

**ORDINANCE NO. O-2016-77**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 17, "STREETS AND TRAFFIC", ARTICLE V., "STOPPING, STANDING, OR PARKING", BY AMENDING THE PARKING METER HOLIDAY REFERENCES TO CONFORM MORE CLOSELY TO CITY HOLIDAYS; UPDATING PROVISIONS RELATED TO THE FAIR PLAZA PARKING GARAGE; 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**, Texas Transportation Code Section 311.001(a) provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

**WHEREAS**, the City Council has established regulations related to stopping, standing and parking in City Code Chapter 17, Article V.; and

**WHEREAS**, the City Council has established parking meter regulations, including parking meter holidays, in City Code Section 17-84; and

**WHEREAS**, it is important to revise parking meter holidays to conform more closely to City Holidays; and

**WHEREAS**, it is important to update provisions related to the Fair Plaza Parking Garage;

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

**PART 1:** That Tyler City Code Chapter 17, "Streets and Traffic", Article V., "Stopping, Standing, or Parking", is hereby amended by amending Section 17-84 to read as follows, with no other changes:

**Sec. 17-84. Parking meters.**

a. through m. No changes...

n. Hours effective. This section shall be in effect between the hours of 8:00 a.m. and 6:00 p.m. every day except Saturdays and Sundays and the City holidays as hereinafter

designated by the City Council. City holidays which shall be recognized as exceptions to this section shall be: New Year's Day, Martin Luther King, Jr.'s Birthday, Good Friday, Memorial Day, U. S. Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve Day, Christmas Day, and Day After Christmas. However, this section shall be effective as to regulated parking at Tyler Pounds Field Airport at all times, with exceptions only for Christmas Day and January 1. (Ord. 0-98-43, 5/27/98) (Ord. No. 0-2014-53; 6/25/14) (Ord. No. 0-2016-77; 8/24/16)

o. No changes...

**PART 2:** That Tyler City Code Chapter 17, "Streets and Traffic", Article V., "Stopping, Standing, or Parking", is hereby amended by amending Section 17-89 to read as follows, with no other changes:

**Sec. 17-89. Fair Plaza Parking Garage charges.**

a. through b. No changes...

c. Monthly parking rate based on number of spaces. The City Manager or designee is authorized to establish a separate monthly parking fee based on the total volume of parking spaces leased in the Fair Plaza Parking Garage.

d. No changes...

e. Hours effective. The daily parking and lost ticket fee shall be collected by a booth attendant and shall apply every day except Saturdays and Sundays and the holidays as hereinafter designated by the City Council.

f. Exception to daily fees; holidays and Saturdays and Sundays. The fees established in this Section shall not be applicable to parking that occurs on Saturday, Sunday, or holidays as designated or hereafter designated by the City Council. Holidays which shall be recognized as exceptions to this section shall be: New Year's Day, Martin Luther King, Jr.'s Birthday, Good Friday, Memorial Day, U. S. Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve Day, Christmas Day, and Day After Christmas. (Ord. No. 0-2014-53; 6/25/14) (Ord. No. 0-2016-76; 8/24/16)

**PART 3:** 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 4:** 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 Friday, August 26, 2016.

**PASSED AND APPROVED** this 24<sup>th</sup> day of August, A.D. 2016.

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MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

*Cassandra Brager*  
CASSANDRA BRAGER, CITY CLERK



APPROVED:

*Deborah G. Pullum*  
DEBORAH G. PULLUM,  
CITY ATTORNEY