

ORDINANCE NO. 2017-4168

**AN ORDINANCE OF THE CITY OF EDINBURG, TEXAS,
AMENDING THE CODE OF ORDINANCES AT TITLE V:
PUBLIC WORKS, CHAPTER 54: AIRPORT REGULATIONS,
TO PROVIDE FOR CHANGES IN §54.31 AIRPORT TENANT,
TO CLARIFY AND/OR ADDRESS TENANT USES;
ESTABLISHMENT OF RENTAL RATES; INSURANCE
COVERAGE; SUBLEASING/SUBLETTING, EVENTS OF
DEFAULT; REMEDIES OF DEFAULT; MAINTENANCE OF
LEASED FACILITIES, CITY'S RIGHTS, AND EXCLUSIVE
RIGHTS; PROVIDING FOR WAIVER OF THREE SEPARATE
READINGS; PROVIDING A REPEALER CLAUSE;
CONTAINING A SAVINGS CLAUSE; PROVIDING FOR
PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR
CODIFICATION; AND ORDAINING OTHER PROVISIONS
RELATED TO THE SUBJECT MATTER HEREOF.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF EDINBURG, TEXAS, AS FOLLOWS:**

**SECTION I. THE CODE OF ORDINANCES OF THE CITY OF EDINBURG,
TEXAS AT TITLE V; PUBLIC WORKS, CHAPTER 54: AIRPORT
REGULATIONS, §54.31 AIRPORT TENANT,** is hereby amended and shall read in its
entirety as follows:

§54.31 AIRPORT TENANT

- (A) *Tenant Uses* – A person having the use designation of “Airport Tenant” shall be limited to the following and only the following uses:
- (1) Storage of wholly owned or leased aircraft and service and maintenance on wholly owned or wholly leased aircraft.
 - (2) Such person may provide fuel for owned or leased aircraft, but only after meeting the requirements of § 54.30.
 - (3) Such person shall not hangar aircraft owned by others, nor offer, nor provide, for financial gain any services whatsoever to others.
- (B) Any person wishing to lease a City-owned facility shall execute an approved lease agreement.
- (1) Lease rates shall be established from time to time as recommended by the City Manager or his designee and approved by the City Council.
 - (2) Leases to airport tenants shall, at the discretion of the city, be subject to review and reevaluation at the end of each one (1) year period thereof, in relation to the Consumer Price Index. In this regard, when at the end of each of said one (1) year period, the Consumer Price Index is determined by the city to be five (5) or more percent higher than at the date the lease became

effective, the rental terms thereof may be increased to such percentage of increase or of said Consumer Price Index. If at the end of such one (1) year period the said Consumer Price Index has changed less than five (5) percent, the city shall take no action to review or reevaluate the lease.

- (C) *Insurance Coverage* - Airport tenants shall protect the city from any and all lawful damages, claims, or liability and shall carry comprehensive general liability insurance from an insurance company authorized to do business in the state. The owners of all aircraft and businesses based at the airport shall at their own cost, maintain the amounts and types of insurance required by the city as specified in lease &/or license agreements, operator leases, or operating permits, as may be applicable as per the Texas Tort Claims Act for Municipalities. In each case, a certificate of insurance shall be provided from an insurance carrier or carriers satisfactory to the city, naming the city as additional insured and to indemnify and hold harmless the City with an endorsement listing the City as certificate holder and providing the insurance shall not be canceled, limited in scope of coverage, or non-renewed until after thirty (30) days written notice has been given to the city.
- (D) *Sublease/Sublet* - No tenants shall sublease or sublet any premises of the city, or assign any such lease, without the prior written approval of the city, and any such subletting or assignment shall be subject to all of the minimum standards herein set forth. In the event the lessee sublets any portion of his lease, the sublessee must agree to assume the full obligations of the lease as set out herein and must agree to fully cooperate with the city in seeing that these standards are complied with. The sublessee shall immediately comply with any reasonable request or direction of the city as it relates to the enforcement of these standards.
- (E) *Events of default*- The following shall be "events of default" as to lessee under the lease agreement and the term "event of default" as to lessee shall mean, whenever it is used in the lease agreement, any one (1) or more of the following events:
- (1) Failure by lessee to pay when due or cause to be paid when due the rent required to be paid under lessee's lease agreement with the city.
 - (2) Failure by lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to lessee by the city, unless the city shall agree in writing to an extension of such time prior to its expiration.
 - (3) The leased premises shall be abandoned, deserted or vacated by lessee or any lien shall be filed against the leased premises or any part thereof in violation of this agreement, and shall remain unreleased for a period of sixty (60) days from the date of such filing unless within said period lessee is contesting in good faith the validity of such lien.
 - (4) The dissolution or liquidation of lessee or the filing by lessee of a voluntary petition in bankruptcy, or failure by lessee within sixty (60) days to lift any

execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations at the leased premises, or the adjudication of lessee as bankrupt, or general assignment by lessee for the benefit of its creditors, or the approval by a court of competent jurisdiction of a petition applicable to lessee in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under any similar act which may hereafter be enacted.

- (F) *Remedies on default* - Whenever any event of default as to lessee referred to above shall have happened and be subsisting, the city may take any one (1) or more of the following remedial steps as against lessee:
- (1) The city may re-enter and take possession of the leased premises without terminating the agreement and sublease (or operate as a sublease) the leased premises for the account of lessee, holding lessee liable for the difference between the rents or other amounts payable by lessee hereunder and the rents and other amounts payable by such sublessee in such subleasing or, if operated by the city, the difference between the net revenues received from such operations and the rents and other amounts payable by lessee hereunder.
 - (2) The city may terminate agreement.
 - (3) The city may take whatever other action at law or in equity as may appear necessary or desirable to collect the rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of lessee under the agreement.
- (G) Due to the vast variety of single and multi-occupancy hangars, a single, minimum standard for building and acreage is not established. Therefore, each application under this standard will be considered on its own merits.
- (H) Tenants shall have the right to use common areas of the airport, including runways, taxiways, aprons, roadways, lighting, signals, navigational aids and other conveniences for the takeoff, flying and landing of aircraft of lessee.
- (I) The city reserves the right to take any actions it considers necessary to protect the aerial approaches to the airport against obstructions, together with the right to prevent any tenant from erecting, or permitting to be erected, any building, sign, or other structure on the airport which, in the opinion of the city, would limit the usefulness of the airport or constitute a hazard to aircraft.
- (J) All contracts and leases between such operators and the city shall be subordinate to the right of the city during time of war or national emergency to lease the landing area or any part thereof to the United States Government for military or naval use, and, if any such lease is so made, the provisions of any contracts or leases between such with the provisions of the lease to the government, shall be suspended.
- (K) These standards shall apply to all parties defined herein or as amended from time to time by the city.

- (1) The lessee shall remove from the airport or otherwise dispose of in a manner approved by the airport manager all garbage, debris, and other waste material (whether solid or liquid) arising out of its occupancy of the premises or out of its operations. Said lessee shall keep and maintain his leased premises in a neat and orderly manner. Any garbage, debris, waste which may be temporarily stored in the open shall be kept in suitable garbage or waste receptacles, the same to be made of metal and equipped with tight fitting covers and to be of a design safely and properly to contain whatever may be placed therein. The lessee shall use extreme care when effecting removal of all such waste.
- (L) The city reserves the right to enter upon any premises leased to tenants at reasonable times for the purpose of making such inspections as it may deem expedient, to the proper enforcement of minimum standards and for the proper enforcement of any covenant or condition of any tenant's contract or lease agreement.
- (M) The city recognizes the rights of any person, firm or corporation operating aircraft on the airport to perform services on its own aircraft with its own employees (including, but not limited to maintenance and repair) that it may choose to perform. However, said persons, firms or corporations may not hire any vendors of services, or fuel from off-airport premises to perform services on the airport, except on a temporary basis or any situation for experimental, antique, military, or other unusual aircraft, as determined by the city. Aircraft fueling accomplished under this provision shall be in strict accordance with any safety regulations and/or ordinance.
- (N) The city reserves the right to further develop or improve all areas of the airport as it sees fit, regardless of the desires or views of any tenant, and without interference or hindrance from any such tenant.
- (O) *Exclusive rights*- No person may be granted in fact or by written instrument any exclusive right prohibited by Section 308 (a) of the Federal Aviation Act of 1958. Determination of the existence of a prohibited exclusive right shall in the final analysis be made by the Federal Aviation Administration (FAA), and such determination shall be final. If FAA determines any provision of a written instrument or a practice in fact constitutes a grant of a prohibitive exclusive right, such provision or grant shall be deemed null and void for all purposes.
- (P) *Rental Rates*—

(1) *Hangars*

Box Hangars	Monthly Lease
A3, B2, C1, C3, D3 (40' x 40')	\$ 150.00
A1, A2, B1, B3, C2, D2,D4 (40'x 40')	\$ 175.00
E1, E2, E3 (50' x 60')	\$ 350.00
T-Hangars	

T-1, T-2, T-3 (1,082 SQ. FT)	\$ 210.00
T-4 (1,465 SQ. FT)	\$ 240.00

SECTION II. WAIVER. The requirement of three (3) separate readings of this Ordinance is hereby dispensed with by a vote not less than a majority of all the members of the City Council.

SECTION III. REPEALER CLAUSE. This Ordinance shall be cumulative of all other ordinances dealing with the same subject any provision of any ordinance in direct conflict with any provision of the ordinance is hereby repealed, and the provisions of this Ordinance shall supersede any provisions in conflict herewith; all provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

SECTION IV. SEVERABILITY CLAUSE. If any section, part, or provision of this Ordinance is declared unconstitutional or invalid, by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Council in passing the Ordinance that its parts shall be severable, and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION V. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

SECTION VI. CODIFICATION. The provisions of Section I of this Ordinance shall be published in the CODE OF ORDINANCES of the City of Edinburg, Texas, as soon as practicable.

READ, CONSIDERED, PASSED and APPROVED at a regular meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Code Ann, Government Code, Section 551.041, on the 15th day of November, 2017.

CITY OF EDINBURG

ATTEST:

By:

Myra L. Ayala-Garza, City Secretary

APPROVED AS TO FORM:

Oxford and Gonzalez

By:

Ricardo Gonzalez, Interim City Attorney

By:

Richard Molina, Mayor

