

ORDINANCE NO. 0-23-08

**ORDINANCE ESTABLISHING AIRPORT RULES AND REGULATIONS
FOR ATHENS MUNICIPAL AIRPORT**

An ordinance providing rules and regulations for the efficient and safe operation of the Athens Municipal Airport (hereinafter referred to as the “Airport”); and to provide the greatest service for the citizens of Athens, Texas and the aviation public, is adopted by the City Council, providing enforcement by the Airport Manager or his/her designee, and providing penalties for violations; all as authorized by the Texas Transportation Code Chapter 22 “County and Municipal Airports”.

The definition of “Airport”, “aircraft”, “airplane”, and other common terms used herein is as defined in Part 1, Code of Federal Regulations, Title 14, Aeronautics and Space. “Airport” with a capital refers to the specific airport for which these rules are adopted.

Section 1. Use of Airport Restricted

No persons, partnership, firm, association, corporation or entity, incorporated or otherwise, shall use the Airport for any commercial activity, unless approved by a written permit from the City Council or its duly authorized agent.

Section 2. General Rules and Regulations

The following rules and regulations shall be observed in the use and operation of the Airport:

Rule 2-1. Federal Air Traffic Rules of the Federal Aviation Administration (FAA) for aircraft operated within the United States, and presently or hereafter effective, are hereby referred to adopted, and made a part hereof as though fully set forth and incorporated herein.

Rule 2-2. Safeguard of Persons and Property- The Airport Manager or his/her designee shall at all times have authority to take necessary and legal actions to safeguard any person, aircraft, equipment, or property at the Airport.

Rule 2-3. Through-the-Fence Operations Prohibited - No private individual, partnership, FBO, company, or corporation shall be permitted direct ground access to the Airport by their aircraft, customers' aircraft, or private vehicle from property adjacent to or in the immediate vicinity of the Airport. Furthermore, no private individual, partnership, company, corporate, or customers' aircraft or vehicle shall be permitted direct ground access to property from the Airport - a practice commonly known as a through-the-fence operation. "Under extenuating circumstances, the City Council may request approval from TxDOT Aviation Division for certain through-the-fence operations on a case by case basis.

Rule 2-4. Lien for Charges - To enforce the payment of any charge for repairs, improvements, storage, or care of any personal property by the City or its agents in connection with the operation of the Airport, the City may place a lien upon such personal property, which shall be enforceable as provided by law.

Rule 2-5. Lien Possessory Right- To enforce the payment of any such charge, the Airport Manager or his/her designee may retain possession of such personal property until all reasonable, customary, and usual compensation has been paid full.

Rule 2-6. Unauthorized Signs and Equipment - No signs, non-aeronautical equipment, portable buildings, or trailers may be erected, moved-in, or installed on Airport property, except as may be specially authorized by the Airport Manager or his/her designee.

Rule 2-7. Surreptitious Activities - Any person observing suspicious, unauthorized or criminal activities should report such activities immediately to the Airport Manager or his/her designee, local police, officers of the Texas Department of Public Safety, and the Transportation Security Administration. General Aviation Information Hotline at 1-866-GA SECUR(E) or 1-866-427-3287.

Rule 2-8. Wrecked Aircraft - Every aircraft owner, his/her pilot or agents, shall be responsible for notifying FAA and promptly removing disabled or wrecked aircraft from the operational areas of the Airport, under the direction of the Airport Manager or his/her designee.

Rule 2-9. Repairs to Aircraft - No aircraft shall be repaired on any part of the landing or takeoff area. All outside repairs shall be made only at places designated by the Airport Manager or his/her designee for such purpose. Major engine, airframe, or avionics repairs shall be conducted by a properly licensed mechanic or other person authorized by the FAA within a hangar or building rented, leased, or owned for such commercial purposes. Any preventative maintenance authorized by FAR Part 43 may be made by the owner or operator of any aircraft, but only within a hangar leased or owned by that aircraft owner or operator or at places designated by the Airport Manager or his/her designee for such purpose.

Rule 2-10. Damage to Airport - Any person, individual, or corporation or the owner of any aircraft causing damage of any kind to the Airport, whether through violation of any of these rules, through vandalism, or any act of negligence, shall be liable therefore in and to the City.

Rule 2-11. Injury to Person - Persons entering the Airport groundside property by automobile, other vehicular conveyance, or on foot (does not include persons in aircraft using approved airside facilities) do so at their own risk and with no liability incurring to the City for any injury or damaged to person or property. Further, any person desiring to use the Airport shall observe and obey all laws, resolutions, orders, rules, and regulations promulgated and enforced by the City or by any other Authority having jurisdiction over the operation of the Airport.

