

ORDINANCE NO. O-2018-57

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 12, "AIRPORT", ARTICLE III, "COMMERCIAL ACTIVITIES", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY UPDATING AND RENEWING THE AIRLINE INCENTIVE PROGRAM TO ALLOW PROMOTIONAL INCENTIVES FOR ANY NEW OR INCUMBENT 14 CFR PART 121 AIRLINE THAT AGREES TO INITIATE ADDITIONAL OR ENHANCED AIR SERVICE FROM TYLER POUNDS REGIONAL AIRPORT, IN AN EFFORT TO INCREASE INCOMING AND OUTGOING FLIGHTS TO NEW AND EXISTING DESTINATIONS; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to promote the public welfare; and

WHEREAS, Texas Transportation Code Section 22.011(a) 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 the territory of the local government, or the territory of the State; and

WHEREAS, Texas Transportation Code Section 22.014(a) states that a local government may adopt ordinances, resolutions, rules and orders necessary to manage, govern and use an airport or air navigation facility under its control or an airport hazard area relating to the airport, and that such authority applies to an airport, air navigation facility, or airport hazard area in or outside the territory of the local government; 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 states that the City of Tyler 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 City Council has adopted airport regulations in City Code Chapter 12; and

WHEREAS, on July 11, 2007, the City Council adopted Ordinance No. 0-2007-79, which created an airline incentive program to allow promotional incentives for any new or incumbent 14 CFR Part 121 Airline that agrees to initiate additional or enhanced air service from Tyler Pounds Regional Airport; and

WHEREAS, on April 23 2008, the City Council adopted Ordinance No. 0-2008-62, which created an airline incentive program to allow promotional incentives for any new or incumbent 14 CFR Part 121 Airline that agrees to initiate additional or enhanced air service from Tyler Pounds Regional Airport; and

WHEREAS, on February 24, 2016, the City Council adopted Ordinance No. 0-2008-62, which amended and renewed an airline incentive program to allow promotional incentives for any new or incumbent 14 CFR Part 121 Airline that agrees to initiate additional or enhanced air service from Tyler Pounds Regional Airport; and

WHEREAS, Staff recommends that the Airline Incentive Program be updated and renewed as shown in the attached Ordinance; and

WHEREAS, it is important to renew and update the Airline Incentive Program; and

WHEREAS, the Airport Advisory Board has voted to recommend that the City Council adopt an ordinance renewing and updating the Airline Incentive Program in City Code Section 12-34;

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

PART 1: That Tyler City Code Chapter 12, "Airport", Article III., "Commercial Activities", is hereby amended by amending Section 12-34 to read as follows:

Sec. 12-34. Airline Incentives

- a. Definitions. No changes...
- b. Any new or incumbent 14 CFR Part 121 airline that agrees to initiate new direct service from Tyler Pounds Regional Airport (TYR) to a new destination airport (not currently served directly by TYR) shall be offered the following promotional incentives:
 - 1. Landing fees shall be waived for a period not to exceed twelve (12) months. Waived landing fees for additional destinations only apply to arriving flights from those additional destinations. For incumbent airlines, the incentive applies provided their other scheduled flights are not reduced from the schedule in effect as of July 15, 2018. (Ord. No. 0-2018-57; 7/11/2018)
 - 2. Airline Ticketing Office (ATO) space rent shall be reduced by fifty percent (50%) for a period not to exceed twelve (12) months. Full ATO base rent lease rates shall be in effect after the discount period has ended. Airlines must be in a "Signatory status" at the time of initiation of the ATO rental incentive and remain in "signatory" status for at least twelve (12) months. Airlines failing to maintain a lease agreement will immediately incur an obligation for the waived rental fees.
 - 3. The City will dedicate resources to marketing the new service as shown in subsection e.
- c. Any new or incumbent 14 CFR Part 121 airline that agrees to initiate or add at least one (1) new daily weekday direct flights from TYR to Dallas Ft. Worth Airport (DFW) shall be offered the following promotional incentives:
 - 1. Landing fees shall be waived for a period not to exceed twelve (12) months. Waived landing fees only apply to the added arriving flights from DFW. For incumbent airlines accepting the incentive under this subsection, the incentive applies provided the accepting airline's other scheduled flights are not reduced from the schedule in effect as of July 15, 2018. (Ord. No. O-2018-57; 7/11/2018)
 - 2. The City will dedicate resources to marketing the new service as shown in subsection e.
 - 3. "*Non-signatory*" rates will apply at the end of a promotional period for airlines that have not signed a lease with the City of Tyler.
- d. Marketing Incentive

Web Site Promotion

City of Tyler Home page photo and link to press release for one (1) month. This page receives sixty-five thousand (65,000) total visits per month.

\$8,000

Press release would remain in the City News section of the City Website for six (6) months.

\$8,000

Flight info page will be created on the Tyler Airport Website. Flight info can also be accessed through City of Tyler's mobile application.

\$5,000

Launch Event/Media Coverage

Water cannon salute photo op – day of event.

Host and publicize ribbon cutting for media, VIPs, travel community, plus coordinate projected media coverage.

\$8,000

Press Release Service

Send press release announcing new service to local and regional media outlets including television, radio, newspaper and magazine.

\$5,000

My Tyler TV (government access programming)

Producing and running a video spot for sixty (60) days in the City Social Media Channels, which can potentially be viewed by thirty thousand (30,000) basic cable subscribers.

\$40,000

Media Promotions

Aviation marketing staff will arrange regional media promotions.

\$10,000

Total Value = \$84,000

e. This section shall expire at midnight on July 15, 2021. (Ord. No. 0-2007-79; 7/11/07) (Ord. No. 0-2008-62; 4/23/08) (Ord. No. 0-2016-18; 2/24/16) (Ord. No. 0-2018-57; 7/11/18)

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 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 July 13, 2018.

PASSED AND APPROVED this 11th day of July, A.D., 2018.

ATTEST:

Cassandra Brager
CASSANDRA BRAGER, CITY CLERK

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

APPROVED:

Steven M. Kean
STEVEN M. KEAN,
DEPUTY CITY ATTORNEY