



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: O-1

Date: August 23, 2017

Subject: ZA17-001 UNIFIED DEVELOPMENT CODE (BIANNUAL REVIEW)

Request that the City Council consider approving an ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by amending regulations relating to use regulations, development standards, environmental regulations, historic preservation and definitions.

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Item Reference:

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. The City committed to biannual reviews to ensure that the adopted code stays current with development practice. The appointed UDC Steering Committee, chaired by Bob Garrett, reconvened to review and recommend proposed changes to the Unified Development Ordinance.

Committee recommendation highlights:

- Adopt criteria to allow for administrative approval of small cell telecommunication facilities.
- Clarify what constitutes a substantial modification to a wireless telecommunication facility per recent FCC rules.
- Provide flexibility for parking lot landscaping.
- Establish nonconforming requirements for post-construction stormwater runoff controls pertaining to existing developments.
- Exempt Transient Vendor Permit requirement for mobile food units at approved food truck parks.
- Continue Historic Designation tax abatement program.
- Other minor clarifications.

The above amendments are generally summarized in Exhibit “A”. The proposed amendments are shown in legislative draft form in Exhibit “B”.

In 2016, the Planning Department was approached by a telecommunications company seeking to install a “small cell” wireless facility on a commercial structure. The company inquired about an

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administrative approval process for such facilities. Per the American Planning Association, "Small cell" wireless technology refers to systems of small wireless telecommunications antennas typically installed as systems on existing structures or poles, often as stealth or camouflaged installations. Small cells are low-powered access nodes sometimes referred to as femtocells, microcells, or picocells. Given that small cells are less-intrusive in nature versus traditional cell towers, it is important to differentiate the two in terms of review and approval processes. The proposal would permit small cell facilities less than eight cubic feet in area to be approved by the Planning Director with certain conditions and stipulations for building-, rooftop- and pole-mounted facilities. The proposed amendment would only apply to small cell facilities on private property. Similar facilities in the public right-of-way would be subject to City Ordinance and State Law.

On October 21, 2014, Federal Communications Commission (FCC) released a report interpreting and implementing Section 6409 of the Spectrum Act (codified at 47 U.S.C. 1455). These rules require that a State or local government approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station. It further clarified that a modification qualifies as a substantial change if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet.
2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet.
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure.
4. It entails any excavation or deployment outside the current site.
5. It would defeat the concealment elements of the eligible support structure.
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

The proposed amendment will define a "minor telecommunications facility modification" and a "substantial telecommunications facility modification" to clarify the City's ability to have discretionary approval over substantial modifications. Minor modifications, per FCC rules, must be approved by the City.

Landscaped parking islands are required in parking lots consisting of 21 or more parking spaces. The trees are intended to provide canopy cover and to reduce the Urban Heat Island effect. Each landscaped island is to include at least one tree and must be placed every ten spaces. For larger developments, it is common to see two rows of parking spaces "back-to-back" which would require one large island to span across two rows. Such landscaped islands are considered to be two islands, therefore requiring two trees. A proposed amendment would allow for the island

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that spans two rows of adjacent parking to utilize one large species tree in lieu of two trees. This would allow for more space for the tree to grow and would increase its vitality. Developers may still utilize two smaller trees as an option, or elect the one large species tree alternative.

The UDC currently has exceptions for nonconforming developments pertaining to landscaping standards. Any property developed prior to the adoption of the existing ordinance is required to comply with the standards at the time of development. However in the event that a new addition crosses a specified threshold, the property would need to come into conformance with the current standards. A proposal is being presented to apply the same language as it relates to post-construction stormwater runoff controls (PCSR). The intent of doing so is to provide a predictable process for site retrofits that do not meet the threshold for compliance under the landscape ordinance. The Tyler Water Utilities Department has confirmed that the proposed change would have no impact on the Consent Decree given that the Decree pertains only to the sanitary sewer system whereas the proposed changes pertain to the storm sewer system.