Rule 2-12. Licensed Pilots - Only aircraft with current and correct FAA Certificates of Registration and Airworthiness and persons holding valid and current airman and medical certificates issued by the FAA, for those flight operations requiring medical certificates, shall be authorized to operate aircraft upon the Airport except as provided in this ordinance. This limitation shall not apply to students-in-training under licensed instructors or to public aircraft of the Federal government or of a State, Territory, or political subdivision thereof, or to aircraft licensed by a foreign government with which the United States has reciprocal agreement covering the operation of such licensed aircraft. Use of the Airport by ultralight aircraft (FAR 3) and light sport aircraft in the weight shift control and powered parachute class shall be subject to approval by the City Council and shall be in accordance with FAA Order 5190.6 (latest change) and appropriate FARs Part 61 and 103 and any other rules established by the City.

Rule 2-13. Registration - Each person owning an aircraft based at the Airport, or any person based and receiving flight instruction toward an FAA rating at the Airport shall register at the office of the Airport Manager or his/her designee, their name, address, telephone number, aircraft model, aircraft registration "N" number, and the name, address, and telephone number of their next of kin or person to be notified in case of an accident or emergency.

Rule 2-14. Animals - No person shall enter the Airport with a dog, cat, or other animal unless the animal is, and remains, restrained by a leash or properly confined as determined by the Airport Manager or his/her designee.

Rule 2-15. Living Quarter - No person may make permanent living quarters on Airport.

Rule 2-16. Intoxicants and Narcotics Prohibited - No person under the influence of any intoxicant, narcotic, or other illicit drug shall operate or fly in any aircraft to or from the Airport. Such prohibition shall not apply to a passenger under the care of a medical doctor and accompanied by a doctor, nurse, or caretaker.

Rule 2-17. Foreign Objects - No foreign objects, including bottles, cans, scrap, nuts, bolts, nails, or any object that may cause damage to an aircraft, shall be left upon the floor of any building or upon any part of the surface area of the Airport. Individuals are encouraged to pick up such foreign objects when observed and place them in a trash receptacle.

Rule 2-18. Litter - No boxes, crates, cans, bottles, paper, tall grass, weeds, unusable airplane parts or wreckage, scrap wood or metal, discarded airplane or automobile tires, trash, or other litter shall be permitted to accumulate in or about a hangar, building, or other leased space. If such trash and litter is permitted to accumulate around a privately owned, rented, or leased hangar/building, the Airport Manager or his/her designee shall notify the hangar/building owner, renter or lessee by registered letter to remove the offending litter. If within ten (10) work days after receipt of the letter the hangar/building owner, renter, or lessee has not removed the trash and litter as directed, the Airport Manager or his/her designee may have the area cleaned and the cost for such cleaning shall be charged to the hanger/building owner, renter, or lessee.

Rule 2-19. Use of Another's property - Unless authorized by the owner in writing, the use of any aircraft, parts, equipment, accessories or tools of another, situated on said airport is forbidden.

Section 3. Ground Operations

Rule 3-1. Air, Ground & Vehicular Traffic - No person shall operate a vehicle on the Airport except in accordance with the following rules, and all federal, state, and local law:

- A. All vehicles shall yield right of way to aircraft in motion and emergency vehicles.
- B. No vehicle except ground service and emergency vehicles shall approach so close to any aircraft with running engine(s) as to create a hazard.
- C. All vehicles entering or exiting an operating Airport access gate shall wait for the gate to completely close behind them before proceeding to their destination so as to not allow the entry of any other vehicle.
- D. Any vehicle authorized to operate on the Airport runways or taxiways shall display a rotating or steady beacon that complies with FAA Advisory Circular 150/5210 (latest change).
- E. All vehicles that are authorized to operate on taxiways or the runways must be equipped with a two-way aviation radio, and must receive a clearance from, and remain in continuous communications with, the Airport Traffic Control Tower (ATCT) when the ATCT is operating. When the ATCT is not operating, or at

airports that do not have an ATCT, any vehicle authorized to access the taxiways or runways is required to monitor the published Common Traffic Advisory Frequency (CTAF) for the Airport, and have the ability to communicate with aircraft via a two-way aviation radio.

Rule 3-2. Speed Limits - All vehicles shall be operated within the posted speed limits at the Airport. The maximum speed limit for all vehicles in the airside area, with the exception of authorized municipal vehicles in the performance their official duties, is twenty (20) miles per hour, unless posted otherwise.

Section 4. Airport Security

Rule 4-1. Security - The Transportation Security Administration publication “Security Guidelines for General Aviation Airports”, Information Publication A-001 dated May 2004, is available for reference at their website - www.tsa.gov/.

This document is used by the Airport as a guideline to security on the Airport and is incorporated as a working document.

Rule 4-2. Access Codes/Devices - Persons who have been provided either a code or device for the purpose of obtaining access to the Airport shall not divulge, duplicate, or otherwise distribute the same to any other person, unless otherwise approved in writing by the Airport Manager or his/her designee.

Section 5. Aircraft Operation Rules

Rule 5-1. Aircraft Tie Downs

- A. All aircraft not hangared shall be tied down and additionally should have the wheels chocked when remaining overnight and during inclement weather.
- B. All aircraft owners or their agents are responsible for the tie down or security of their aircraft at all times and particularly during inclement weather.
- C. All aircraft parked overnight on the apron shall pay a fee of three dollars (\$3.00) per night, beginning on the fourth (4th) night of stay. Aircraft based on the aircraft and tied down on paved parking apron shall pay a fee of forty dollars (\$40.00) per month.
- D. Aircraft based on the airport and tied down in an unpaved area shall pay a fee of thirty dollars (\$30.00) per month. The minimum fee for storage on an unpaved tie down shall be one month’s rate.

Rule 5-2. Running Aircraft Engines

- A. Aircraft not equipped with adequate brakes shall not be started until the wheels have been set with chocks attached to ropes or other suitable means of removing them.
- B. No aircraft will be left running without a qualified person at the controls.
- C. No aircraft engine shall be started or run inside any building or hangar.
- D. No engine shall be started, run up, or warmed up until and unless the aircraft is in such position that the propeller stream or jet blast will clear all buildings, other aircraft, and groups of people.

Rule 5-3. Damage to Airport Lighting - Any person damaging any runway, ramp, or taxiway light or fixture by operation of aircraft or otherwise, shall immediately report such damage to the Airport Manager or his/her designee. Persons causing damage to runway and taxiway lights as a result of negligent operation of an aircraft or willful acts will be liable for replacement cost of the light(s) and/or fixture(s) and may be charged with a misdemeanor as provided in Section 10 of the order.

Rule 5-4. Taxiing Aircraft

- A. No person shall taxi an aircraft until it is reasonably ascertained there will be no danger of collision with any person or object in the immediate area.
- B. Aircraft will be taxied at a safe and prudent speed and in such manner as to be under the control of the pilot in command at all times.
- C. Aircraft not equipped with adequate brakes will not be taxied near buildings or parked aircraft unless an attendant (wing-walker) is at a wing of the aircraft to assist the pilot.
- D. Aircraft shall not taxi onto the runway from the ramp and taxiway area if there is an aircraft approaching to land or on the ground in takeoff position. Aircraft waiting on the taxiway for another aircraft to take off or land will remain behind the runway holding position markings.
- E. Aircraft shall not be taxied by engine power into or out of any hangar.

Rule 5-5. Parking Aircraft

- A. Unoccupied aircraft shall not be parked or tied down within any protected area (object free area, runway safety area, etc.) as described in FAA AC 150/5300-13 (latest change) and all aircraft not hangared shall be parked in the areas designated by the Airport Manager or his/her designee for that purpose.

B. Aircraft shall not be parked within fifty (50) feet of an aircraft fuel pump or fuel service truck parking area.

C. Aircraft shall not be parked in such a manner as to hinder the normal movement of other aircraft and traffic unless specifically authorized by the Airport Manager or his/her designee as an emergency measure.

D. It is the responsibility of the pilot in command when leaving a parked aircraft unattended to see that the brakes are set and/or it is properly chocked and/or tied down.

Rule 5-6. Wash Racks - Wash racks shall be used for purposes of washing and polishing aircraft, and any other purpose approved by the Airport Manager or his/her designee. Washing/cleaning materials and run-off shall be used and disposed of in compliance with all applicable federal, state, county and local laws and regulations.

Rule 5-7. Loading and Unloading Aircraft - Loading or unloading aircraft with the engine running is prohibited. Exception will be approved by the Airport Manager or his/her designee.

Rule 5-8. Authority to Suspend Operations - The Airport Manager or his/her designee may suspend or restrict any or all operations whenever such action is deemed necessary in the interest of safety.

Rule 5-9. Emergency Locator Transmitter (ELT) - At a safe and appropriate time after takeoff and after landing prior to engine shutdown, pilots should tune their aircraft radios to the emergency frequency (121.5 or 243.0) and listen to determine if their, or any, aircraft ELT is transmitting. If your ELT is transmitting after takeoff or landing, turn off the ELT and advise the FM Automated Flight Service Station for the area via radio or telephone (800-WX-BRIEF or 800-992-7433) that your ELT was accidentally turned on. Provide the time and location of activation, if known, and the time and location of deactivation. 406 Mhz ELTs should be checked for normal operation as part of the preflight / post flight checks.

Rule 5-10. Standard Traffic Pattern and Altitude, Non Towered Airports - All flight activity will adhere to FM Advisory Circular 90-66 (latest change) "Recommended Standard Traffic Patterns and Practices for Aeronautical Operations at Airports without Operating Control Towers", also depicted in the Aeronautical Information Manual. Recommended traffic pattern altitudes are 1000 feet Above Ground Level (AGL) for piston powered airplanes and 1500 feet AGL for turbine powered airplanes. Helicopters will operate as to not obstruct the normal traffic pattern. The use of standard traffic patterns does not alter the responsibility of each pilot to see and avoid other aircraft.

Rule 5-11. Clearing Public Right of Ways - No aircraft shall takeoff or land in such manner as to clear public street or highway at an altitude of less than fifteen (15) feet, or seventeen (17) feet over an interstate highway, twenty-three (23) feet over a railroad, or twenty-seven (27) feet over a coastal water way, or the clearance height of the tallest bridge over the waterway, nor land or take off on the taxiway or over hangars or other structures, automobile parking areas, or groups of spectators. (Ref: FAR 77).

Rule 5-12. Takeoffs on Other Than Runways - Takeoffs or landings shall not be made on the apron, parking ramp, taxiway, or any other than designated runways by airplanes, gyroplanes, powered lift, balloons, airships, ultralight, or light sport aircraft except by prearranged permission from the Airport Manager or his/her designee. Helicopters may operate to and from designated helicopter landing areas.

Rule 5-13. Takeoffs - Takeoffs allowed, Non Towered Airports - Low approach, full stop, touch and go, or stop and go landings may be made at the discretion of the pilot in command. Pilots remaining in the traffic pattern making landings should broadcast on the CTAF their pattern direction of turn and their landing (low approach, full stop, touch and go, stop and go) intentions at least by the final segment leg. All aircraft departing shall clear the traffic pattern for traffic before taxing into takeoff position. See FAR 91.113 (g).

Rule 5-14. Student Training, Local Operations

A. Flight Instructors shall avail themselves and their students of all rules and regulations, including local rules and FARs in effect at the Airport.

B. The Airport Manager or his/her designee and advise airport users via public posting and electronic transmission of limited areas of the Airport and local areas sanctioned by the FAA for practice flying and student training.

C. Aircraft shall not be permitted to remain on the landing or take-off areas for the purpose instructing students.

Rule 5-15. Agricultural Spraying Operations - Agricultural (Ag) spraying operations will be conducted in accordance with procedures approved by the Airport Manager or his/her designee and made known to all persons conducting agricultural spraying operations. Ag operations shall be accomplished in accordance with the standards of the Environmental Protection Agency and the Texas Commission on Environmental Quality in an area so designated by the Airport Manager or his/her designee. Each Ag operator shall carry liability insurance in the amount of \$500,000 dollars, payable to the City for the cleanup of any hazardous chemical spills on Airport property caused by the Ag Operator.

Rule 5-16. Special Procedures, Parachuting -

A. The Airport Manager or his/her designee may, in the interest of safety, designate special traffic procedures for certain operations, such as helicopters, air shows or aviation fly-ins, agricultural operations, gyroplane, powered lift, gliders, balloons, airships, ultralights, and light sport aircraft in the weight shift control or powered parachute class. Any such change from standard procedures shall be published in the FAA's Airport/Facility Directory if of a permanent nature or the Airport Manager or his/her designee shall issue a NOTAM if such change is of a temporary nature. Permanent changes require filing through TxDOT Aviation Division to the FAA. Temporary closing of a portion of the airport for special events will be approved by the FAA, through TxDOT Aviation Division. See FAA Order 5190.6 (latest change).

B. Parachute descent onto the Airport property shall not be permitted without the recommendations of the Airport Advisory Board and the written approval of the City Council. The Airport Manager or his/her designee may develop operating procedures and designate landing areas for parachute operations.

Rule 5-17. Model Aircraft - Model aircraft not capable of carrying a person shall not be permitted to operate, take off or be launched from, flown over or land at the Airport. Model NC operations for specific aeronautical events such as fly-ins or air shows may be approved for specific times by the City Council.

Rule 5-18. Common Courtesy - Aircraft entering the traffic pattern shall exercise caution and practice courtesy so as not to cause aircraft already in the pattern to deviate from their course.

Rule 5-19. Altitude and Noise of Engines- No aircraft shall be operated over the City of Athens at an altitude of less than one thousand (1,000) feet above the ground. Aircraft engines shall not be accelerated or decelerated while over the City of Athens in such a manner as to distract, excite or disturb persons on the ground, regardless of altitude.

Section 6. Fueling, Flammable Fluids, and Fire Safety

Rule 6-1. Fueling Aircraft

A. All aircraft fueling, fuel equipment, and procedures will be in accordance with Manual 407 - "Standard for Aircraft Fuel Servicing, 2007 edition," (or as revised) published by the National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02169-7471, 800-344-3555, <http://catalog.nfpa.org>

B. All transportation, storage and other handling of aircraft and vehicle fuel *shall* comply with the International Fire Code, 2006 Edition, (or current edition) as published by the International Code Council, Inc. and FAA Advisory Circular 150/5230-4, (latest change).

C. All aircraft shall be fueled clear of all hangars, other buildings, and aircraft by at least fifty (50) feet.

D. Fueling trucks shall not be parked within any building or hangar or within fifty (50) feet of any building, hangar, or parked aircraft, as determined by the local Fire Marshal. Fuel trucks shall be parked with at least ten (10) feet separation between vehicles.

E. Aircraft fuel storage tanks for below-ground or above-ground use will be constructed and installed, registered as required, monitored for leakage, operated, and maintained in accordance with Federal and State statutes, rules and regulations promulgated by the Environmental Protection Agency and the Texas Commission on Environmental Quality.

F. Aviation or auto fuels shall not be stored within a hangar or building except in approved five (5) gallon or smaller containers manufactured and marked for such purpose and only with the approval of the local Fire Marshal.

G. Persons or businesses wishing to dispense fuel into their privately owned aircraft shall not be denied; however they must meet all reasonable requirements the City places on other fuel suppliers, public or private. Private fueling facilities located on leased or private property must be installed and the fuel dispensed in accordance with all rules applicable to aircraft fueling and fire safety contained herein.

H. Public sale of automobile gasoline for use in aircraft will not be permitted on the Airport without written approval of the Airport Manager or his/her designee. Aircraft authorized by the FAA to use auto gasoline may be privately fueled by the owner in a location designated by the Airport Manager or his/her designee in accordance with all rules appertaining to aircraft fueling and fire safety contained herein.

I. All aviation fuel storage tanks, aviation fuel pumps, hydrant fuel services, and aircraft fuel service vehicles, whether publicly or privately owned, shall have the type of aviation fuel dispensed printed in large block letter, including octane if aviation gasoline, plus the fuel I.D. number, and "NO SMOKING" signs. This information shall be printed on all sides of the fueling tanks, pumps, etc. so the information is visible from any direction on the ground.

J. Fuel spills in excess of one gallon must be reported to the Airport Manager or his/her designee and immediate action taken by the spilling entity to clean up the spill in accordance with all local, state, and federal regulations.

Rule 6-2. Fuel Flowage Fee- Any person, corporation, partnership, association, or business entity of any kind, or any person acting for or through them, including, but not limited to, any wholesale fuel distribution company, who delivers fuel to a fuel storage tank or who delivers fuel obtained from a source not on the Airport directly into any aircraft on the Airport must pay the amount of three cents (\$.03) per gallon of fuel delivered.

Payment to the City of all flowage fees due must be made not later than the fifteenth (15th) day of the month following the date of the fuel delivery.

Payment of fuel flowage fees shall be accompanied by a report in a form approved by the Airport Manager or his/her designee that indicates the amount of fuel delivered to the airport during the preceding month.

Military aircraft conducting operations which require fueling from U.S. Government facilities are exempt from fuel flowage fees.

Rule 6-3. Fire Safety

A. Every person using the Airport or its facilities in any manner shall exercise the greatest care and caution to avoid and prevent fire.

B. Smoking or open flame within fifty (50) feet of any fuel tank, fuel pump, or fuel truck is prohibited.

C. Compressed flammable gas shall not be kept or stored upon the Airport, except at such place as may be designated by the Airport Manager or his/her designee.

D. No flammable substance shall be used for the cleaning of any aircraft part or anything inside a hangar, T-hangar, or other building upon the Airport.

E. No one shall smoke or ignite a match or lighter in any building, hangar, or public ramp area except in posted "Designated Smoking Areas" identified by the Airport Manager or his/her designee.

F. Hangar entrances must be clear in a manner such that emergency or fire/rescue personnel and equipment can immediately access the hangar without hindrance.

G. The floors in all buildings shall be kept clean and free of oil. Volatile or flammable substances shall not be used to clean floors, walls or any portion of a hangar structure.

H. All Airport tenants and lessees shall supply and maintain such adequate and readily accessible fire extinguishers as may be required by applicable fire codes and regulations. Each fire extinguisher shall carry a suitable tag showing the date of most recent inspection.

Section 7. Lease of Airport Property, Construction and Fees on Airport

Hangars and other buildings or structures owned by the City may be leased to private individuals, companies, or corporations on a monthly or yearly basis for the storage of aircraft and ancillary equipment or to conduct a commercial Fixed Based Operation (FBO).

The City may lease property within the building area or other portions of the Airport for the construction of hangars, buildings, lean-tos, aprons, taxiways, and auto parking lots in accordance with an approved Airport Master Plan/Airport Layout Plan and design guidelines. Aviation related use must be given priority in the use of all leased or privately owned property, buildings or structures. If the aviation needs of the Airport are sufficiently met, the City Council may authorize non-aviation use of a portion of the Airport or any building on the Airport on a case-by-case basis. Application of such non-aviation use shall be made to the City Council; and approval from TxDOT Aviation Division must be received prior to granting authorization for non-aviation use.

Rule 7-1. Lease Term- No lease of airport property or facilities shall be granted for a term exceeding (20) years, however the initial term of a lease of airport property or facility may exceed twenty(20) years but in no case no more than forty (40) years if a loan or deed of trust lien is obtained expressly for construction of the facility which will become property of the City at the end of the lease term, free and clear of all liens and encumbrances. Non-aviation leases shall not exceed eighteen (18) months.

Rule 7-2. Lease Rate- The City will charge a rate of five cents (\$.05) per square foot per year for the lease of airport property, for lease contract not to exceed twenty (20) years in length. All lease contracts will be reviewed annually as concerns lease rates. Increases in lease rates will be calculated based on the Federal Consumer Price Index. City owned T-Hangars will be leased or rented for \$175.00 per month.

Rule 7-3. Construction on Leased Property-

A. The FAA Form 7460-1, "Notice of Proposed Construction or Alteration,"(or most current FAA approved form) will be completed for all construction and submitted to the Airport Manager or his/her designee to forward to TxDOT Aviation Division. TxDOT Aviation Division will review the form for

completeness and accuracy, then forward to the FAA prior to any construction on the Airport. No hangar or structure may be erected beyond the building restriction line or in conflict with the approved Airport Layout or Development Plan.

B. All plans and specifications for construction, renovation, remodeling, or refurbishing of the leased premises shall meet all current Standard Fire and Building Codes published by the International Building Code and the National Electrical Code, and shall provide for the construction to be from material satisfactory and acceptable to the City Council. All construction must be a compatible standard capable of withstanding winds of 85 mph, with the doors open or closed.

C. The City Council's written approval of the plans and specifications must be obtained prior to construction of the improvements.

D. Construction must begin within one hundred twenty (120) days after the effective date of the lease or final comment from TxDOT and the FAA for the filed air space study as required by FAR Part 77, whichever date is later. Construction must be substantially completed within one hundred eighty (180) construction days of start of construction. Projects anticipated to exceed 180 days construction days require approval of the Airport Manager or his/her designee. The improvements on the leased premises shall remain the tenant's property until expiration or termination of the lease and its covenants or as otherwise agreed to in the contract between the City Council and the tenant.

E. Any privately owned structure or hangar not in use for aviation purposes for a period in excess of ninety (90) days or not available for lease or sublease for aviation purposes, unless so authorized for non-aviation uses by the City Council, must be removed after due notice to the owner in writing or the City Council will consider such structures or hangars abandoned and will seek title to such structure or hangar.

F. Leased land from which any building, hangar, or structure is removed, after due notice will be cleared, cleaned, and put back in its original or acceptable condition.

G. All persons, firms, association, corporations, or entities approved by the City Council to conduct a commercial activity on Athens Municipal Airport shall pay a monthly fee equal to two percent (2%) of the gross income earned by the commercial activity. Aircraft sales and fuel flowage fees shall be exempt from the two percent (2%) gross sales fee. Fuel flowage fees equal to three cents (\$.03) shall be paid to the City on a monthly basis. The fee for the previous month's activity shall be paid by the 10th day of the following second month. Prior to starting the commercial activity, a deposit will be held by the City and applied to overdue fees at the discretion of the City. If the Commercial activity is terminated, the deposit may be used to pay or reduce said obligation.

Rule 7-4. Assignment and Sub-letting - Without the prior written consent of City Council the leased premises or any rights there under (except to a leasehold mortgagee as herein provided) may not be assigned. Any assignment or subletting shall be expressly subject to all the terms and provisions of the original lease.

Rule 7-5. Flying Clubs - A Flying Club ("Club") shall meet the following standards:

A. At the time of applying for lease, license, permit or agreement to operate at the Airport, the Club shall furnish the Airport Manager or his/her designee with a copy of its documents of organization; the Club's list of members, including names of officers and managers; evidence of required insurance; a description of all aircraft used; evidence that such aircraft are properly certified; evidence of ownership of such aircraft; and any operating rules of the Club.

B. All aircraft used by the Club shall be owned by the Club or leased exclusively by written agreement to the Club, and all ownership or lease rights to such aircraft must be vested on a pro-rata basis in all of the Club's members. The property rights of the Club members shall be equal, and no part of any revenues received by the Club shall inure to the direct benefit of any member (e.g., by salary or bonus). The Club shall not derive greater revenue from the use of its aircraft than the amount necessary for the operation, maintenance and replacement of its aircraft and facilities.

C. The Club's aircraft shall not be used by any person other than the Club's members and shall not be used by any person for hire, charter, or air taxi. Flight instruction may be given in Club aircraft.

Rule 7-6. Environmental Issues and Indemnification - Any tenant of the Airport, its agents, employee, independent contractors, or sub lessee shall not install, store, use, treat, transport or dispose of any:

A. Asbestos in any form.

B. Urea formaldehyde foam insulation.

C. Transformer or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million; or

D. Any other chemical, material, air pollutant, toxic pollutant, waste, or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by the Resource Conservation Recovery Act, the Comprehensive and Environmental Response Compensation and Liability Act, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Clean Air Act, and/or the Clean Water Act or any other federal, state, county, regional, local or other governmental authority or which, even if not so regulated, may or could pose a hazard to the health and safety of the occupants of the Leased Premises, and which is either:

1. In amounts in excess of that permitted or deemed safe under applicable law:
2. Or in any manner which is prohibited or deemed unsafe under applicable. (The substances referred to in (A), (B), (C) or (D) are collectively referred to hereinafter as “Hazardous Materials”).

Rule 7-7. Environmental Cleanup Laws- An Airport tenant will, at their own expense, comply with all existing or hereafter enacted laws relating to Hazardous Materials, (collectively, “Cleanup Laws”) in effect at the time of lease, and all future laws thereafter. An Airport tenant will, at their own expense, make all submissions to provide all information to, and comply with all requirements of the appropriate governmental authority (the “Authority”) under the Cleanup Laws. Should any Authority require that a cleanup plan be prepared and that a cleanup be undertaken because of the existence of Hazardous Materials which were installed, stored, used, treated, transported, disposed of or discharged on the leased premises, by an airport tenant, its agents, employees, independent contractors sub lessees during the term of a lease, the Airport tenant will prepare and submit shall be indemnified and held harmless from and against all obligations, damages, injunctions, fines, penalties, demands, claims, costs, expenses, actions, liabilities, suits, proceedings and losses of whatever nature (including, without limitation, attorney’s fees and court costs), and all cleanup or removal costs and all actions of any kind arising out of, or in any way connected with, the installation, storage, use, treatment, transporting, disposal or discharge of Hazardous Materials in or on the leased premises by an Airport tenant.

Rule 7-8. Environmental Notices - An Airport tenant shall promptly supply the City Council with copies of any notices, correspondence and submissions made or received from any governmental authorities of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, or any other local, state or federal authority that requires submission of any information concerning environmental matters or Hazardous Materials.

Rule 7-9. Environmental Survival - An Airport tenant’s liability pursuant to any environmental issue shall survive the expiration or earlier termination of their lease.

Rule 7-10. Storm Water Compliance -

A. The Airport is subject to federal storm water regulations, 40 C.F.R. Part. 122 for “vehicle maintenance shops” (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations and/or deicing operations that occur at the Airport as defined in these regulations and, if applicable, state storm water regulations. Each Airport tenant shall become familiar with these storm water regulations if it conducts “vehicle maintenance” or operates equipment cleaning operations and/or deicing activities as defined in the federal storm water regulations.

B. The City shall take steps necessary to apply for or obtain a storm water discharge permit as required by the applicable federal and/or state regulations, including the leased property occupied or operated by an Airport tenant. A storm water discharge permit issued to the City may name an Airport tenant as a co-permittee.

C. An Airport tenant's close cooperation is necessary to ensure compliance with any storm water discharge permit terms and conditions, as well as to ensure safety and to minimize costs. An Airport tenant may have to implement and maintain "Best Management Practices". To minimize the exposure of storm water (and snow melt) to "significant materials" generated, stored, handled or otherwise used as defined in the federal storm water regulations.

