

**ORDINANCE NO. O-2017-9**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 12, "AIRPORT", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY AMENDING ARTICLE III., "COMMERCIAL ACTIVITIES", BY ESTABLISHING AN AIRPORT CONCESSION FEE FOR ON-SITE RENTAL CAR COMPANIES TO USE THE AIRPORT AND AIRPORT TERMINAL, AMENDING READY CAR RENTAL SPACE FEES, PROHIBITING DUAL BRANDING AT A SINGLE LEASED COUNTER SPACE, CLARIFYING AIRPORT WASH BAY FEES, AMENDING OFF-SITE CAR RENTAL BUSINESS PERMIT FEES AND USAGE; ALSO AMENDING ARTICLES IV., "AIRPORT SECURITY", AND ARTICLE VI., "AIRPORT PASSENGER FACILITY CHARGES", BY UPDATING REFERENCES TO THE AIRPORT AND TERMINAL BUILDING; 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 local self-government; and

**WHEREAS**, the City of Tyler has adopted ordinances pursuant to Texas Local Government Code Sections 51.001 and 51.072, as well as Tyler City Charter Sections 1, 2 and 6; and

**WHEREAS**, Texas Transportation Code Section 22.011(a)(1) states that a local government may plan, establish, construct, improve, equip, maintain, operate, regulate, protect, and police an airport or air navigation facility in or outside of the territory of the local government; and

**WHEREAS**, Texas Local Government Code Section 241.011(a) provides that to prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations for the airport hazard area; and

**WHEREAS**, Texas Local Government Code Section 241.012(a)(1) states that a political subdivision may adopt, administer, and enforce, under its police power, airport compatible land use zoning regulations for the part of a controlled compatible land use area located within the political subdivision if the airport is used in the interest of the public to the benefit of the political subdivision; and

**WHEREAS**, the City of Tyler has established Airport regulations in Tyler City Code Chapter 12; and

**WHEREAS**, miscellaneous Airport fees for service are set forth in City Code Chapter 12; and

12; WHEREAS, it is important to amend and update certain provisions in City Code Chapter

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

**PART 1:** That Tyler City Code Chapter 12, "Airport and Transit", Article III., "Airport Commercial Activities", is hereby amended by amending Section 12-31 to read as follows:

**Sec. 12-31. Fees and rentals.**

a. Westside Terminal building rates for exclusive office and counter areas for commercial airlines shall be twenty-nine dollars and fifty-two cents (\$29.52) per square foot per year. Terminal building common area fees for signatory commercial airlines shall be twenty-five cents (\$.25) per enplaned passenger and common area fees for non-signatory commercial airlines or charter flights shall be seventy-five cents (\$.75) per enplaned passenger. The rental rates for that portion of the terminal building used for restaurant purposes shall be based upon a percentage of gross receipts as set by the City Council. Rental rates for FAA use of terminal building space shall be as set out in those leases and as approved by the City Council. The rental rates for the conference room in the Westside Terminal Building shall be fifty dollars (\$50.00) per day, twenty-five dollars (\$25.00) for four (4) hours or less, and twenty dollars (\$20.00) for each additional furniture set up. Such rental rates for the conference room in the Westside Terminal Building shall not be charged to non-profit organizations, nor to City of Tyler employees or representatives that are conducting City-related business. Additionally, a damage deposit of fifty dollars (\$50.00) per rental shall be required from each user of the conference room in the Westside Terminal Building, except that such deposit shall not be required for City of Tyler employees or representatives that are conducting City-related business. The concession fee for the right to use the Airport and Airport Terminal by on-site rental car companies shall be no less than thirty thousand dollars \$30,000.00 per year, or ten percent (10%) of gross monthly revenue based on net time and mileage, whichever is the greater amount. The rental rate for office and counter space used by on-site rental car companies shall be five hundred dollars (\$500.00) per month. On-site car rental companies shall pay a fee of thirty dollars (\$30.00) per space per month for use of ready car and other parking spaces at the Westside Terminal Building from February 1, 2017 through January 31, 2018. On-site car rental companies shall pay a fee of forty-five dollars (\$45.00) per space per month for use of ready car and other parking spaces at the Westside Terminal Building from February 1, 2018 through January 31, 2019. On-site car rental companies shall pay a fee of sixty dollars (\$60.00) per space per month for use of ready car and other parking spaces at the Westside Terminal Building from February 1, 2019 through January 31, 2020. The rental car company leasing counter space will not be allowed to display dual brands from a single leased counter space. On-site car rental companies shall pay a minimum fee of three dollars (\$3.00) per wash of a single vehicle, and receive twelve minutes of wash bay operation with a fee of twenty-five cents (\$.25) per minute for each additional minute thereafter for use of the rental car wash bay. Users of the car wash rental bay shall not stack or stage vehicles for consecutive washes with a single swipe of the car wash payment card. Fees include use of vacuums at no additional charge. (Ord. No. 0-99-35, 4/28/99) (Ord. No. 0-2001-33, 8/15/01) (Ord. No. 0-2002-22, 6-19-2002) (Ord. 0-2003-22, 5/28/03) (Ord. No. 0-2005-96; 12/14/05) (Ord. 0-2010-99, 9/22/10) (Ord. No. 0-2012-69, 9/12/12) (Ord. No. 0-2013-11; 2/13/13) (Ord. No. 0-2016-50; 6/08/16) (Ord. No. 0-2017-9; 1/11/17)

b. Off-site car rental business permit fees. The fee for off-site car rental businesses to conduct or solicit commercial activities on Airport property shall be two hundred fifty dollars (\$250.00) annually plus ten percent (10%) of all gross business receipts on net time and mileage originating

from operations at the Airport per month, payable on the twentieth (20th) day of each month. (Ordinance No. 0-2001-33, 8/15/01) (Ord. No. 0-2016-50; 6/08/16) (Ord. No. 0-2017-9; 1/11/17)

c. through k. No changes...