On December 10, 2014, the City Council adopted standards for mobile food units (MFUs) and food truck parks. At the time of adoption, the UDC stipulated conditions when a MFU was exempt from obtaining a Transient Vendor Permit (TVP). These include when a MFU is at a City park under an event permit, operating at a special event under a Temporary Use Permit, or when operating at the lakes under a permit issued by Water Administration. This proposal would exempt MFUs from obtaining a TVP if it is operating at an approved food truck park. The additional layer of location review that a TVP provides is not necessary given that the food truck park would have already obtained a Certificate of Occupancy that addressed any restroom or site layout needs.

The UDC requires staff to perform a sunset review of the historic registration tax abatement program every five years. Tax abatement is intended to encourage historic preservation within the City of Tyler. If a building or structure is at least 50 years old and has been designated as a historical landmark under City Code Section 10-793, then the property owner could apply for a Certificate of Appropriateness in order to obtain tax abatement. Fifty percent of the assessed value of any building, structure or site listed on the Tyler historic landmark register is exempt from annual City ad valorem taxation. Any building or structure designated as a historic landmark which is substantially rehabilitated may abate one hundred percent of the amount of any increase of the assessed value for purposes of ad valorem taxes levied by the City of Tyler in excess of the assessed value of the property for a period of five years. In order to be eligible for tax abatement, said renovations must be at a minimum cost of \$30,000 and must be completed within a period of two years from the date of issuance of a Certificate of Appropriateness. Of the 99 properties eligible for tax abatement, 43 are taking advantage of the program with an overall tax abatement totaling \$6,169. On August 2, 2017, the Historical Preservation Board reviewed the proposed re-adoption of Section 10-794. It is recommended that the current provisions be re-adopted, with only minor clean-up changes.

The recommendations were initially presented to the Developer's Round Table on January 24, 2017. The recommendations were presented to the UDC Review Committee on February 9, 2017. The recommendations were presented again to the Developer's Round Table on June 14, 2017. All groups are in general agreement with the recommended changes. On August 1, 2017, the Planning and Zoning Commission held a public hearing on the proposed amendments. No one spoke in favor or in opposition to the proposed amendments.

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RECOMMENDATION:

The Planning and Zoning Commission, by a 5-0 vote, recommends approval of the recommended changes to the Unified Development Code.

ATTACHMENTS:

1. Ordinance
2. Exhibit "A": Update Matrix

**Drafted/Recommended By:
Department Leader**



**Heather Nick, AICP
Managing Director of Planning and Economic
Development**

**Edited/Submitted By:
City Manager**

ORDINANCE NO. O-2017-69

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 RELATING TO ZONING, WIRELESS TRANSMISSION FACILITIES, USE REGULATIONS, FOOD TRUCKS, PARKING LOT REGULATIONS, DEVELOPMENT STANDARDS, SUBDIVISION DESIGN AND IMPROVEMENTS, ENVIRONMENTAL REGULATIONS, STORMWATER PROVISIONS, HISTORIC PRESERVATION, HISTORIC TAX ABATEMENT AND DEFINITIONS; 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, 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 1, 2017, the Planning and Zoning Commission reviewed the proposed changes; and

WHEREAS, on August 2, 2017, the Historical Preservation Board reviewed the proposed re-adoption of City Code Sec. 10-794;

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 III., “Use Regulations”, Division C., “Limited and Specific Use Standards”, is hereby amended by amending Section 10-69 to read as follows:

Sec. 10-69. Wireless Transmission Facilities

~~Broadcasting and Communication Towers/Antennas~~

~~1. a.~~ Purposes

- ~~a. 1.~~ No other changes...
- ~~b. 2.~~ No other changes...
- ~~c. 3.~~ No other changes...
- ~~d. 4.~~ No other changes...

~~2. b.~~ Required Conditions

Any commercial, radio, television, cellular, or microwave towers, reflectors, antennas, or support structures constructed after the effective date of this ordinance (3/26/03) are prohibited in Residential districts, excluding multi-family districts where permitted in this Chapter.