D. The City's storm water discharge permit is incorporated by reference into each lease and any subsequent renewals.

E. The City will provide an Airport tenant with a written notice of those storm water discharge permit requirements that are in the City's storm water permit, that a tenant will be obligated to perform from time to time, including, but not limited to:

1. Certification of non-storm water samples
2. Collection of storm water samples
3. Preparation of storm water pollution prevention or similar plans
4. Implementation of "good housekeeping" measures or best management practices; and maintenance of necessary records

Such written notice shall include applicable deadlines and an opportunity to dispute any of the storm water discharge permit requirements.

F. Each Airport tenant shall participate in any organized task force or other work group established to coordinate storm water activities of the Airport.

Rule 7-11. Non Discrimination Covenants

- A. Each lease will include as a covenant running with the land to insure that:
1. No person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the leased property;
 2. That in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person, on the grounds of race, color, sex or national origin, shall be excluded from participation in, denied benefits of, or otherwise be subjected to discrimination.

B. The right to conduct aeronautical activities for furnishing services to the public is granted to an Airport tenant subject to the agreement:

1. To furnish said services on a fair, equal and not unjustly discriminatory basis to all users.
2. To charge fair, reasonable, and not unjustly discriminatory prices for each unit or service provided an allowance may be made to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

Rule 7-12. Insurance - An Airport tenant shall during the term of lease maintain at their cost and expense insurance relating to the leased premises as follows:

- A. Insurance against loss or damage to improvements by fire, lightning, and other risks included under standard extended coverage policies.
- B. General public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the leased premises, such insurance to afford protection to City of not less than \$500,000.00 with respect to any one person, \$1,000,000.00 with respect to any one accident and not less than \$200,000.00 with respect to property damage.
- C. Hangar keeper's liability insurance providing coverage for aircraft not owned by the tenant in the following limits: \$200,000.00 per aircraft and \$400,000.00 per occurrence on property damage to aircraft in the care, custody, or control of tenant.
- D. All such policies of insurance shall be issued by insurance companies acceptable to the City, shall name the City as an additional insured or loss payee, as the case may be, and shall provide for at least ten (10) days written notice prior to cancellation or modification.

Rule 7-13. Hold Harmless - The City shall not be liable to an Airport tenant's employees, agents, servants, customers, invitees, or to any other person whomsoever, for any injury to persons or damages to property on or about the leased premises or any adjacent area owned by the City.

Section 8. Knowledge of Rules Implied

By publication and adoption of this ordinance, all persons shall be deemed to have knowledge of its contents. However, the Airport Manager or his/her designee is directed to have copies of the ordinance posted in paper or electronically, where appropriate. Copies shall be available at all times in the Airport Manager or his/her designee's office, and copies shall be furnished to all owners and operators of aircraft based at the airport.

Section 9. Conflict of Rules and Regulations

If and where there are conflicts in the rules and regulations prescribed herein the FAA’s Federal Aviation Regulations (FAR), the latter shall prevail. If and where there exists a conflict between any of the rules or regulations prescribed herein and any other City rules applicable to the same area, the more stringent limitation, or requirement shall govern and prevail.

Section 10. Penalty for Violation

The Airport Manager or his/her designee may deny use of the Airport for a period not exceeding fifteen (15) days for any person violating or refusing to comply with any of the rules or regulations prescribed herein pending a hearing the City Council. Upon such hearing, such person may be deprived of the further use of the Airport and its facilities for a period of time as may appear necessary for the protection of life and property. Any violation of this ordinance shall be a misdemeanor, and upon conviction, be punishable by a fine not exceeding two-hundred (\$200) dollars, and each day a violation continues to exist shall constitute a separate offense. The section is cumulative of all other penalties for violation of Federal, State, and local laws, rules, regulations, ordinances, and orders. Citation for violation or issuance of a violation ticket of any of the rules and regulations prescribed herein may be made by any authorized police officer. The Airport Manager or his/her designee City Council may request authorized police officers to investigate any suspected violation of these rules.

Section 11. Severability

If any of the provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 12. Emergency Enactment

Whereas, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public health, public safety, and general welfare, and EMERGENCY is hereby declared to exist, and the ordinance shall be in full force and effect from its passage by the City Council of the City of Athens, Texas and publication and posting as required by law.

PASSED AND APPROVED ON FIRST READING THIS THE 11TH DAY OF AUGUST, 2008.

PASSED AND APPROVED ON SECOND AND FINAL READING THIS THE 25TH DAY OF AUGUST, 2008.

ATTEST:



Pam Watson, City Secretary



Randy Daniel, Mayor