

ORDINANCE NO. O-2019-96

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 RE-ADOPTING VARIOUS FEES; AND ALSO REMOVING THE FEES SECTION ONLY FROM THE PLANNING AND ZONING COMMISSION NOTIFICATION AND PUBLIC HEARING REQUIREMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

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 (UDC) governing zoning, subdivision, development and other land use regulations; and

WHEREAS, at the time of original adoption, certain fees related to development, building, development and inspections were contained in City Code Chapter 6; and

WHEREAS, certain fees were transferred or added to the Unified Development Code in Ordinance No. 0-2009-19; and

WHEREAS, State law, at Texas Local Gov't Code Sec. 211.006 and 211.007 provides the process for Planning and Zoning review of proposed zoning changes; and

WHEREAS, consistent with State law, Tyler City Code Sections 10-600 through 10-603 provide specific notice and public hearing requirements for Planning and Zoning Commission review prior to adoption of amendments to the zoning regulations in UDC Code Chapter 10; and

WHEREAS, Tyler City Code Sections 10-601 and 10-603 provide that the Tyler Planning and Zoning Commission must hold a public hearing on each text amendment to the Unified Development Code; and

WHEREAS, the current wording of City Code Sections 10-601 and 10-603 makes it both cumbersome and time-consuming because it applies the same stringent notice and hearing requirements to fees that are applicable to zoning regulation changes; and

WHEREAS, on October 23, 2019, the City Council adopted certain fee amendments to City Code Section 10-776; and

WHEREAS, it is important for the City Council to re-affirm and to re-adopt the fees and fee amendments as established in City Code Section 10-776 and as adopted on October 23, 2019; and

WHEREAS, on 11/5/19, 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 VIII., "Development Approval Procedures", Division B., "Development Code Text Amendments", is hereby amended by amending Sections 10-601 and 10-603 to read as follows:

Sec. 10-601. Notice of Hearing

Notice of any proposed amendment to the text of this development code, other than proposed amendments to Fees in Section 10-776, must comply with the public hearing requirements in accordance with Article VIII, Division A, above. When any such amendment relates to a change of a zoning regulation not affecting specific property, notice of the public hearing of the City Council must be given by publication in a newspaper of general circulation in the City of Tyler at least 15 days prior to the public hearing. Such notice must state the time and place of such hearing and the nature of the subject to be considered. Mailed notification of property owners is not required in such instances where the change of a zoning regulation does not affect a specific property. (Ord. No. 0-2019-96; 11/13/19)

Sec. 10-603. Hearing and Recommendation—Planning and Zoning Commission

The Planning and Zoning Commission must hold a public hearing on each proposed text amendment, other than proposed amendments to Fees in Section 10-776. The Commission may act by simple majority vote to recommend that the proposed text amendment be approved, approved with modifications, or denied. If the Commission does not act on a proposed text amendment within 60 days of the date of the public hearing, the proposed text amendment must

be forwarded to the City Council with no recommendation. (Ord. No. 0-2019-96; 11/13/19)

PART 2: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article X., "Administration and Enforcement", Division B., "Fees", is hereby amended by re-affirming and re-adopting fees by re-adopting Section 10-776 to read as follows:

Sec. 10-776 Fees

Application, Permit, Test, or Deposit	Fee
Alternative Compliance Review	\$80.00
Annexation (Voluntary)	\$420.00 [a] [b] + [c] + [e]
Billboard Annual Registration	\$85.00 per billboard initially and annually thereafter
FEMA Map Revision Letter Review	\$500.00
Master Sign Plan	\$80.00
Master Street Plan Amendment	\$500.00
Plats	
Minor Plat (four lots or less with no street or utility extensions)	\$300.00 + \$5 per lot + [a] (when applicable) [c]
Major Plat	\$400.00 + \$5 per lot + [c] + [e]
Preliminary Plat (Residential or Commercial)	\$300 + \$5 per lot + [e]
Pre Plat Agreement	\$200.00
Vacation (Plat Vacation or Vacating Plat)	\$100.00 + [c]
Variance/Waiver Request	\$100.00
Predevelopment Meeting (site > 1 acre)	\$100.00
Quality Control Testing (Ord. 0-2006-79, 9/13/2006)	1% (inside City limits) 3% (outside City limits) Plus \$500.00 per each submitted plan review
Right-of-way Closure	\$350.00 [a] + [e]
Sexually Oriented Business License	\$600.00 Initially and annually thereafter
Street Name Change	\$200.00 [a] + [e]
Subdivision Infrastructure Plan Review	\$1,000
Temporary Sign Permit	\$10.00
Temporary Use Permit	\$35.00
Traffic Impact Analysis Review	\$1,500
Outdoor Transient Vendor Permit	\$150.00 [d]
Unified Development Code Amendment	\$500.00
Variance	\$386.00 [a] + [c] + [e]
Zoning Change / Special Use Permit/Beer and Wine Site Verification /Zoning Site Inspection Verification	\$550.00 [a] [b] + [e]
Zoning Change Planned Development	\$1,050.00 [a] [b] + [e]
Zoning Site Plan Amendment	\$1,050.00 [a] [b] + [e]
Zoning Site Plan Amendment (Administrative)	\$80.00
Zoning Verification Letter Request	\$50.00

Notes:


- Includes mandatory \$30 publication and \$20 mailed notification required for owners whose property is within 200 feet of the proposed action.
- Includes \$20 Zoning Sign Deposit (refundable upon sign's return)
- Includes the City fee only. An additional recording fee in the amount published by the Smith County Clerk must also be paid.

- d. The Outdoor Transient Vendor permit fee shall not be required for a Non-Profit.
Non Profit – An organization or entity formed for the purpose of serving a purpose of public or mutual benefit other than the pursuit or accumulation of profits, i.e., 501(c)(3)s, schools, religious organizations, governmental organizations. Proof of non profit status is required. All other entities/individuals will be charged the regular rate.
- e. Late submittal convenience fee equals 50% of total application fee added to application fee.
(Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2009-88; 8/26/09) (Ord. No. 0-2010-99; 09/22/10) (Ord. No. 0-2012-69, 9/12/12) (Ord. No. 0-2012-83; 10/12/12) (Ord. No. 0-2012-91; 11/13/12) (Ord. No. 0-2013-16; 2/27/13) (Ord. No. 0-2014-8; 1/22/14) (Ord. No. 0-2017-77; 9/13/17) (Ord. No. 0-2019-; 10/23/19) (Ord. No. 0-2019-96; 11/13/19)

PART 3: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 4: That any person, firm, or corporation violating any 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 November 15, 2019.

PASSED AND APPROVED this 13th day of November, A. D., 2019.


MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:


CASSANDRA BRAGER, CITY CLERK




DEBORAH G. PULLUM,
CITY ATTORNEY