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CURRENT INFORMATION

ITEM ONE:

Below are the proposed changes to Ogden city Ordinance, Title 8. The main text remains unchanged, but the words that are stricken out are proposed to be removed and the underlined words are being added. If the words are not underlined or stricken out, then there are no changes. Please note that much of this section already exists in the current ordinance and is not proposed to change. I'm sorry, but some of the formatting may have shifted when

converting this text from a Word Document to this email.

This is the first of three documents that are destined to go before the Ogden City Council for a vote later in the year. The other two documents are shorter and will be sent in a different Mailchimp e-mail.

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY AMENDING CHAPTERS 1, 3, AND 5 OF TITLE 8 TO REVISE PROVISIONS RELATED TO AIRPORT LEASES AND AIRPORT FEES; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

The Council of Ogden City hereby ordains:

SECTION 1. Chapter amended. Chapter 1 of Title 8 of the Ogden Municipal Code is hereby amended to read and provide as follows:

8-1-1: [DEFINITIONS:]

As used in this title, the following terms mean:

ADVISORY COMMITTEE: Shall mean and have reference to the Ogden Airport Advisory Committee created by this title.

AERONAUTICAL ACTIVITY: Any activity which involves, makes possible or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations; for example, air taxi and charter operation, scheduled or nonscheduled air carrier services, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and service, aircraft parking and storage, sale of aviation petroleum products, aircraft manufacturing, general aviation specialty services, airpark aviation operations, repairs and maintenance of aircraft and sale of aircraft parts.

AIRCRAFT ACCESSORY SERVICES OPERATOR: A person providing repairs or sale of aircraft radios, propellers, instruments, accessories, painting or upholstery.

AIRCRAFT AIRFRAME AND ENGINE REPAIR OPERATOR: A person providing airframe and/or power plant maintenance and/or overhaul services.

This category also includes the sale of aircraft parts and accessories.

AIRCRAFT CHARTER OPERATOR: A person providing air transportation to the public for hire, either on a charter basis or as an air taxi operator, as defined in the Federal Aviation Act of 1958.

AIRCRAFT MANUFACTURING SERVICES OPERATOR: A person engaged in the manufacture, fabrication, or assembly of aircraft or aircraft/aerospace parts, systems and components.

AIRCRAFT OPERATION: An aircraft arrival or departure from the airport.

AIRCRAFT OWNER: A person to whom an aircraft is registered and a person who exercises the full incidents of ownership of an aircraft under a long term lease agreement.

AIRCRAFT RENTAL OPERATOR: A person engaged in the rental of aircraft to the public. It shall not include an aircraft owner who loans his or her aircraft for reimbursement on a nonprofit basis.

AIRCRAFT SALES OPERATOR: A person engaged in the sale of new and/or used aircraft or who acts as an aircraft broker.

AIRPARK: Shall mean the taxilane and areas located outside the airport, and intended for airport/airpark access, and all real property adjacent to any portion of the airpark taxilanes, presently constituting approximately 30.35 acres. The current survey coordinates are:

A part of the Southeast Quarter of the Northwest Quarter of section 12, Township 5 North, Range 2 West, Salt Lake Base and Meridian, U.S. Survey; beginning at a point on the south line of said northwest quarter which is 17.04 feet South 89°52'04" West along said south line from the southeast corner of said northwest quarter; thence North 00°46'04" East 1,035.12 feet along a fence; thence North 88°17'54" West 750.81 feet along a fence; thence South 44°48'51" West 1,449.65 feet along a fence; thence North 89°52'04" East 440.81 feet; thence South 01°16'19" West 33.02 feet; thence North 89°52'03" East 1,318.26 feet to the point of beginning.

AIRPORT: Shall mean and have reference to all areas comprising Ogden-Hinckley airport that now exist or may hereafter be expanded, together with

their appurtenant facilities. The current survey coordinates are:

A part of Section 6, T 5 N, R 1 W and parts of Sections 1 and 12 T 5 N, R 2 W S. L. B. & M.; beginning at a point that bears South 197.3 feet and West 192.4 feet from the NE corner of the NW 1/4 of said Section 6, and running thence S. 21° 51' W. 249.5 ft.; thence S. 14° 06' W. 2,083.9 ft. to a point that is 115.0 feet perpendicular distant from the centerline of the east track of the U.P.R.R.; thence S. 35° 13' W. 5,192.7 ft.; thence N. 51° 47' W. 17.0 ft.; thence S. 38° 13' W. 1,674.9 ft.; thence S. 89° 22' W. 297.9 ft.; thence N. 0° 31' E. 591.1 ft.; thence N. 29° 12' W. 799.6 ft.; thence S. 89° 40' W. 919 ft.; thence N. 0° 35' E. 1,231.4 ft.; thence N. 0° 02' W. 9,659 ft.; thence N. 24° 09' W. 1,493.0 ft.; thence S. 89° 48' W. 601.5 ft.; thence Northeasterly and to the right on an arc of a 749.0 foot radius curve 572.9 ft. (the long chord of said curve bears N. 35° 15' 30" E. 558.9 ft.); thence S. 32° 50' E. 30.0 ft.; thence N. 57° 10' E. 1,259.6 ft.; thence Northeasterly and to the right and tangent to the previous course on the arc of 1,970.0 foot radius curve 315.50 ft.; thence N. 67° 16' E. 1,651.8 ft.; thence N. 62° 10" E. 449.7 ft.; thence N. 67° 15' E. 1,421.2 ft.; thence Southeasterly and to the right on the arc of a 2,774.9 foot radius curve 781.4 feet (the long chord of said curve bears N. 82° 04' E. 778.7 ft.); thence S. 89° 52' E. 1,182.5 ft.; thence S. 26° 44' E. 108.8 ft.; thence N. 87° 00' E. 443.7 ft.; thence S. 63° 33' E. 39.5 ft. to the point of beginning; containing 691.68 acres.

