

ORDINANCE NO. O-2024-68

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, BY AMENDING THE LAND USE TABLE RELATED TO MINIATURE GOLF AND DRIVING RANGES, AMENDING REGULATIONS RELATED TO MOBILE FOOD VENDORS, MINIMUM OFF-STREET PARKING REQUIREMENTS AND ALCOHOL DISTANCE REQUIREMENTS IN THE DBAC ZONING DISTRICT; AND OTHER CLARIFICATIONS; 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 211.006 requires that municipalities provide public notice of each public hearing regarding any proposed adoption of or change to a zoning regulation under which a current conforming use of a property is a nonconforming use if the regulation is adopted or changed; 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 by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of certain municipal ordinances adopted under Texas Local Government Code Section 212.002 and other municipal ordinances relating to access to public roads or the pumping, extraction and use of groundwater by persons other than retail public

utilities, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health; 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, under Texas Transportation Code Section 311.004, home-rule municipalities have certain authority over sidewalks; 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, the Unified Development Code in City Code Chapter 10 has been amended and updated from time to time; and

WHEREAS, on March 6, 2024, the Unified Development Code Review Committee reviewed these proposed amendments; and

WHEREAS, proper notice was provided to each owner of real or business personal property and their occupant where proposed nonconforming uses are located in accordance with Texas Local Government Code Section 211.006; and

WHEREAS, on June 4, 2024, the Planning and Zoning Commission reviewed these proposed amendments and voted to recommend approval to the City Council;

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 III., "Use Regulations", Division A., "Use Table Overview", is hereby amended by amending the following portion of the Table in Section 10-49 to read as follows, with no other changes to the Table:

Sec. 10-49. Nonresidential District Use Table

| USE GROUP Use Category Use Sub-Category Specific Uses | AG | AR | RPO | POD | C-1 | C-2 | DBAC | PMXD-1 | PMXD-2 | PCD | INT | M-1 | M-2 | MU | OSP | Use Standards |
|---|----|----|-----|-----|----------|-----|------|----------|----------|----------------------|-----|-----|-----|----|-----|---------------|
| Sports and Recreation (Participant) | | | | | | | | | | | | | | | | |
| Outdoor | | | | | | | | | | | | | | | | |
| Golf Course, Miniature Golf, and Driving Range | | | | | <u>S</u> | S | | <u>P</u> | <u>P</u> | <u>S</u> <u>P</u> | | S | S | X | S | |

(Ord. No. 0-2011-45; 6/8/2011) (Ord. No. 0-2012-38, 4/25/12) (Ord. No. 0-2014-33; 4/23/14)
(Ord. No. 0-2014-97; 10/22/14) (Ord. No. 0-2019-87; 10/8/19) (Ord. No. 0-2023-115; 12/13/23)
(Ord. No. 0-2024-68; 7/24/24)

PART 2: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article III., "Use Regulations", Division C., "Limited and Specific Use Standards", is hereby amended by amending Section 10-76 to read as follows:

Sec. 10-76 Mobile Food Units and Food Truck Parks

- a. No changes...
- b. Required Permits and Inspections
 - 1. And 2. No changes...
 - 3. All Mobile Food Units on private property and City-owned property shall require a Transient Mobile Food Vendor Permit issued by the Planning Director, unless exempt as follows:
 - a. Through d. No changes...
 - c. 1 through 7. No changes...
- 8. All Mobile Food Units operating under a Transient Mobile Food Vendor Permit, not within an approved Food Truck Park, shall provide documentation that the Unit's patrons and employees have access to permanent restroom facilities. (Ord. No. 0-2024-68; 7/24/24)

PART 3: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article III., "Use Regulations", Division H., "Alcoholic Beverages", is hereby amended by amending Section 10-96 to read as follows:

Sec. 10-96. Sale of alcoholic beverages near a church, school, public hospital, day care center or child-care facility; distance requirements

- a. Churches and public hospitals
 - 1. No changes...
 - 2. No changes...
 - 3. Exceptions. The regulations in this subsection a. do not apply to a license or permit holder operating on a property zoned "DBAC" who also holds a food and beverage certificate covering a premise that is within 300 feet of a church or public hospital. (Ord. No. 0-2024-68; 7/24/24)
- b. Public and private schools
 - 1. Through 4. No changes...
 - 5. Exceptions. Pursuant to State law, the regulations in this subsection b. do not apply to:
 - a. A license or permit holder who also holds a food and beverage certificate covering a premise that is within 300 feet of a private school. Pursuant to State law, this subsection b. does not apply to the holder of a license or permit covering a premise where minors are prohibited from entering under Texas Alcoholic Beverage Code Section 109.53 or successor, and that is located within 300 feet of a private school.
 - b. A license or permit holder operating on a property zoned "DBAC" who also holds a food and beverage certificate covering a premise that is within 300 feet of a public or private school
- c. Sales near day-care center or child-care facility
 - 1. Through 6. No changes...

7. Exceptions. The regulations in this subsection a. do not apply to a license or permit holder operating on a property zoned "DBAC" who also holds a food and beverage certificate covering a premise that is within 300 feet of a day-care center or child-care facility (Ord. No. 0-2024-68; 7/24/24)

PART 4: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article IV., "Subdivision Design and Improvements", Division A., "Subdivisions", is hereby amended by amending Section 103 to read as follows:

- a. Through c. No changes...
- d. To calculate the demand created by a site, the peak hour traffic generated by the site is multiplied by the average trip length. According to the latest Tyler and Smith County Texas travel surveys, the average trip length for Tyler/Smith County is 6.1 miles. Many of Tyler's arterial roads are state highways which are maintained by TxDOT. For the proportionality calculation, only impacts to City maintained roads will be considered. To solely account for impacts to the City transportation network, the trip length has been reduced to 1.5 miles. The traffic generated by a site varies based on the use of the land. The peak hour traffic values for different uses are listed in the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers (Ord. No. 0-2024-68; 7/24/24)

PART 5: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division E., "Off-Street Parking and Loading", is hereby amended by amending the following portion of the Table in Section 10-360 to read as follows, with no other changes to the Table:

| Use Category | Specific Use | General Requirement | Additional Requirement |
|------------------|--------------|---------------------|------------------------|
| Residential Uses | | | |
| Household Living | | | |

(Ord. No. 0-2024-68; 7/24/24)

PART 6: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division K., "Outdoor Sales, Storage, and Display", is hereby amended by amending Section 10-454 to read as follows:

Sec. 10-454. Outdoor Transient Vendors (including Mobile Food Vendors)

- a. No changes...
- b. General Requirements
 - a. Outdoor transient vendor sales may only be allowed in C-2, DBAC, PCD, PMXD-1, PMXD-2, INT, M-1 and M-2 zoning districts. Mobile Food Units may obtain a transient mobile food vendor permit for a C-1 zoning district only if the property has received a special use permit to operate a Food Truck Park
 - b. No changes...
 - c. A maximum of two permits for no more than 30 consecutive days each per calendar year per lot/contiguous tract is allowed. Mobile Food Units shall be issued a Mobile Food Vendor Permit for a maximum period of one year from date

of approval. (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2014-113; 12/10/14)
(Ord. No. 0-2024-68; 7/24/24)

No other changes...

PART 7: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article X., Administration and Enforcement", Division B., "Fees", is hereby amended by amending the Table to include:

| Application, Permit, Test, or Deposit | Fee |
|---------------------------------------|----------|
| Mobile Food Vendor Permit | \$300.00 |

(Ord. No. 0-2024-68; 7/24/24)

PART 8: 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 9: 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 Friday, July 26th, 2024.

PASSED AND APPROVED this the 24th day of July, A.D., 2024.




DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK



APPROVED:


DEBORAH G. PULLUM,
CITY ATTORNEY