~~3. c.~~ Special Use Permit and Site Plan Required

No other changes...

~~4. d.~~ Procedures

Any person wishing to construct a new broadcasting or communication tower/antenna must make application to the planning department for a special use permit. A detailed site plan must be submitted with the SUP application for each tower/antenna location, and must contain the following:

- ~~a. 1.~~ No other changes...
- ~~b. 2.~~ No other changes...
- ~~c. 3.~~ No other changes...
- ~~d. 4.~~ No other changes...
- ~~e. 5.~~ No other changes...
- ~~f. 6.~~ No other changes...
- ~~g. 7.~~ No other changes...
- ~~h. 8.~~ No other changes...
- ~~i. 9.~~ No other changes...
- ~~j. 10.~~ No other changes...
- ~~k. 11.~~ No other changes...
- ~~l. 12.~~ No other changes...
- ~~m. 13.~~ No other changes...

~~5. e.~~ Administrative Approval for Changes to Existing Towers/Antennas

The following broadcasting and communication towers or antennas will not require a Special Use Permit and may be approved by the Planning Director or designee:

- ~~1. Broadcasting and communication towers or antennas which are to be constructed on previously permitted towers, antennas, buildings, or structures within any zoning district will not require a special use permit and may be approved by the planning director~~ A Minor Telecommunication Facility Modification subject to the following:
 - a. The applicant must provide a written rationale detailing how the application qualifies as a Minor Telecommunication Facility Modification. The ~~Planning Director~~ Planning Director must approve or reject the request within 60 days the filing of the request with the planning department. If the application is not denied within the 60-day period, then it will be deemed approved.
 - b. No changes...
 - c. If the tower or antenna will ~~increase the overall height of the existing tower, antenna, building, or structure by more than 15 feet,~~ constitute a Substantial Telecommunications Facility Modification as defined in this Chapter, then an SUP will be required and the provisions of subsection d. will govern.
2. Small Cell communication facilities on private property. The applicant shall submit a preliminary site plan for administrative review and approval by the Planning Director or designee. The applicant shall also submit an application which shall include: (i) photographs or accurate renderings, including correct colors and exact dimensions, of each type of proposed small wireless facility; (ii) a statement signed by a professional engineer licensed in the State of Texas stating that the proposed facilities comply with all applicable Federal Communications Commission regulations and (iii) such additional information as the Planning Director may reasonably require in order to determine whether the requirements of this Section are met. The application and site plan for the Small Cell communication facility shall be approved by the Planning Director only if the following minimum standards are met:
 - a. This subsection does not apply to Small Cells in the public right-of-way. These devices are subject to City Council approval pursuant to City Ordinance and State Law.
 - b. New building-or-structure mounted installations are not permitted inside of a historic district or within 250 feet of the boundary of a historic district; nor shall new installations be located on or within a structure that is designated as a National Historic Landmark or listed or eligible for listing in the National Register.
 - c. Small Cells shall be substantially concealed from view by means of painting or tinting to match the surface of the building or other structure to which they are affixed or by other suitable method, such as by flush-mounting or integration into the design elements of the building or structure.
 - d. Equipment other than whip antennas and electrical power or battery backup cabinets shall not exceed eight (8) cubic feet. Whip antennas shall be no longer than sixty-two (62) inches.
 - e. Electrical power and battery backup cabinets shall, to the extent practicable, be roof-mounted or otherwise located so as not to be visible from a public street or, where not practicable as determined by the Planning Director or designee, such equipment shall be appropriately screened by landscaping or other means minimizing visibility from a public street.
 - f. Small Cells shall be permitted in common areas serving multi-family residential zones (R-MF and PMF) and shall not be permitted in any

other residential zones. They shall be permitted in all other non-residential districts with the exception of “AR” and residentially-used “AG” zones.

- g. Special requirements based on whether Small Cell is affixed to a building, rooftop or pole:
 - a. Building-mounted.
 - i. The Small Cell may be attached to any building which is at least twenty (20) feet in height as measured from the ground level.
 - ii. When attached to such building, the Small Cell shall be affixed at least fourteen (14) feet in height as measured from the ground level and shall not protrude more than two feet above the roofline or from the building facade.
 - b. Rooftop-mounted.
 - i. Rooftop-mounted Small Cells are not permitted on buildings with pitched roofs.
 - ii. Rooftop-mounted Small Cells shall be screened per Section 10-341 of this Chapter.
 - c. Pole-mounted.
 - i. The Small Cell shall be mounted on a pole which supports an athletic field or parking lot light, street light or utility line. Such poles shall be at least fifteen (15) feet in height as measured from the ground level;
 - ii. The Small Cell shall not be more than five (5) feet above the height of the pole on which it is mounted;
 - iii. The Small Cell shall not protrude outward more than two (2) feet from the pole on which it is mounted;
 - iv. The Small Cell must maintain at least a fourteen (14) feet clearance from the bottom of the facility to the ground level below.
 - v. There shall be no more than one (1) Small Cell per pole;
 - h. At such time that the Small Cell communication facility ceases to be used for communications purposes it will be subject to Subsection k. of this Section.
 - i. The Planning Director must approve or reject the request within 60 days the filing of the request with the planning department. If the application is not denied within the 60-day period, then it will be deemed approved.
 - j. Written record. Any decision by the planning director to deny a request for a change or alteration to a previously permitted tower, antenna, building, or structure must be in writing and supported by substantial evidence contained in a written record. The written decision of denial by the planning director must also indicate that the applicant may appeal, within 10 days, the decision of the planning director to the planning and zoning commission and the city council. In the event of such an appeal, the provisions of Article VIII, Division G herein will govern.
 - k. Small Cells not in compliance with the above requirements are not eligible for administrative approval and an SUP will be required and all other provisions of this section will govern.

~~5.~~ f. Tower/Antenna Height

~~a.~~ 1. No commercial radio, television, cellular, or microwave reflector tower/antenna or support structure may exceed 150 feet in height. Tower/antenna height is approved as part of the SUP or administrative approval process under this section.

~~b.~~ 2. Publicly owned towers/antennas will not be subject to maximum height requirements.

~~6.~~ g. Entire Lot No other changes...

~~7.~~ h. Antenna Support Structure

~~a.~~ 1. Towers/antennas and required accessory buildings located within commercial and industrial zones must comply with the building setbacks for the specific zoning district.

~~b.~~ 2. A minimum setback for towers/antennas and required accessory buildings equal to the height of the tower/antenna is required from any residential zone boundary line.

~~8.~~ i. Grandfathered Towers/Antennas

Any tower or antenna lawfully existing on March 26, 2003 may continue to exist under the standards existing at the time that the tower/antenna was originally permitted. However, any changes or alterations to such previously permitted towers/antennas constituting a Substantial Telecommunications Facility Modification as defined in this Chapter will be subject to this ordinance.

~~9.~~ j. Federal Requirements No other changes...

~~10.~~ k. Abandoned Towers/Antennas No other changes...

~~11.~~ l. Public towers/antennas

All publicly owned antennas or communications structures are to be permitted in any district, provided that a license, lease, or other form of approval has been obtained from the city. (Ord. 0-99-72, 9/22/99) (Ord. No. 0-2003-11, 3/26/03) (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2017- ; 8/23/17)

PART 2: That Tyler City Code Chapter 10, “Tyler Unified Development Code”, Article III., “Use Regulations”, Division C., “Limited and Specific Use Standards”, is hereby amended by amending Section 10-76 to read as follows:

Sec. 10-76. Mobile Food Units and Food Truck Parks

a. No changes...

b. 1. and 2. No changes...

3. a. – c. No changes...

d. Mobile Food Units operating at an approved Food Truck Park. (Ord. No. 0-2017- ; 8/23/17)

c. and d. No changes...

PART 3: That Tyler City Code Chapter 10, “Tyler Unified Development Code”, Article V., “Streets and Thoroughfares”, Division A., “Master Street Plan”, is hereby amended by amending Table 10-155 Minimum Paving Widths in Section 10-155 to read as follows, with no other changes to the Table except as shown:

Table 10-155 Minimum Paving Widths

Only revise Type F (Residential) ROW width from 55” to 55’ as follows:

55" 55'

(Ord. No. 0-2017-__ ; 8/23/17)

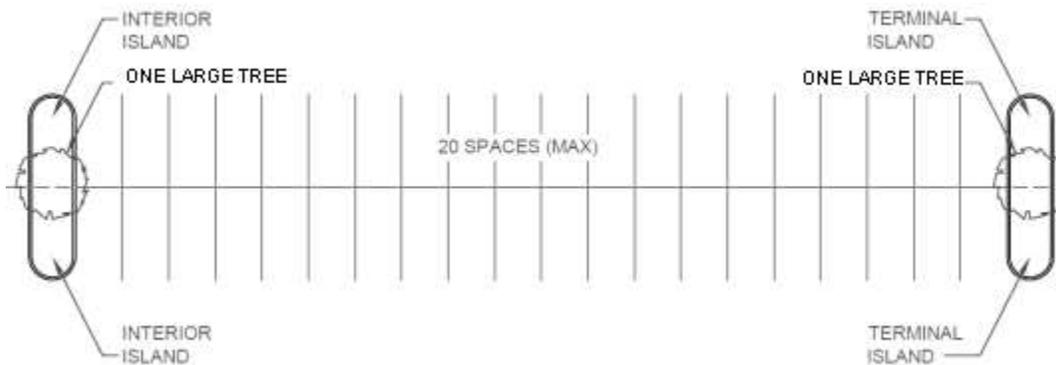
PART 4: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI, "Development Standards", Division A., "Landscaping and Tree Preservation", is hereby amended by amending Section 10-299 to read as follows:

Sec. 10-299. Parking Lot Landscaping

a. and b. No changes...

c. Each landscaped island must be at least 50 square feet; have a minimum dimension of five feet; and must include at least one tree. Grouped islands must be at least 100 square feet; have a minimum dimension of ten feet; and must include at least one tree. Two landscaped islands that are connected and located as to span two rows of adjacent parking spaces may utilize one large species tree. The remaining area must be landscaping material, including shrubs, turf, or planted groundcover, none of which may exceed three feet in height (Ord. No. 0-2017-__ ; 8/23/17).

[add graphic]



Large tree species alternative (Ord. No. 0-2017-__ ; 8/23/17)

PART 5: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VI, "Development Standards", Division E., "Off-Street Parking and Loading", is hereby amended by amending Section 10-364 to read as follows:

a. All Residential Districts

1. Commercial vehicles ~~are~~ larger than 22 feet in length, 7.5 feet in height, and weighing ~~are~~ more than 4 tons (8,000 lbs.) may not be parked overnight in any residential district on public streets, private driveway, or other improved surface. (Ord. No. 0-2017-__ ; 8/23/17)

2. No changes...

b. No changes...

PART 6: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article VII., "Environmental Regulations", Division F., "Control of Post Construction

Stormwater Runoff”, is hereby amended by amending Sections 10-537 and 10-542 to read as follows:

Sec. 10-537. General Provisions

a. and b. No changes...

c. Applicability

This ordinance shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Tyler under the specifications of Sec 10-540 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

To prevent the adverse impacts of stormwater runoff, the City of Tyler has developed a set of performance standards that must be met at new development sites. These standards apply to ~~any~~ construction activity disturbing 5,000 or more square feet of land. The following activities may be exempt from these stormwater performance criteria:

1. – 5. No changes

d. Requirements for Nonconforming Developments

1. Classification of Nonconforming Developments

Land developed with a building or structure, which is in lawful use at the effective date of this code, which was in lawful use as of April 23, 2008, and land, which does not conform to the post construction stormwater runoff (PCSR) requirements of this code, but is subsequently annexed to the city, will have non-conforming use status with respect to this code.

2.. Regulation of Nonconforming Developments

a. The lawful use of a building or other development as described in subsection 1. above may be continued although such development does not comply with the PCSR requirements herein. However, voluntary compliance with these PCSR requirements and enhancement is encouraged.

b. The repair or restoration of a building or other development to its prior condition after being damaged or destroyed by fire, explosion, wind, flood, tornado or other accident or weather phenomena, will not require that such building or other development comply with the PCSR requirements of this code, provided a building permit for the repair or restoration is obtained within 12 months of the date the damage occurred.

3. The expansion of an existing building, or the construction of one or more additional buildings on the same lot as the existing building, will not require compliance with the PCSR requirements of this code provided:

1. That the expansion of the existing building or the construction of the additional building(s) will not result in the encroachment of any wall building line into an existing street yard; or

2. Where the expansion of the existing building or construction of any additional building(s) will result in the encroachment of a wall building line into an existing street yard, the gross floor area (GFA) of the addition, or the total gross floor area of all buildings to be constructed in the street yard, must not exceed 25 percent of the GFA of the existing building. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/09/02) (Ord. No. 0-2017- ; 8/23/17)

~~d.~~ e. No other changes...(Ord. No. 0-2017- ; 8/23/17)

- e. f. No other changes...(Ord. No. 0-2017- ; 8/23/17)
- f. g. No other changes...(Ord. No. 0-2017- ; 8/23/17)

Sec. 10-542. Basic Stormwater Management Design Criteria

- a. No changes...

Amend Table 10-542. Post Construction Best Management Practices by adding between TC-25 and SD-1, the following in order as shown, with no other changes to the Table except as shown:
TC-26 Permanent Outlet Protection at Storm Sewer Outfall - Concrete Riprap (Ord. No. 0-2017- ; 8/23/17)

TC-27 Permanent Outlet Protection at Storm Sewer Outfall - Stone Riprap (Dry) (Ord. No. 0-2017- ; 8/23/17)

TC-28 Permanent Outlet Protection at Storm Sewer Outfall - Stone Riprap (Grouted) (Ord. No. 0-2017- ; 8/23/17)

TC-29 Permanent Outlet Protection at Storm Sewer Outfall - Stone Riprap (Mortared) (Ord. No. 0-2017- ; 8/23/17)

(Ord. No. 0-2017- ; 8/23/17)

PART 7: That Tyler City Code Chapter 10, “Tyler Unified Development Code”, Article XI, “Historic Preservation”, Division C., “Tax Abatement”, is hereby amended by amending Section 10-794 to read as follows:

Sec. 10-794. Tax Abatements for Historic Landmarks

a. The tax abatement provided for in this section is intended to encourage historic preservation within the City of Tyler. Any building or structure that has been designated as a historic landmark pursuant to the terms of this Article, and which is substantially rehabilitated as provided herein, may have abated one hundred percent (100%) of the amount of any increase in the assessed value for purposes of ad valorem taxes levied by the City of Tyler in excess of the assessed value of the property for a period of five (5) years following issuance of a Certificate of Appropriateness. Said tax abatement must only apply to the increase in the assessed value of the property over the assessed base value of the property, regardless of the actual value of any permits and improvements. In order to be eligible for tax abatement, said renovations must be at a minimum cost of thirty thousand dollars (\$30,000.00) and must be completed within a period of two (2) years from the date of issuance of a Certificate of Appropriateness. The tax abatements would become applicable to the property in January of the first tax year following the date of issuance of a Certificate of Appropriateness. The tax abatements must continue in effect during the established five-year period as long as the property remains on the Tyler historic landmark register. The total amount of said improvements subject to tax abatement per year for the five-year period on a single piece of property must not exceed two million dollars (\$2,000,000).

b. To be eligible for property tax abatement under this section, a property must meet the following requirements:

- 1. The building or structure must meet the requirements for, and have previously been designated as, a historic landmark pursuant to section 10-782.