AIRPORT LAYOUT PLAN (ALP): The FAA approved chart identifying the location for various uses and activities on the airport.

APRON: The areas surrounding buildings to which aircraft have access.

COMMERCIAL ACTIVITIES: Revenue producing activities and business activities engaged in for profit. The subletting of one's private hangar upon the airport shall not be construed as a commercial activity.

COMMERCIAL AERONAUTICAL ACTIVITIES PERMIT: A permit required to be obtained from the city and maintained during any period in which a person conducts any commercial aeronautical activity upon the airport or airpark, except that a person with an airport lease permitting a commercial aeronautical activity shall not be required to obtain a separate commercial aeronautical activities permit to engage in that activity upon the airport.

COMMERCIAL AERONAUTICAL ACTIVITY: Any aeronautical activity or service conducted on the airport or airpark as a revenue producing business or

service activity engaged in for profit, including the activities of an FBO or specialized service operator upon the airport or airpark, and the activities of a general aviation specialty services operator upon the airpark. The subletting of one's private hangar upon the airport shall not be construed as a commercial aeronautical activity.

COMMERCIAL FLYING SERVICES OPERATOR: A person providing any of the following activities: sightseeing flights; crop dusting; seeding and spraying; banner towing and aerial advertising; aerial photography or survey; firefighting; power line or pipeline patrol and wildlife spotting; or any other operations specifically excluded from FAR part 135.

COMMERCIAL FUEL SALES: Shall include all fuel sold or dispensed by anyone other than an aircraft owner or his or her employees into the aircraft owner's own aircraft.

COMMERCIAL OPERATIONS: Operations performed for compensation or hire. The subletting of one's private hangar shall not be construed as a commercial operation.

CONCESSION: A commercial activity operated within a city owned building with a negotiated fee schedule.

CONTROL TOWER: The FAA air traffic control tower at the airport.

DOPING: The application of a preparation to strengthen and tighten aircraft fabric.

ELECTRICALLY BONDED: The connection of the fueling service vehicle with an unpainted metal point on the aircraft or vehicle using a functional bonding cable.

FAA: The federal aviation administration.

FACILITY LEASE: An agreement to lease city-owned improvements on airport property, including hangars, buildings, signs, asphalt, concrete, or any other physical improvement, which may also include lease of underlying or surrounding land.

FAR: Federal aviation regulations.

FIXED BASE OPERATOR (Also Known As FBO): Any person who performs the basic essential aeronautical services including aviation fuel and oil sales, ramp parking, tie down and storage, minor aircraft repair, passenger loading and towing.

FLAMMABLES: Any material that has a flash point at or below one hundred degrees Fahrenheit (100°F).

FLIGHT TRAINING OPERATOR: A person engaged in training pilots in any aircraft and providing related ground school instruction if necessary.

FLYING CLUB: Three (3) or more persons jointly owning or leasing one or more aircraft where payment is made to the club for the operating time of such aircraft.

FUEL FARM: One or more fuel storage tanks.

FUEL SERVICING EQUIPMENT: Vehicles and equipment used for fueling or defueling aircraft or vehicles.

FUELING OPERATIONS: Fueling or defueling aircraft, equipment or vehicles.

GENERAL AVIATION: Shall include all phases of aviation other than aircraft manufacturing, military aviation and regulated air carrier operations.

GROUND TRANSPORTATION: Transportation for hire or compensation to or from the airport.

GROUND LEASE: An agreement to lease airport property for the purpose of tenant construction of hangars, buildings, signs, asphalt, concrete, or any other physical improvements.

GROUNDING: The connection of a functional grounding cable from the fueling vehicle to a point or points of zero electrical potential to prevent the buildup of static electricity.

HAZARDOUS AND TOXIC MATERIALS: Shall include petroleum products, pesticides, solvents, paint, explosives, flammables and any other substance that requires special handling under current or future federal, state or local environmental safety and health regulations.

NATIONAL TESTING LABORATORY: Shall include National Fire Protection Association, Underwriter's Laboratory and similar organizations that develop professional standards for fueling equipment.

PARK: To leave the aircraft or vehicle unattended.

PROFESSIONAL SKILLS: Any skill obtained after special study or the use of which requires a license under FAA regulations or federal, state or local law.

RAMP: The paved area of the airport normally used for aircraft parking and loading.

RUN UP: Engine acceleration to test its functions while the aircraft is stationary.

RUNWAY: The paved area designated for aircraft landing and takeoff.

SERVICE EQUIPMENT: Devices designed for aircraft servicing or other airport functions or devices regularly used at the airport, including, but not limited to, fuel trucks, aircraft starting units, mobile aircraft stairs, etc.

SPECIALIZED SERVICE OPERATOR: A person who provides aircraft accessory services, flight training, commercial flying services, aircraft sales, aircraft airframe and engine repair, aircraft manufacturing, aircraft rental or charter, hangar rental or any other commercial aeronautical activities or services, except fuel sales.

TAXIWAY: The paved area of the airport designated for aircraft movement from the runway to the ramp.

TIE DOWN: An unenclosed space where an aircraft is parked, with dimensions of forty feet by forty feet (40' x 40'), centered on the center of the triangle formed by the tie down eyehooks. Where tie downs overlap under this definition, the overlapping area shall be divided equally between adjoining tie downs. [~~When adjacent tie downs in the same row are leased, any space between those tie downs will be incorporated in the lease.~~]

TIE DOWN PERMIT: A permit to allow an aircraft owner to park its aircraft in an assigned tie down on the airport. A tie down permit is not a lease of airport property nor does it grant permittee an exclusive right to possess an assigned

tie down location. Rather, the airport manager has discretion to reassign tie down locations among permit holders.