**PART 2:** That Tyler City Code Chapter 12, "Airport and Transit", Article IV., "Airport Security", is hereby amended by amending Section 12-40 to read as follows:

**Sec. 12-40. Definitions.**

In this Article, the following definitions shall apply:

**Air carrier:** A certified carrier operating under authority of the Civil Aeronautics Board or the Texas Department of Transportation-Aviation Division, or successor agency, on schedules between fixed terminals.

**Boarding area:** The part(s) of the terminal premises designated by the Airport Manager as a "boarding area" and encompassed by structural barriers constructed of wood, metal, glass, or other physical material and identified by appropriate signs, and used for the passage of departing passengers between the screening area and the aircraft.

**Boarding pass:** The pass issued by the air carrier extending boarding privileges to each enplaning passenger on a particular flight and ordinarily displayed to the flight attendant upon boarding.

**Departing passenger:** Every passenger boarding a scheduled airline, air taxi or charter aircraft at Tyler Pounds Regional Airport terminal for a destination other than said airport. (Ord. No. 0-2017-9; 1/11/17)

**Flight:** Any scheduled commercial air carrier flight.

**Screening area:** The part(s) of the terminal building lobby or premises that may be hereafter designated by the Airport Manager and encompassed by physical barriers constructed of wood, metal, rope or other physical material and identified by appropriate signs, and to be used for the security inspection of passengers and their carry-on luggage and as a waiting area for such screened passengers immediately prior to the flight boarding.

**Tenant:** FBOs and all others who shall occupy City property for which they pay rent directly to the City or to a person that leases from the City.

**Terminal:** The Tyler Pounds Regional Airport Westside Terminal. (Ord. No. 0-97-60; 11/26/97) (Ord. No. 0-2017-9; 1/11/17)

**PART 3:** That Tyler City Code Chapter 12, "Airport and Transit", Article VI., "Airport Passenger Facility Charges", is hereby amended by amending Sections 12-60 and 12-61 to read as follows:

**Sec. 12-60. Definitions.**

In this Article, the following definitions apply:

Airport means the one thousand-acre area of Tyler Pounds Regional Airport. (Ord. No. 0-2017-9; 1/11/17)

Enplaned passenger means a domestic, territorial or international revenue passenger enplaned at the Airport in a scheduled or nonscheduled aircraft in interstate, intrastate, or foreign commerce, provided that enplaned passenger shall not include a passenger enplaning to a destination receiving essential air service compensation as provided by 14 C.F.R. 158.9 or a passenger both enplaning and deplaning at the Airport.

FAA means the Federal Aviation Administration, Department of Transportation, United States of America.

Passenger facility charge means the charge imposed on enplaned passengers pursuant to section 12-62. (Ord. No. 0-97-60; 11/26/97)

**Sec. 12-61. Findings and purpose.**

a. City finds that:

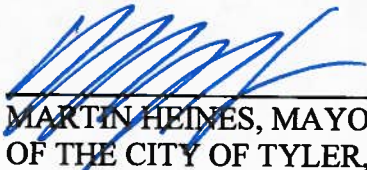
1. City owns and controls that certain Airport and air navigation facility located in Smith County, Texas, and known as Tyler Pounds Regional Airport ("Airport"); and
2. The Airport promotes a strong economic base for the community, assists and encourages world trade opportunities, and is of vital importance to the health, safety and welfare of the State; and
3. The Airport is a commercial service airport as that phrase is defined in 14 Code of Federal Regulations Part 158, as adopted by FAA, being a public airport enplaning two thousand five hundred (2,500) or more scheduled air passengers per year; and
4. The deregulation of the airline industry, the restructuring of airline ownerships, and fluctuating market changes in the field of commercial aviation have placed new financial challenges on City; and
5. The operation of Tyler Pounds Regional Airport as a public facility attracting scheduled airline passenger service by airline carriers at the Airport imposes financial responsibility on City for Airport facilities and operations; and
6. City will require substantial expenditure for capital investment, operation, maintenance, and development of Airport facilities to meet the future demand for passenger air travel; and
7. The United States Congress has authorized the adoption of a passenger facility charge program by local airports pursuant to the Aviation and Safety and Capacity Expansion Act of 1990 (pub. L. 101-508, Title IX. Subtitle B, November 5, 1990) (hereafter the "Act"); and

8. It is in City's best economic interest and in the interest of airline passengers that the City adopt a passenger facility charge program as identified in this Article to maintain and further expand the transportation facilities of City; and
  9. In establishing and implementing the passenger facility charge program, the passengers using the Airport should contribute to a greater degree toward the development of Airport facilities used by passengers and continued development thereof; and
  10. The fees implemented by this Article are reasonable for the use of the Airport and aviation facilities by the public. (Ord. No. 0-2017-9; 1/11/17)
- b. The purpose of this Article is to enact a passenger facility charge program consistent with the above findings and this Article and the regulations published pursuant thereto shall be liberally constructed to effectuate the purposes expressed. (Ord. No. 0-97-60; 11/26/97)

**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 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 January 13, 2017. However, the amendments to City Code Section 12-31.a. related to fees paid by on-site car rental companies for ready car and other parking spaces at the Airport Westside Terminal Building shall become effective February 1, 2017.

**PASSED AND APPROVED** this 11<sup>th</sup> day of January, A.D., 2017.


  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK



APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY