



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: O-3

Date: July 25, 2007

Subject: Request that the City Council consider adopting an Ordinance amending the Electronic Message Center sign regulations in Tyler City Code Chapter 10 to specify minimum hold time, sign size allowance and restrict such signs from facing single family or historic districts and disallow such signs within historic districts.

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Item Reference: Texas Local Government Code Chapter 211; Tyler City Code Chapter 10, Article IV.

State law authorizes municipalities to adopt zoning regulations, and the City of Tyler has adopted a comprehensive Zoning Ordinance in Tyler City Code Chapter 10, Article IV. Section 10-247 of the Zoning Ordinance contains specific regulations governing electronic message signs. Such signs are allowed to be a maximum of 64 square feet in size which is counted in the total area allowed for signs. They are not allowed to be animated in any manner.

Recent advances in technology have evolved the workings of electronic message signs. These signs are now capable of being fully animated. A number of meetings have been held to discuss the sign issues with the affected businesses. While many of the businesses are inclined to support full animation, the Tyler Morning Telegraph reader's poll indicated a majority of their readers were against the animated signs. Working groups for Tyler 21 also weighed in overwhelmingly in favor of less animation.

Following discussions with area sign representatives; an ordinance has been crafted that recognizes the advertising value of electronic message signs, by providing minimum driver distraction and added protection for neighborhoods and historic districts. The recommended changes require a minimum three second hold time for messages (there currently is no hold time specified for any message other than time and temperature), with one second per line of copy. This should provide adequate time for drivers to view a message.

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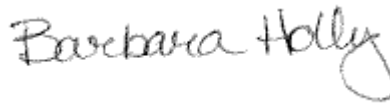
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A second recommendation is to allow the electronic message sign in addition to other allowances, so if a business is allowed one 100 square foot sign, the message board would be in addition to that maximum of a total signage area of 164 square feet. The third recommendation would be to prohibit these signs from facing single family zoned or used property, or be within or facing historic districts.

There has been general concurrence with these recommendations.

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending the electronic message center signs in the Zoning Ordinance in Tyler City Code Chapter 10 to provide a minimum hold time for messages, allow the sign square footage in addition to other sign allowances, and restrict such signs from facing single family housing or be within or facing historic districts.



Drafted/Recommended By:
Department Leader

Barbara Holly
Director of Planning

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2007-94

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE ZONING ORDINANCE IN TYLER CITY CODE CHAPTER 10, "PLANNING AND ZONING", BY AMENDING SECTION 10-247, "SIGNS AND IDENTIFICATION REGULATIONS", TO CLARIFY APPROPRIATE HOLD TIMES FOR ELECTRONIC MESSAGE SIGNS, PROVIDE APPROPRIATE LOCATIONS FOR SUCH SIGNS, AND ALLOW SUCH SIGNS IN ADDITION TO OTHER SIGN ALLOWANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING 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 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 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, 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 provides 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, 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 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 Tyler City Council has adopted a comprehensive zoning ordinance in Tyler City Code Chapter 10, Article IV.; and

WHEREAS, Tyler City Code Section 10-247 currently allows electronic message signs, but does not specify a minimum hold time for messages; and

WHEREAS, animated, flashing and “scroll on” types of signs are prohibited in the City of Tyler; and

WHEREAS, it is important to protect the public safety by limiting visual distractions to the motoring public while providing effective means of communication; and

WHEREAS, this clarification is consistent with the latest research on electronic signs and resulting vehicle crash date; and

WHEREAS, the Planning and Zoning Commission reviewed this proposed ordinance on 6/19/07, and voted to recommend approval;

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

PART 1. That Tyler City Code Chapter 10, “Planning and Zoning”, Article IV., “Zoning”, is hereby amended by amending Section 10-247, “Signs and Identification Regulations” by amending subsection j. to read as follows:

j. Electronic Message Center Signs.

1. All Electronic Message Center signs located within the City shall adhere to the following requirements:

(a) All EMC signs shall have a minimum hold of three (3) seconds, with one (1) second per line of copy.

(b) The maximum area of an EMC sign shall not exceed sixty-four (64) square feet, and is in addition to other sign allowances. As an EMC sign is a form of readerboard, the EMC sign square footage may not be coupled with any other form of readerboard.

(c) Minimum separation between EMC signs is 70', unless approved by the Planning Director based on visibility needs.

(d) EMC signs must not face single family zoned property consisting of the following zoning designations: R-1A, R-1B, R-1C, R-2 and R-TH or property used for single family regardless of zoning.

(e) No EMC signs are allowed within or facing historic districts.

(f) As measured at the property line, the maximum light emanation from an EMC sign shall be no greater than .2 footcandles.

(g) No animation of any type, or flashing light, or "spell-on" display mode is allowed on any EMC sign.

(h) Every EMC sign shall be equipped with an automatic dimmer device.

(i) All EMC signs shall comply with the appropriate City sign and other regulations.

(j) All EMC signs shall be antiglare.

(k) Any malfunctioning EMC sign must be turned off or display a blank screen until repaired.

(l) All electrical equipment shall be UL listed.

(m) All power to an EMC sign shall be supplied via underground carrier, inside approved conduit, and shall be installed according to the City electrical requirements.

(n) All EMC signs shall be kept in good operating condition and maintained with good external appearance.

2. If any non-conforming existing EMC sign is damaged so that repairs would cost as much as sixty percent (60%) of the value of the sign, the sign may be repaired only if it is brought into conformance with this ordinance. (ORD. 0-97-62, 12/10/97) (Ord. No. 0-2007-94; 7/25/07).

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 not become effective until 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 July 27, 2007.

PASSED AND APPROVED this 25th day of July, A. D., 2007

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

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY