

ORDINANCE NO. 0-2010-37

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, ALLOWING FOR THE INCLUSION OF AREA RECEIVING LONGSTANDING TREATMENT AS PART OF THE MUNICIPALITY PURSUANT TO SECTION 41.003 OF THE TEXAS LOCAL GOVERNMENT CODE BY MAKING AN UNCONTESTABLE FINDING THAT ALL TERRITORY INCLUDED WITHIN THE CITY OF TYLER FOR THE PRECEDING 20 YEARS IS PART OF THE CITY OF TYLER, TEXAS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code Section 41.003 provides that an irrefutable presumption attaches to the inclusion within the city of any area that has been functionally a part of the city for 20 years; and

WHEREAS, the records of the City indicate that the area designated in the attached Exhibit "A" has been a part of the City for at least the preceding 20 years; and

WHEREAS, the City has provided municipal services, including police protection, to the area and has treated the area as part of the City during the preceding 20 years; and

WHEREAS, there has not been a final judicial determination during the preceding 20 years that the area is outside the boundaries of the City; and

WHEREAS, there is no pending lawsuit that challenges the inclusion of the area as part of the City;

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

PART 1: That the findings herein are adopted. The City Council hereby makes the following findings that on the date of adoption of this ordinance:

1. That City records indicate that the area designated in the attached Exhibit "A" has been a part of the City of Tyler for at least the preceding 20 years; and
2. That the City of Tyler has provided municipal services, including police protection, to the area designated in the attached Exhibit "A" and has treated the area as part of the city during the preceding 20 years; and
3. That there has not been a final judicial determination during the preceding 20 years that the area designated in the attached Exhibit "A" is outside the boundaries of the City of Tyler; and
4. That there is no pending lawsuit that challenges the inclusion of the area designated in the attached Exhibit "A" as part of the City of Tyler.

PART 2: That as the requirements of Texas Local Government Code Section 41.003(b) for inclusion of the area have been met, the inclusion of the area designated in Exhibit "A" is not

contestable, and that the attached Exhibit "A" is hereby adopted and is incorporated as part of this ordinance.

PART 3: That Tyler City Code Chapter 10, "Tyler Unified Development Code", is hereby amended by amending Section 10-802 to read as follows:

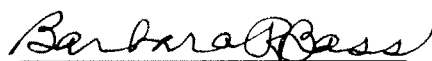
Sec. 10-802. City Limits in 1990

Section 41.003 of the Texas Local Government Code provides that an irrebuttable presumption attaches to the inclusion within the city of any area that has been functionally a part of the city for 20 years. City records indicate that the area designated in the Exhibit "A" which is attached to the ordinance adopting this section has been a part of the city for at least the preceding 20 years and the city has provided municipal services, including police protection, to the area and has treated the area as part of the city during the preceding 20 years. City records also indicate that there has not been a final judicial determination during the preceding 20 years that the area is outside of the boundaries of the city, and that there is no pending lawsuit that challenges the inclusion of the area as part of the city. Therefore, the City Council finds that the requirements of state law for inclusion of the area have been met and the inclusion of the area designated in Exhibit A is not contestable. (Ord. O-2007-73, 06-19-07) (Ord. No. 0-2010-37; 4/28/10)

PART 4: 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 5: That this ordinance shall be in full force and effect on and after the date of its passage and approval.

PASSED AND APPROVED this the 28th day of April, A.D., 2010.


BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

APPROVED:


MARY C. SANDERS, CITY ATTORNEY



EXHIBIT "A" TO ORDINANCE NO. 0-2010-37

