

ORDINANCE NO. O-2019-62

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 REGULATIONS RELATED TO ADVERTISING ON TYLER TRANSIT VEHICLES, INTERSTATE HIGHWAY SIGNAGE, DONATION CONTAINERS AND MINOR 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 211.007(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, State law, at Texas Local Government Code Chapter 243, authorizes a municipality to adopt regulations regarding sexually oriented businesses as the municipality considers necessary to promote the public health, safety, and welfare; 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 certain provisions in the Unified Development Code in City Code Chapter 10; and

WHEREAS, the Unified Development Code Review Committee has reviewed the proposed changes; and

WHEREAS, on August 6, 2019, the Planning and Zoning Commission reviewed the proposed changes;

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 IV., "Subdivision Design and Improvements", Division D., "Subdivision Improvement Agreement", is hereby amended by amending Section 10-134 to read as follows:

Sec. 10-134. Maintenance and Guarantee of Public Improvements

The developer must maintain all required street, utility, and drainage improvements for a period of one year following the acceptance by the city. The developer must also provide a warranty, in the form of a maintenance bond in the amount of 100 percent of the construction cost guaranteeing that all public improvements will be free from defect for a period of one year following such acceptance by the city. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19, 2/8/06) (Ord. No. 0-2019-62; 8/14/19)

PART 2: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending Section 10-401 to read as follows:

Sec. 10-401. General Sign Regulations

- a. Through d. No changes...
- e. Advertisement will be allowed on the windows of Tyler Transit vehicles subject to approval by the City of Tyler and Tyler Transit.

(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) (Ord. No. 0-2016-76; 08/24/16) (Ord. No. 0-2019-62; 8/14/19)

PART 3: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI., "Development Standards", Division H., "Sign and Billboard Regulations", is hereby amended by amending the table in Section 10-409 to add new provisions related to Interstate Highway Signs to read as follows, with no other changes to the Table provisions:

Sec. 10-409. Sign Standards in Nonresidential Districts

Sign Type district/use	Max. Number	Max. Area (sq. ft.) or Max. Width (ft.)	Max. Heig ht (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements
Roof Signs	1/frontage	10% of building façade width	4		Must be in compliance with a Master Sign Plan; In lieu of freestanding sign, freestanding sign allowance must be from same elevation; Constructed of individually cut lettering and/or graphics without backing panel.
Interstate Highway Signs				Setback	
C-1, C-2, PCD, PMXD-1, PMXD-2	1 / lot	400	150	5	Only for properties at least one acre in size and within 660 feet of Interstate Highway right-of-way. (Ord. No. 0-2019- ; 8/14/19)
Freestanding Signs				Setback	
AG and AR District	1/frontage	8	8	5	

(Ord. No. 0-2010-20, 3/10/10) (Ord. No. 0-2010-119, 11/10/10)(Ord. No. 0-2011-45, 6/8/11)(Ord. No. 0-2012-83, 10/10/12)(Ord. No. 0-2013-41; 5/22/13)(Ord. No. 0-2015-67; 6/24/15) (Ord. No. 0-2016-76; 8/24/16) (Ord. No. 0-2019-62; 8/14/19)

PART 4: 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 10-459 to read as follows:

Sec. 10-459. General Requirements

Donation containers include any structure or container which has four walls, a roof and a floor, not to exceed the dimensions of six feet one inch (6'1") in width or depth, nor shall exceed seven feet (7') in height, which is used for the donation of clothing, appliances, or other similar materials or products. Said structure or container shall be of adequate weight to withstand typical weather conditions as to not be moved within a parking lot by wind. The structure or container must be built substantially enough, as to not pose any public threat, and be painted or finished in a way that is visually coherent and conducive to its environment. Any use of such structures within the city not in compliance with this section will be unlawful. Any existing use of such structures prior to the adoption of this section that are not in compliance with this section must comply within 90 days of the adoption of this section.

a. Permit Required

A Temporary Use Permit (TUP) is required for each donation container that is not accessory to the primary use of the property. TUPs issued for donation bins operated by a 501(c)(3) non-profit organizations registered with the State of Texas are exempt from the filing fee. TUPs for donation containers may be issued for an initial 90 day period and may be renewed at the discretion of the Planning Director on an annual basis thereafter. Institutional uses are exempt from the permit requirement, however all other standards of this Section apply. The owner of the donation container must have written permission from the property owner on whose property the donation container will be placed. The property owner must obtain the TUP prior to the donation container temporary use. (Ord. No. 0-2019-62; 8/14/19)

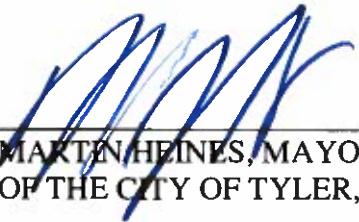
b. Through g. No changes...

(Ord. No. 0-2016-8; 1/27/16) (Ord. No. 0-2019-62; 8/14/19)

PART 5: 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 6: 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, August 16, 2019.

PASSED AND APPROVED this the 14th day of August, A.D., 2019.



MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:



Cassandra Brager
CASSANDRA BRAGER, CITY CLERK



APPROVED:



Deborah G. Pullum
DEBORAH G. PULLUM,
CITY ATTORNEY

ORDINANCE NO. O-2019-62

ATTACHMENT "B"

UPDATE MATRIX

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UDC AMENDMENT RECOMMENDATIONS					
Section	Item Changed	UDC Review Committee recommendations highlighted in yellow			
SUBSTANTIVE AMENDMENTS					
Article I Introductory Provisions					
Article II Zoning Districts					
Article III Use Regulations					
Article IV Subdivision Design and Improvements					
10-134	Maintenance and Guarantees of Public Improvements	Developer must provide one-year warranty in the form of a 10% maintenance bond	Developer must provide one-year warranty in the form of a 10% maintenance bond City Engineer Remove the need for 3-way contracts		
10-409	Sign Standards in Nonresidential Districts	Article V Streets and Thoroughfares Article VI Development Standards Interstate Sign size standards Mirror Lindale's standards, limit interstate pole signs to sites > 1 acre	Article VII Environmental Regulations Article VIII Development Approval Procedures Article X Administration and Enforcement Article XI Historic Preservation Article XII Annexation Article XIII Definitions Signage for properties along Interstate Community Staff/Development		

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ATTACHMENT "B"
UPDATE MATRIX**

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UDC AMENDMENT RECOMMENDATIONS

UDC Review Committee recommendations highlighted in yellow