2. The structure or building upon which the renovation is to occur must be at least fifty (50) years old or older;

3. The tax abatement under this section is available for buildings or structures on both residential and commercial property.

4. Any renovations or improvements must conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, a copy of which is available in the Planning Department.

c. Application process. Applications for tax abatement under this section are voluntary. Any owner seeking tax abatement under this section must file an application for a Certificate of Appropriateness in conformance with section 10-786. Said application must include a projection of the estimated construction time and predicted completion date of the historic repair or rehabilitation. The requirements of sections 10-786 and 10-783 must govern the application, granting and removal, and maintenance process for the Certificate of Appropriateness. However, the actual granting of the tax abatement under this section shall be subject to the discretion and approval of the City Council. After a public hearing, the City Council may by ordinance approve the abatement provided for in this section. If approved by City Council, the applicant for abatement shall cause a copy of the ordinance and application for exemption to be sent to the Smith County Appraisal District not later than January 1st of each subject tax year. (Ord. No. 0-2017- ; 8/23/17)

d. Time for completion; re-capture. If the improvements, renovation or restoration repair work on a particular piece of property are not completed within two (2) years from the date of issuance of the Certificate of Appropriateness, any and all tax abatements previously received on said property during the two-year period must be revoked, and the City may re-capture all tax abatements that the property owner received during said two-year period. In addition to the re-capture, the property owner shall not be eligible for the tax abatement for the remaining three (3) years.

e. Eligible costs. Eligible costs must include construction, reconstruction, alteration, change, restoration, removal or demolition of any exterior architectural feature of a building or structure on the Tyler historic landmark register. Materials and labor for repairing, replacing or adding any of the following shall be eligible, if expressly approved as part of the Certificate of Appropriateness:

1. Structural walls;
2. Exterior doors;
3. Windows;
4. Exterior brick veneers or treatments;
5. Roof and gutter where necessary for structural integrity;
6. Facade items;
7. Limited demolition, not more than fifteen percent (15%) of the original structure, and cleanup related to the eligible costs in this subsection;
8. Exterior paint (consistent with those colors available during the time period that the structure was built);
9. Foundations;
10. Structural subfloors;
11. Structural ceilings;
12. Termite damage and treatment;
13. Fixtures and decorative items attached to the main structure, or that contribute to the historic integrity of the property;
14. Fencing that contributes to the historic integrity of the property.

f. Ineligible costs. Ineligible costs shall include the following:

1. Overhead;
2. Taxes;
3. Supervisor payroll;
4. Repairs of construction equipment;
5. Tools;
6. Plumbing and electrical wiring;
7. Mechanical equipment; air conditioning systems;
8. Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure, except that interior items for commercial properties shall be allowed.

g. Use in conjunction with other incentives. The tax abatement authorized by this section may be used in conjunction with other types of abatements or incentives, either existing and that may be developed in the future, unless otherwise prohibited by statute or ordinance.

h. Sunset review. Before the fifth anniversary of the date of re-adoption of this section, the City Manager or designee shall review the tax abatement program established herein. The City Manager or designee shall review the effects of, and any benefits or problems associated with, this program. Following such review, the City Manager or designee shall make a recommendation to the City Council regarding whether to continue, modify, or repeal this section. (Ord. No. 0-2005-61; 8/17/05) (Ord. No. 0-2008-8; 1/9/08) (Ord. No. 0-2012-83, 10/10/12) (Ord. No. 0-2017- ; 8/23/17)

PART 8: That Tyler City Code Chapter 10, “Tyler Unified Development Code”, Article XIII., “Definitions”, Division A., “Definitions”, is hereby amended by adding or amending the following definitions to read as follows, in the appropriate alphabetical order, with no other changes to the Division except as shown:

Small Cell Communication Facility

A low-power radio access facility, together with associated antennas, mounting and mechanical equipment, which provides and extends wireless communications systems' service coverage and increases network capacity, and such antennae is attached either to a pole which supports an athletic field or parking lot light, street light or utility line or to a building or other structure. Includes Distributed Antenna System (DAS). (Ord. No. 0-2017- ; 8/23/17)

Telecommunications Facility Modification, Minor

An alteration of an existing exterior telecommunications facility or co-location of additional facilities with an existing exterior telecommunications facility in any zone that does not meet or exceed the thresholds for a substantial modification, the calculation for which shall be cumulative over time, following the initial approval of the telecommunications facility. No such modification shall be permitted if the modification to the structure will cause the structure to exceed the height limit for the zoning district as provided in this Chapter. (Ord. No. 0-2017- ; 8/23/17)

Telecommunications Facility Modification, Substantial

An alteration of an existing exterior telecommunications facility for any purpose where (i) the height of the existing facility is increased by more than ten percent (10%) from the current height, or twenty (20) feet, whichever is greater; or (ii) the existing facility is increased by more

than four (4) new equipment cabinets; or (ii) the new facility will have an additional protrusion of more than twenty (20) feet or width of the existing tower, whichever is greater; or (iv) installation of the new facility will require excavation outside existing leased or owned property and current easements. The calculation for such modifications shall be cumulative over time following the initial approval of the telecommunications facility. No such modification shall be permitted if the Support Structure will exceed the zoning district height as provided in this Chapter. (Ord. No. 0-2017- ; 8/23/17)

Weeds or Grasses

Weeds and/or grasses or other uncultivated plants on any premises or right-of-way, which grow in such rank profusion as to harbor reptiles or rodents, or create a fire hazard; and weeds and/or grasses, excluding ornamental grasses, or other uncultivated plants on any premises which are permitted to, or do attain a height greater than ~~18~~ 12 inches. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/09/02) (Ord. No. 0-2017- ; 8/23/17)

PART 10: 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 11: 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 25, 2017.

PASSED AND APPROVED this the 23 day of August, A.D., 2017.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A"
UPDATE MATRIX
 1 of 2

UDC AMENDMENT RECOMMENDATIONS				
UDC Review Committee recommendations highlighted in yellow				
Section	Item Changed	How Changed	Whose Suggestion	Potential Effect
SUBSTANTIVE AMENDMENTS				
Article I Introductory Provisions				
Article II Zoning Districts				
Article III Use Regulations				
10-69	Wireless Transmission Facilities	Add new category for Small Cell/DAS antennas	Administrative review process for Small Cell/DAS antennas less than 8 cubic feet	Flexibility for smaller antennas with little impact.
Article IV Subdivision Design and Improvements				
Article V Streets and Thoroughfares				
Article VI Development Standards				
10-299	Parking Lot Landscaping	Islands spanning two rows of parking	<p>b. One landscaped island is required for every 10 parking spaces and at both ends of each row of 10 or more parking spaces. Islands may be grouped as long as there are no more than 20 parking spaces in a row without a landscaped island. <u>Two landscape islands that are connected and located at the end of two rows of adjacent parking spaces require only one tree, provided that the tree be a large species tree per the A approved Tree List. Otherwise, two trees meeting the minimum specifications of this Division must be planted.</u></p> <p>d. <u>Landscape islands that are grouped must have at least 100 sf of landscape area.</u></p> <p><u>[add graphic]</u></p>	<p>Telecommunication Companies</p> <p>Contractors</p> <p>Contractors</p>
10-537	Control of Post Construction Stormwater Runoff	Exemption for Nonconforming Developments	<p>New d. Requirements For Nonconforming Developments</p> <p>Mirror Sec. 10-300; change date to April 23, 2008, revise appropriately for PCSR</p>	Consistency in need for site work for retrofits
Article VII Environmental Regulations				
Article VIII Development Approval Procedures				
Article X Administration and Enforcement				
Article XI Historic Preservation				
Article XII Annexation				
Article XIII Definitions				

