



CITY OF TYLER COUNCIL COMMUNICATION

Agenda Number: O-2

Date: January 10, 2007

Subject: Request that the City Council consider adopting an ordinance amending the political sign regulations in the Zoning Ordinance in the Tyler City Code.

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Item Reference: Texas Local Gov't Code Chapter 211; Texas Local Gov't Code Section 216.903; Tyler City Code Chapter 7, Article IV.

State law, at Texas Local Government Code Chapter 211, authorizes municipalities to adopt zoning regulations and zoning districts to promote the public safety and general welfare. Pursuant to State law, the City of Tyler has adopted a comprehensive Zoning Ordinance in Tyler City Code Chapter 10, Article IV., establishing zoning regulations for the City. The attached ordinance makes changes to the Zoning Ordinance to bring the political sign requirements into conformance with State law.

Political Signs

The Zoning Ordinance, at City Code Section 10-247, contains Sign and Identification regulations. Section 10-247.h.1(d) contains requirements specifically related to political signs. However, Texas Local Government Code Section 216.903 provides, with some exceptions, that a municipal charter or ordinance may not, for a sign that contains a primarily political message and that is located on private real property with the consent of the property owner:

- (1) prohibit the sign from being placed;
- (2) require a permit/approval of the municipality or impose a fee for the sign to be placed;
- (3) restrict the size of the sign; or
- (4) provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance.

Texas Local Government Code Section 216.903(d) provides that the State law does not apply to a political sign that:

- (1) has an effective area greater than 36 feet;
- (2) is more than 8 feet high;
- (3) is illuminated; or
- (4) has any moving elements.

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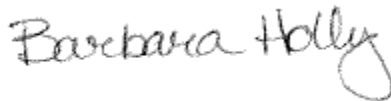
It is now necessary to update the political sign regulations in Tyler City Code Section 10-247.h.1(d) to make them consistent with State law, as follows:

1. Removes Tyler Code provision prohibiting persons from erecting political signs more than 60 days before an election or referendum, but keeps and revises the current 10-day removal requirement (anti-litter provision).
2. Removes current requirement that political signs in residentially zoned areas shall be limited to 4 square feet, but adds a provision limiting the height to 8 feet as allowed by State law.
3. Removes current requirement that political signs within all other zoning districts shall be limited to 32 square feet. The State law allows for municipalities to regulate signs with an effective area greater than 36 feet. As originally presented to the Planning and Zoning Commission, the maximum was placed at 36 feet. However, many signs that have been used in recent elections have been up to 48 square feet in size. Accordingly, the ordinance draft has been amended to establish a maximum size limit of 48 square feet.
4. Adds as provision to prohibit any moving elements, as allowed by State law.

On November 11, 2006, the Planning and Zoning Commission reviewed this proposed ordinance and voted 5-0 to recommend adoption to the City Council. Following further review, the Legal Department made the additional change regarding the maximum size limit of 48 square feet.

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending the political sign regulations in the Zoning Ordinance in the Tyler City Code.



Drafted/Recommended By: Barbara Holly
Department Leader

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2007-5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, CHAPTER 10, "PLANNING AND ZONING", ARTICLE IV., "ZONING", TO AMEND THE SIGN REGULATIONS IN THE CITY ZONING ORDINANCE TO UPDATE THE REGULATIONS REGARDING POLITICAL SIGNS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY 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, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, State law, at Texas Local Government Code Chapter 211, authorizes municipalities to adopt zoning regulations and zoning districts; and

WHEREAS, the City of Tyler has adopted a comprehensive Zoning Ordinance in City Code Chapter 10, Article IV.; and

WHEREAS, Section 10-247 of the Tyler Zoning Ordinance contains sign and identification regulations, and Section 10-247.h.1(d) contains political sign regulations; and

WHEREAS, State law, at Texas Local Government Code Section 216.903, places certain restrictions on municipalities in the regulation of political signs; and

WHEREAS, it is necessary to update the political sign regulations in City Code Section 10-247 to comply with State law; and

WHEREAS, municipalities may enact reasonable time, place and manner regulations related to speech; 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, 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 of Tyler 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 all nuisances and causes thereof; 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, or when not prescribed by the Charter, in such manner as shall be provided by ordinances or 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 the 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, 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 the 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, the Planning and Zoning Commission reviewed most of the changes in the proposed ordinance on 11/7/06, and voted to recommend to the City Council that the Ordinance should be adopted;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER:

PART 1: That Tyler City Code Chapter 10, “Planning and Zoning”, Article IV., “Zoning”, is hereby amended by amending Section 10-247.h.1(d) relating to political signs to read as follows:

(d) Non-illuminated political signs are allowed subject to the following regulations;

1. Such signs shall be removed ten (10) days following the date of the primary election, run-off election, general election or referendum it concerns, unless the candidate remains a viable candidate for the office sought and there are subsequent elections within the same election period.
2. Political signs may be placed only on private property and only with the property owner's permission.
3. Political signs shall not exceed eight feet (8') in height.
4. Political signs shall not have an effective area greater than forty-eight (48) square feet.
5. Political signs shall not have any moving elements. (Ord. No. 0-2006-5, 1-10-07)

PART 2: 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 3: 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 become effective upon 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 January 12, 2007.

PASSED AND APPROVED this 10th day of January, A. D., 2007.

 JOSEPH O. SEEBER, MAYOR OF
 THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

 CASSANDRA BRAGER, CITY CLERK

 CITY ATTORNEY

