, and other objectionable, unsightly or unsanitary matter; and

**WHEREAS**, Texas Health & Safety Code Section 342.006 states that if the owner of property in the municipality does not comply with a municipal ordinance or requirement under Texas Local Government Code Chapter 342 within seven (7) days notice of a violation, the municipality may do the work or make the improvements required, and pay for the work done or improvements made and then charge the expenses to the owner; and

**WHEREAS**, Texas Health & Safety Code Section 342.007 states that the governing body of a municipality may assess the municipality's expenses incurred for clean-up under Section 342.006 against the real estate on which the work is done or improvements are made; and

**WHEREAS**, Texas Health & Safety Code Section 342.005 states that the governing body of a municipality may punish an owner or occupant who violates an ordinance adopted under Texas Health & Safety Code Chapter 342, Subchapter A.; and

**WHEREAS**, Texas Health & Safety Code Section 342.007 states that the lien remedy in Section 342.007 is in addition to the punishment remedy in Section 342.005; and

**WHEREAS**, it is important to amend the weed/debris regulations in Tyler City Code Chapter 18, Article II.; and

**WHEREAS**, Texas Local Government Code Section 217.042(a) provides that a home rule municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet thereof; and

**WHEREAS**, Texas Local Government Code Section 217.042(b) provides that a home-rule municipality may enforce all ordinances necessary to prevent the summarily abate and remove a nuisance; and

**WHEREAS**, Texas Local Government Code Section 214.001(a)(1) states that a home-rule municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal or demolition of a building that is dilapidated, substandard, or unfit for human habitation and a hazard to public health; and

**WHEREAS**, Texas Local Government Code Section 214.001 (a)(2) states that a municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal or demolition of a building that, regardless of its structural condition, is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; and

**WHEREAS**, Texas Local Government Code Section 214.001 (a)(3) states that a municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal or demolition of a building that is boarded up, fenced, or otherwise secured in any manner, if the building constitutes a danger to the public even though secured from entry; or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by 214.001 (a)(2); and

**WHEREAS**, pursuant to Texas Local Government Code Section 214.001(b), the Tyler City Code establishes minimum standards for the continued use and occupancy of all building, provides for giving proper notice to the owner of a substandard building, and provides for a public hearing to determine whether a building complies with the standards set out in the ordinance; and

**WHEREAS**, Texas Local Government Code Sections 214.0015 (b)(2) and (d) state that a municipality may assess a civil penalty against the property owner for failure to repair, remove, or demolish the building and impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal or demolition expenses or civil penalty; and

**WHEREAS**, Texas Local Government Code Section 214.002 (c) states that the governing body of a municipality may punish by a fine, confinement in jail, or both a person who does not comply with an order to repair, remove, or demolish a structure that the municipality finds is likely to endanger persons or property; and

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

**PART 1:** That Tyler City Code Chapter 18, "Streets", Article II., "Weeds and Debris", is hereby amended by amending Section 18-24 to read as follows:

**Sec. 18-24. Assessment of City's expenses; billing; lien.**

- a. **Schedule of City costs.** *No change ...*
- b. *No change ...*
- c. **Late fee.** *No change...*
- d. **Penalty fee.** *No change ...*
- e. **Filing of statement of costs.** *No change ...*
- f. The City Manager is hereby authorized, under appropriate circumstances, to waive and/or approve the release of a lien up to the amount of ten thousand (\$10,000.00) dollars or up to any dollar amount when an applicant completes paperwork with the City Development Services Department verifying the following:

1. Applicant shall improve the value of the tract upon which the liens are attached in an amount equal to or greater than the value of the liens; and

2. The Applicant is not the same owner of the tract as when the lien was created; and

3. Applicant has paid a \$50.00 City process fee along with the fee for filing the lien release; and

4. Taxes on tract are current; and

5. Applicant has complied with all City ordinances on required permits and has completed the improvements which have been inspected and approved by the City Development Services Department. (Ord. 0-2005-51, 7/27/05) (Ord. No. 0-2011-99, 11/16/11)

**PART 2:** That Tyler City Code Chapter 7, "Community Development", Article III., "Minimum Urban Standards", is hereby amended by adding new Section 7-79 to read as follows:

**Sec. 7-79. Waiver and/or Approve Release of Lien.**

The City Manager is hereby authorized, under appropriate circumstances, to waive and/or approve the release of a lien up to the amount of ten thousand (\$10,000.00) dollars or up to any dollar amount when an applicant completes paperwork with the City Development Services Department verifying the following:

1. Applicant shall improve the value of the tract upon which the liens are attached in an amount equal to or greater than the value of the liens; and

2. The Applicant is not the same owner of the tract as when the lien was created; and

3. Applicant has paid a \$50.00 City process fee along with the fee for filing the lien release; and

4. Taxes on tract are current; and

5. Applicant has complied with all City ordinances on required permits and has completed the improvements which have been inspected and approved by the City Development Services Department. (Ord. No. 0-2011-99, 11/16/11)

**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 this ordinance shall be in full force and effect immediately upon its passage and approval.

**PASSED AND APPROVED** this 16<sup>th</sup> day of November, A. D., 2011.

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