VEHICLE: A device (not an aircraft) in, upon or by which any person or property is or may be propelled, moved, transported, hauled or drawn upon any roadway or ground surface at the airport.

8-1-2: [OFFICIALS; AUTHORITY:]

A. **[Mayor; Chief Administrative Officer:]** The Mayor or Chief Administrative Officer is authorized to implement this title; and to recommend to the City Council such additional ordinances governing the use of the airport as are necessary or desirable. This title, any administrative orders implementing it and any amendments thereto shall be available to the public.

B. [Airport Manager:]

1. Under the direction of the Mayor and Chief Administrative Officer, the Airport Manager shall have full power to carry out, administer and enforce this title to oversee its implementation, to receive applications and reports, to issue permits, approvals, and authorizations and to make designations on behalf of the City as provided in this title, and to manage the airport and airpark.

2. The Airport Manager, his or her representatives, and the City police shall have the authority to take the steps necessary for the handling, policing and protection of the public while at the airport and airpark.

8-1-3: [AGREEMENT TO FOLLOW RULES:]

Any person who enters upon or uses the airport or its facilities or any part thereof impliedly agrees that a condition of that use is compliance with airport ordinances, rules and regulations.

8-1-4: [AIRPORT ADVISORY COMMITTEE:]

A. **[Purpose:]** This section is enacted and intended for the purpose of establishing the Ogden Airport Advisory Committee, whose objectives and purposes shall be to advise the City Council and the Mayor in matters pertaining to the operations of the airport.

B. **[Established:]** There is hereby established the Ogden Airport Advisory Committee which shall consist of not fewer than five (5) but not more than seven (7) members, appointed by the Mayor, with the advice and consent of the City Council.

C. **[Appointment; Eligibility:]**

1. In order to be eligible for appointment to the advisory committee, a person shall:

a. Be not less than twenty one (21) years of age;

b. Be a resident of Weber County or Davis County; and

c. Be a representative of a cross section of business, aviation and community interests, such as pilots, engineers, travel industry, or education and economic development representatives, etc.

2. At least two (2) members of the advisory committee shall be residents of Ogden City or persons whose continuing principal place of business is in Ogden City.

D. **[Terms Of Office:]** Advisory committee members shall be appointed for two (2) year terms, three (3) of which will expire in odd numbered years and two (2) of which shall expire in even numbered years on March 30 of the second year. If a sixth or seventh advisory committee member is appointed, their terms shall expire in even numbered years on March 30 of the second year. Each member may serve beyond that date as needed until a successor is appointed and qualified.

E. **[Vacancies:]** Vacancies occurring in the advisory committee shall be filled by appointment of the Mayor, with the advice and consent of the City Council for the unexpired term.

F. **[Compensation; Expenses:]** Advisory committee members shall serve without compensation but may be reimbursed for reasonable out of pocket

expenses incurred as committee members, if approved in advance of the expenditure.

G. **[Removal From Office:]** Any advisory committee member may be removed from office by the Mayor at any time for any reason.

H. **[Members' Ethics:]** Advisory committee members shall be subject to and bound by the provisions of the Municipal Officers' and Employees' Ethics Act, Utah Code Annotated section 10-3-1301 et seq., as amended.

I. **[Meetings:]**

1. The advisory committee shall meet at least twice throughout the year. Meetings may be called by the Airport Manager or the Committee Chair. The meetings shall be conducted in accordance with the provisions of the Utah Open and Public Meetings Law, Utah Code Annotated section 52-4-1 et seq., as amended.
2. Meetings shall be held at the airport or at another public place.
3. The advisory committee shall keep written minutes of its proceedings which shall be available for public inspection at the Airport Manager's Office. Copies of the minutes shall also be filed with the City Recorder's Office.
4. The advisory committee may adopt rules of procedure for its meetings.

J. **[Election Of Officers:]** At its first regular meeting after March 30 each year, the advisory committee shall elect a Chair, and a Vice Chair who will perform the duties of Chair during the absence or disability of the Chair.

K. **[Staffing Services:]** The Mayor, through the Department of Community and

Economic Development, shall provide such administrative support and staff assistance to the committee as is determined by the Mayor to be necessary for the operations of the committee, within existing budgetary restraints.

L. **[Functions:]** The advisory committee shall assist the Airport Manager in development and promotion of the airport in order to best serve the local and regional requirements for airport service. The committee shall review matters presented to it by the Airport Manager, the Mayor, the City Council or citizens; make suggestions; and submit its recommendation in writing to the Airport Manager, the Mayor or City Council. As requested by the City, the advisory committee shall:

1. Assist in the development of goals, objectives and strategies for the operation and development of the airport and the identification of the means and methods of implementation and their associated costs;
2. Assist the Planning Commission in the development of the airport master plan as part of the Ogden City general plan;
3. Assist in the development of ordinances, rules and regulations for the effective and efficient operation of the airport;
4. Review proposed changes in rates and charges;
5. Assist in the development of a capital improvement plan for the airport, including the Federal and State airport grant programs;
6. Review complaints and suggestions from airport users and affected neighbors as requested;
7. Assist in the development of marketing strategies for the economic

development of the airport; and

8. Annually submit in writing to the City Council and the Mayor a report of the activities of the committee during the year, together with any recommendations for the subsequent year.

M. **[Sunset Provision:]** Unless subsequently extended by appropriate action, the term of this committee shall sunset and expire on June 30, 2023.

8-1-5: [GRIEVANCE PROCEDURE:]

A. **[Hearing Request:]** Any person aggrieved by a decision of the Airport Manager or any person whose compliance with this title would create severe hardship may request a hearing before the Chief Administrative Officer or his/her designated representative. Such request shall be made in writing and such hearing shall be held within ten (10) days of receipt of said request.

B. **[Present Evidence:]** Any person requesting a hearing shall present all evidence, records and testimony of which that person has knowledge concerning the grievance or hardship.

C. **[Decision:]** The Chief Administrative Officer or his/her designated representative shall issue written findings of fact and a decision concerning the grievance or hardship within fifteen (15) working days, such decision to be final. The Mayor may elect to review the Chief Administrative Officer's decision when requested by the aggrieved party in writing within ten (10) working days after the findings and decision have been rendered.

SECTION 2. Chapter amended. Chapter 3 of Title 8 of the Ogden Municipal Code is hereby amended to read and provide as follows:

8-3-1: [PERMISSION REQUIRED:]

A. No person shall use any area or facility on the airport for any commercial activities without first: 1) complying with applicable city regulations; 2) obtaining a permit for the activity from the city or signing a lease, whichever is required; 3) paying the rates and charges prescribed for that activity in chapter 5 of this title; 4) agreeing to indemnify the city as outlined in subsection 8-3-3D5 of this chapter; and 5) meeting the minimum standards for the activity.

B. **[Permission will expire:]** 1) if the permitted commercial activity ceases for a period of twelve (12) months; or 2) as specified by the lease, concession agreement or permit.

8-3-2: **[INSURANCE REQUIREMENTS:]**

A. **[Minimum Limits Of Insurance:]**

1. Each person conducting a commercial activity involving aircraft operation, including, but not limited to, aircraft instruction, rental or charter, shall maintain aircraft liability insurance with limits of not less than one million dollars (\$1,000,000.00) per combined single limit per occurrence for bodily injury, personal injury, and property damage.
2. Each person conducting any commercial activity in which customers, vehicles or aircraft have access to or are operated on the ramps, apron, taxiways or runways shall maintain commercial general liability insurance with limits of not less than one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage; business automobile liability insurance with limits of not less than one million dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage; workers' compensation limits as required by the laws of the state; and employer's liability insurance with limits of not less than one hundred thousand/five hundred thousand/one hundred thousand dollars (\$100,000.00/500,000.00/100,000.00).
3. Each person selling or maintaining aircraft, aircraft parts or fuel shall maintain products and completed operations liability insurance with limits of not less than one million dollars (\$1,000,000.00) combined single limit.
4. During construction, the lessee or owner, or the contractor of the lessee or owner, shall maintain all applicable liability insurance as stated

in subsections A1, A2 and A3 of this section, commercial general liability insurance with limits of not less than one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage; business automobile liability insurance with limits of not less than one million dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage; workers' compensation limits as required by the laws of the state; employers' liability insurance with limits of not less than one hundred thousand/five hundred thousand/one hundred thousand dollars (\$100,000.00/500,000.00 /100,000.00); and all-risk builders' liability insurance coverage in the amount of the project cost and any other construction obligations that may arise.

B. [Deductibles And Self-Insured Retentions:] Any deductibles or self-insured retentions greater than one thousand dollars (\$1,000.00) must be declared to and approved by the city.

C. [Other Provisions:] The policies are to contain, or be endorsed to contain, the following provisions:

1. The city, its officials, employees and volunteers are to be covered as additional named insured on all policies to include liability arising out of aircraft operation and commercial activities; products and completed operations; premises owned, leased or used; and automobiles owned, leased, hired or borrowed by a commercial operator or contractor. The coverage shall contain no special limitations on the scope of protection afforded to the city, its officials, employees or volunteers.
2. The operator's, contractor's or lessee's insurance coverage shall be primary insurance as respects the city, its officials, employees and volunteers. Any insurance or self- insurance maintained by the city, its officials, employees or volunteers shall be in excess of the operator's, contractor's or lessee's insurance and shall not contribute with it.
3. The operator's, contractor's or lessee's insurer shall agree to waive all rights of subrogation against the city, its officials, employees and

volunteers for losses arising under workers' compensation and employers' liability coverage.

4. Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the city by certified mail, return receipt requested.

D. **[Acceptability Of Insurers:]** Insurance is to be placed with insurers carrying a "Bests" rating of not less than B+XII.

E. **[Verification Of Coverage:]** Each operator, contractor or lessee shall furnish the city with certificates of insurance affecting coverage required by this title. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms acceptable to the city and are to be received and approved by the city before activity commences.

F. **[Subcontractors:]** The operator, contractor or lessee shall include all subcontractors and sub subcontractors as insured under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

8-3-3: [LEASES AND AGREEMENTS:]

A. **[Policy:]** It shall be the airport's policy to negotiate lease terms that make the airport as self-sufficient as possible; that provide flexibility to manage the airport; that provide high quality and all necessary services; and that provide a fair return on lessee's investment in capital improvements.

B. **[Proposal And Permits:]** A request to the city to lease airport land or facilities for commercial activities, to issue a commercial aeronautical activities permit, or to issue any other permit to conduct nonaeronautical commercial activities should be made in writing and include a proposal which sets forth the scope of operations proposed, including the following:

1. The name, address and telephone number of the applicant.

2. The services the applicant will offer.

3. The proposed date of commencement of the activity and term of conducting the same.

4. A detailed description of the scope of the intended operation.

5. The means and methods to be employed to accomplish the contemplated services.

6. The amount of land the applicant desires to lease.

7. The size and position of the building the applicant will lease or construct, if applicable.

8. The number of aircraft the applicant will provide, if applicable.

9. The number and qualifications of persons the applicant will employ.

10. The proposed hours of operation.

11. The amount and type of insurance coverage the applicant will maintain.

12. Evidence of the applicant's financial capability to perform and provide the proposed services and facilities.

C. **[Terms:]**

1. ~~Length Of Lease:~~

- a. ~~Land on which private hangars for aircraft storage are constructed may be leased for a fifteen (15) year term.~~
- b. ~~Land on which a commercial special service operator building is constructed may be leased for a twenty (20) year term.~~
- c. ~~Land on which a fixed base operator building is constructed may be leased for a twenty five (25) year term.~~
- d. ~~The city reserves the right at its discretion to negotiate leases in excess of the above limits when a prospective lessee agrees to make a substantial capital investment.~~

2. ~~Renewal: Upon lease expiration, lessee shall have the "first right of refusal" to renew their lease; provided however, that the lease is not in default. Each renewal term will be for five (5) years.]~~

[Airport Leases:]

1. Ground Leases. The city may enter into a ground lease of airport land and permit tenant to construct thereon hangars, buildings, structures, signs, fixtures and other improvements.
 - a. New Construction: Ground leases entered into for new construction after

January 31, 2021, will be subject to the following:

- i. Lease Term; A ground lease for new construction is limited to a lease term of 30 years.

- ii. Exception: The mayor may negotiate and agree to a longer lease term if the mayor determines that the tenant's proposed improvements represent an unusual and substantial capital improvement. An extended lease term approved by the mayor may not exceed 40 years except upon consultation with the FAA to ensure compliance with grant assurances. The mayor may adopt administrative policies setting forth capital improvement values or other qualifications allowing the airport manager to approve new construction ground lease terms extending more than 30 years but not exceeding 40 years.

- iii. No Renewal Term: There are no renewal terms available for a ground lease for new construction occurring after January 31, 2021.

- iv. Expiration; City Ownership of Tenant Improvements. Upon expiration of a new construction ground lease, the leased premises, together with all improvements remaining thereon, revert to the possession, control and ownership of the city. Any subsequent lease of the premises offered will be through a facility lease of city-owned improvements.

- b. Preexisting Construction. Ground leases for tenant improvements constructed prior to January 30, 2021, shall be subject to the following:.
 - i. Renewal.
 1. Lease Renewal. The airport manager may enter into a lease

renewal of an expired ground lease for tenant improvements constructed before January 31, 2021, provided:

- a. Tenant makes timely application and meets all airport qualifications for lease renewal;

- b. the renewal term of years will not extend beyond 40 years after construction of the principle improvements on the premises;

- c. the premises are not part of a:
 - i. A planned redevelopment of airport property; or

 - ii. _____ An airport plan to change the use of the premises;

- d. for at least two years prior to renewal, tenant has been in timely compliance with:
 - i. Tenant's ground lease, and any other airport agreement with the City; and,

 - ii. all airport ordinances, rules, regulations, and policies.

2. New Agreement. The granting of any renewal term may be conditioned upon tenant entering into a new lease agreement using the city's lease agreement form(s) then in use at the time of renewal.

3. Expiration; City Ownership of Tenant Improvements. Upon expiration of a ground lease under this subsection that is not renewed, the leased premises together with all improvements remaining thereon revert to the possession, control and ownership of the city. Any subsequent lease of the premises offered will be through a facility lease of city-owned improvements.

2. Facility Leases. The city may enter into a facility lease agreement for airport improvements and land owned by the city, as follows.
 - a. Lease Term. Facility leases are generally entered into for a lease term of 5 years or less. Longer lease terms may be negotiated where tenant commits to make substantial capital improvements to city-owned premises or make other substantial investment to provide commercial aeronautical services at the airport.

 - b. Expiration. Upon expiration or termination of a facility lease, tenant shall quit the premises and return possession of the premises to the city, leaving the premises in the same condition as at commencement of the lease, reasonable wear and tear excepted.

 - c. Priority Leasing to Prior Tenant. The tenant of an expiring ground lease or expiring facility lease shall be given first opportunity to enter into a new facility lease for the premises prior to the city offering the premises to another party, provided that:
 - i. Tenant makes timely application and meets all qualifications for a facility lease;

 - ii. The premises are not part of a:

1. A planned redevelopment of airport property; or

2. An airport plan to change the use of the premises;

- iii. For at least two years prior to renewal, tenant has been in timely compliance with:
 1. Tenant's ground lease, and any other airport agreement with the City; and,

 2. all airport ordinances, rules, regulations, and policies.

3. [Final Decision:] The above lease terms are not absolute and are subject to negotiation. A final decision will be made by the mayor, upon consultation with the FAA.

D. **[Mandatory Provisions:]** Every lease or agreement entered into shall be subject to and shall contain the following provisions, or similar substitute provisions approved by the city attorney:

1. The lessee agrees to comply with provisions of this title, and as it may hereafter be amended, and with implementing administrative orders as they may hereafter be adopted or amended. The lessee further agrees that more than three (3) violations of this title during any three (3) month period by lessee, its agents or employees; or any other pattern of violations that manifests reckless disregard for the health, safety and general welfare of the public and/or airport users shall be a material breach which may terminate the agreement at the option of the city. The city shall not exercise this option until it has notified the lessee and given

the lessee a reasonable opportunity to retrain employees or otherwise demonstrate that lessee, its employees and agents can and will conform to this title. In addition to the above penalties, this agreement may be canceled by the city if the lessee fails to pay, when due, the whole or any part of the amounts agreed upon for rents and charges and such default continues for thirty (30) days after the city has demanded payment in writing.

2. The city may terminate any nonaeronautically related lease upon ninety (90) day notice to the lessee.

3. The lessee shall maintain the leased premises in a reasonable condition of repair, cleanliness and general maintenance.

4. It is understood and agreed that the lessee is an independent contractor and not an agent or employee of the city, and the city is an independent contractor and not an agent or employee of the lessee with regard to its acts or omissions hereunder.

5. Lessee shall protect, defend and hold lessor and its officials, employees, agents and volunteers completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, attorney fees, court costs and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the use or occupancy of the leased premises or the acts or omissions of lessee's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, unless such injury, death or damage is caused by the sole negligence of the lessor. The lessor shall give the lessee reasonable notice of any such claims or actions. The lessee shall also use counsel reasonably acceptable to lessor in carrying out its obligations hereunder. The provisions of this subsection shall survive the

expiration or early termination of this agreement. In carrying out any of the provisions herein, or in exercising any power or authority granted to lessee, there shall be no liability upon any official of the city, its authorized assistants, consultants or employees, either personally or as officials of the city, it being understood that in such matters they act as agents and representatives of Ogden City Corporation. It is further understood and agreed that the city assumes no responsibility for any damages or losses that may occur to the lessee's property, except the obligation that the city will not willfully, intentionally or negligently damage the property of the lessee.

6. ~~[Upon the expiration or other termination of this lease agreement, the lessee shall have the right to remove any building owned by the lessee from the leasehold premises, and upon removal agrees to restore the land to as good condition as it was before the erection of any building. Removal must be accomplished within ninety (90) days, or as otherwise mutually agreed, after termination of any agreement and must be done without injury to the demised premises.]~~ If the city is required to terminate a ground lease through legal action and the lessee is not in default, the city shall pay ~~[the]~~to lessee the fair market rental value ~~[for the]~~ of leasehold improvements for the remaining lease term lost by lessee, less ground lease rents payable by lessee for the same period.
7. No person may sublease or assign any facility or lease or contract at the airport except with approval of the city. The city shall be entitled to receive any revenue that the lessee/assignor of a city owned building receives from a sublessee/assignee that exceeds the amount the lessee/assignee is required to pay the city pursuant to the lessee's/assignee's agreement.
8. The airport manager or a designated representative may enter any facility or property on the airport at reasonable times and for reasonable purposes without prior notice.
9. There is hereby reserved to the city, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the premises hereby leased, together

with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, not known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on the airport.

10. The lessee by accepting a lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land leased hereunder exceeding the obstacle identification surfaces as specified by FAR part 77. In the event the aforesaid covenant is breached, the lessor reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the lessees.

11. In addition to those provisions required by subsections D1 through D10 of this section, every agreement concerning a commercial activity for which payments are based on revenue generated shall contain the following provision: The concessionaire/permit holder agrees to maintain records in compliance with section 8-3-6 of this chapter and to fully cooperate with any audit hereunder. Concessionaire/permit holder further agrees to pay costs of the audit when required thereunder.

E. **[Aeronautical Activities:]** In addition to the provisions in subsection D of this section, every lease or agreement concerning aeronautical activity shall be subject to and shall contain the following provisions, or similar substitute provisions approved by the city attorney:

1. The lessee agrees to operate the premises leased for the use and benefit of the public and to furnish such service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, however, that the lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

2. The lessee, for himself, his heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on the said property described in this lease for a purpose for which a department of transportation program or activity is extended or for any other purpose involving the provision of a similar service or benefit, the lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to title 49, code of federal regulations, department of transportation, subtitle A, office of the secretary, part 21, nondiscrimination in federally assisted programs of the department of transportation-effectuation of title VI of the civil rights act of 1964 and any provisions of said regulations as may in the future be amended.

3. The lessee, for himself, his personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that no person on the grounds of sex, race, color, creed, national origin or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, that in the construction of any improvements on, over or under such land and the furnishings of services thereof, no person on the grounds of sex, race, color, creed, national origin or disability shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; that the lessee shall use the premises in compliance with all other requirements imposed by, or pursuant to title 49, code of federal regulations, department of transportation, subtitle A, office of the secretary, part 21, nondiscrimination in federally assisted programs of the department of transportation - effectuation of title VI of the civil rights act of 1964, and such provisions of said regulations as may in the future be amended.

4. That in the event of a breach of any of the nondiscrimination covenants pursuant to part 21 of the regulations of the office of the secretary of transportation, the lessor shall have the right to terminate this lease and to reenter and repossess said land and the facilities thereon and hold the same as if said lease had never been made or issued.

5. It is clearly understood and agreed by the lessee that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft on the airport from performing services on its own aircraft with its own regular employees (including, but not limited to, maintenance and repair) that it may choose to perform.
6. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right.
7. Lessor reserves the right to further develop or improve the airport as it sees fit, regardless of the desires or views of the lessee and without interference or hindrance from lessee.
8. Lessor reserves the right, but without obligation to lessee, to maintain and keep in repair the landing areas of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of lessee in this regard.
9. During the time of war or national emergency, lessor shall have the right to lease the landing area or any part thereof to the United States government for military or naval use and if such lease is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the lease to the government, shall be suspended.
10. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent lessee from erecting, or permitting to be erected, any building or other structure on or adjacent to the airport which, in the opinion of the lessor, would limit the usefulness of the airport or constitute a hazard to aircraft.

11. This lease shall be subordinate to the provisions of any existing or future agreement between lessor and the United States, relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditures of federal funds for the development of the airport.

12. The lessor reserves the right to temporarily close the airport or any of the facilities thereon for maintenance, improvement or for the safety of the public.

F. **[Commercial Aeronautical Activities Permit:]** A commercial aeronautical activities permit is required of all persons conducting commercial aeronautical activities upon the airport who do not have an airport lease with the city permitting the activity, such as when the person subleases airport property from another airport lessee. A commercial aeronautical activities permit is required of all persons conducting commercial aeronautical activities upon the airpark. A commercial aeronautical activities permit shall be subject to and shall contain terms similar to an airport lease, as follows:

1. A commercial aeronautical activities permit shall endure for a term not to exceed the length of a lease term for conducting similar activities as set forth in subsection C of this section, and shall not exceed the term of any existing lease of airport or airpark property upon which the commercial aeronautical activities are proposed to be conducted.

2. A commercial aeronautical activities permit shall be subject to and shall contain substantially the same mandatory provisions included within an airport lease, as set forth in subsections D and E of this section, modified as reasonably required and approved by the city attorney to make such provisions applicable to a permit rather than a lease.

G. **[Noncommercial Activities:]** A request to the city to lease airport facilities or land for noncommercial activities should be made in writing and include a proposal which sets forth the scope of the activity, which shall minimally include:

1. The name, address and phone number of the applicant.
2. The amount of land the applicant desires to lease.
3. The building space the applicant will lease or construct.

H. **[Processing:]** The city will approve or deny any application under subsections B and G of this section within thirty (30) days of its submission to the airport manager, except that the thirty (30) days may be extended if the applicant has been requested to provide additional information.

8-3-4: [LESSEE; COST RESPONSIBILITIES:]

A. **[Taxes:]** The lessee shall at its own expense pay all taxes and assessments against the leasehold premises or improvements.

B. **[Utilities:]** All utilities are to be paid by the lessee, unless otherwise provided.

C. **[Building Maintenance:]** All building maintenance on city owned facilities will be the responsibility of the lessee.

D. **[Pavement Maintenance:]** Routine maintenance of the entire lease area shall be the responsibility of the lessee.

8-3-5: [CONSTRUCTION; WRITTEN AGREEMENT:]

Prior to any occupancy or commencement of any construction on the airport, the prospective lessee shall enter into a written agreement with the city.

8-3-6: [RECORD KEEPING AND AUDITS:]

Each person conducting a commercial activity who pays the city a percentage of the revenue generated shall maintain and keep available for inspection at reasonable times and places, accurate records of the services performed and

items sold, and the charges therefor. Each such person shall provide the airport manager a statement of the charges made for services or sales performed at least every six (6) months. The city shall have the right to inspect all such records and to audit them for completeness and accuracy. If an audit produces evidence that the city is entitled to revenue previously undisclosed, the person conducting the commercial activity shall reimburse the city for the cost of conducting the audit, as well as paying any past due amounts.

8-3-7: [COMMERCIAL SIGNS AND ADVERTISING:]

A. **[Regulations:]** No person shall erect, post or maintain commercial signs or advertising on city owned property unless:

1. Designated Area: The sign or advertising is placed in a location designated by the city;
2. Space Is Leased: The sign/advertising space is leased, at a negotiated rate.

B. **[Compliance; Existing Signs:]** Nothing in this section shall prevent a tenant conducting an approved commercial activity from erecting or maintaining signs on his/her own leased space, so long as the sign complies with the city sign ordinances, FAR part 77 and section 8-3-8 of this chapter. Existing signs on the date of the enactment of this title, that are on city property but otherwise meet the above requirements, may be incorporated into the owner's lease.

8-3-8: [SITE DEVELOPMENT STANDARDS:]

No person may construct, remodel, erect or rehabilitate any facility or sign on the airport except in compliance with applicable codes; FAR part 77; and the airport layout plan (or in an area approved by the FAA and the city). Site development plans must be approved by the city which approval shall not unreasonably be withheld. Construction may only be performed by a bonded contractor.

SECTION 3. Chapter amended. Chapter 5 of Title 8 of the Ogden Municipal Code is hereby amended to read and provide as follows:

8-5-1: [LANDING FEES:]

A. **[Aircraft:]** The owner or operator of any aircraft landing at the airport that weighs in excess of twelve thousand five hundred (12,500) pounds shall pay to the City a landing fee at the rate of [~~seventy five cents (\$0.75)]one dollar and twenty-five cents (\$1.25) per one thousand (1,000) pounds of the aircraft's maximum gross landing weight rounded up to the nearest one thousand (1,000) pounds.~~

B. **[Fixed Base Operator:]** Each fixed base operator shall, on a monthly basis, pay or collect and remit the landing fees imposed above for aircraft for which the fixed base operator provides billable services (fueling, tie down, etc.). If no billable services are provided, the fixed base operator shall not be responsible for the collection of the landing fee. Each fixed base operator required to pay or collect and remit landing fees shall comply with the recording, reporting and payment requirements imposed under subsection C of this section.

C. [Recording; Reporting; Payment: Each fixed base operator shall:]

1. Maintain a record indicating the date, N number, category of aircraft and the amount billed or collected, which record shall be maintained for three (3) years.
2. On or before the fifth day of the month next succeeding each calendar month, submit a report to the City, concurrently with monthly fuel flowage reports, regarding total landing fees billed or collected for the previous month.
3. Remit the amount of the landing fees billed or collected, on or before the fifth day of the month next succeeding the month of the report, minus the collection fee provided in subsection D of this section.
4. Give the owner or operator of the aircraft a receipt for the fee collected or bill the fee as a separate item.

D. **[Retention:]** A fixed base operator who is required to pay or collect and remit landing fees under this section may retain twenty eight percent (28%) of the landing fees collected for the cost to it of collecting and remitting such fees.

E. **[Separate Account Not Required:]** A fixed base operator is not required to maintain a separate account for the fees collected, but is deemed to be a person charged with receipt, safekeeping, and transfer of public monies. Fees collected by a fixed base operator pursuant to this section shall be held in trust for the benefit of the City and for payment to the City in the manner and at the times provided herein.

F. **[Exception To Fee:]** No landing fee will be assessed against airport or airpark based aircraft.

8-5-2: LEASE RATES~~[LAND RENTAL:]~~

A. **Ground Leases:**

1. Aeronautical Activities: Any ground lease tenant ~~[person]~~ leasing improved land at the airport for commercial or noncommercial aeronautical activities shall annually pay the City twenty eight cents (\$0.28) per square foot of land. Any ground lease tenant ~~[person]~~ leasing unimproved land at the airport for commercial or noncommercial aeronautical activities shall annually pay the City fifteen cents (\$0.15) per square foot. Beginning January 1, 2021, the above lease rates shall be increased for three (3) consecutive years, in addition to the Consumer Price Increase (CPI) adjustment provided by section 8-5-8, as follows:

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[B.] 2. Nonaeronautical Activities: Any [person], ground lease tenant leasing improved land at the airport for commercial or noncommercial nonaeronautical activities shall annually pay the City four (4) times the rate for improved land used for aeronautical activities. Any [person], ground lease tenant leasing unimproved land at the airport for commercial or noncommercial

nonaeronautical activities shall annually pay the City four (4) times the rate for unimproved land used for aeronautical activities. Except, the airport manager may approve an alternative nonaeronautical lease rate for airport land lying outside the air operations area, provided the lease rate is not less than fair market value as demonstrated by an appraisal or information market survey conducted in the manner set forth in subsection 4-3A-5A2 of this code. A tenant shall owe the nonaeronautical activities rate for all time periods that tenant uses leased ground for nonaeronautical activities, regardless of whether the nonaeronautical use is permitted or allowed by tenant's lease.

[C.] 3. Definitions: For purposes of this section, "improved land" means land that is occupied by hangars or other structures; "unimproved land" means land not occupied by structures, including all support areas such as ramps, uncovered storage, or customer parking areas.

4. Beginning January 1, 2022, annual rent for a ground lease of a parcel with improvements constructed forty (40) or more years previous shall equal the fair market rental rate for land and improvements on the leased parcel, which rate shall be determined in the same manner as for facility leases described in Subsection B.

B. [Facility Leases:]

1. Market Value. City-owned airport facilities will be leased for fair market rental value, consistent with dimensions, location, age, quality, finish, utility of the premises and other factors affecting marketability and market rental rate. The airport manager shall reasonably ascertain a market rental rate for facility leases by any commercially reasonable method, including but not limited to, appraisal or information market survey comparing similar private facilities on the airport or facilities at similar airports. The mayor may adopt administrative policies establishing lease rate classifications, formulas, rate charts or other reasonable methods to direct the airport manager in setting market rental rates for varying airport facilities.
2. Incentives. Subject to FAA grant assurances, temporary incentive rates or waivers may be granted if reasonably necessary to attract key services, market facilities for the highest and best return, and make the airport as self-sufficient as possible.

8-5-3: [TIE DOWN FEES:]

A. **[First Twenty Four Hours:]** Any nonbased aircraft may use a transient City tie down without charge for the first twenty four (24) hours, if available.

B. **[Enumerated:]** Any person not described in subsection A of this section using a City tie down shall pay the City the fee prescribed for its use, based on the aircraft's maximum certificated takeoff weight, as follows:

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8-5-4: [FUEL FLOWAGE FEES:]

A. **[Royalty:]** Any person selling or dispensing fuel on the airport or airpark shall pay the City a royalty of [~~five and one-half cents (\$0.055)~~] nine cents (\$0.09) per gallon for fueling [~~of air carrier aircraft certified pursuant to 49 CFR part 121 and seven cents (\$0.07) per gallon for fueling of all other~~] any aircraft. [~~Any person selling or dispensing fuel to aircraft certified pursuant to 49 CFR part 121 shall maintain a record indicating the date, aircraft registration number (N number), category of aircraft and the gallons sold, which record shall be maintained for three (3) years.~~] All fuel delivered to the airport or airpark and fuel delivered to fixed base operator fuel facilities required in this title shall be deemed to be sold or dispensed on the airport or airpark at the time of delivery. However, the fueler may provide signed and dated receipts or other documentation acceptable to the City proving that the fuel was sold or dispensed off airport and airpark. The fueler shall then be entitled to credit for the fuel flowage fee paid on fuel sold or dispensed off airport and airpark.

B. **[Required Documents:]** Any person selling or dispensing fuel on the airport or airpark shall, on or before the fifth day of each month, submit to the City: 1) a detailed statement including delivery receipts from the fueling

transport company showing all fuel delivered to, or for use upon, the airport or airpark during the preceding calendar month; and 2) the required Utah State Division of Aeronautics report. The City shall then bill such person.

C. **[Right To Audit:]** The City shall have the right to audit fuel flowage records at any time. If a discrepancy is identified, the person selling or dispensing the fuel shall pay the City the cost of conducting the audit, in addition to any amount owed to the City.

8-5-5: [GENERAL AIRPORT FEES:]

A. [Security Badge Fees:]

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B. **[Overnight Parking Fees:]** Overnight parking fees at the airport are [~~four~~ five] dollars (\$[~~4~~5.00) per day.

C. **[Airport Office Pickup and Delivery:]** A tenant or other airport user who receives letters or packages at the airport office, or who designates the airport office as a delivery or pickup address, shall pay a fee of twenty dollars (\$20.00) per month.

D. **[Lease Transaction Fees:]** A transaction fee of five hundred dollars (\$500) shall be charged for every new airport ground lease, ground lease renewal, and assignment or transfer of tenancy of a ground lease to a new or additional person or entity. A transaction fee of one hundred dollars (\$100.00) shall be charged to a tenant for review and approval of any sublease agreements. All fees shall be payable upon tenant application for the transaction. Additionally, complicated transactions may require the city to hire outside legal counsel to draft or review transaction documents, and all reasonable attorney fees and costs arising thereby may be charged to a party to the transaction as a condition of the city permitting or approving the transaction.

8-5-6: [CONCESSIONAIRES:]

Any person operating a concession at the airport shall pay the City a percentage of gross revenue and/or a flat fee as provided by contract.

8-5-7: [OTHER COMMERCIAL ACTIVITIES:]

Any person conducting a commercial activity not specifically listed in this chapter or covered by a written contract with the City, at or from the airport, shall pay the City a fee of one hundred dollars (\$100.00) or five percent (5%) of gross revenue from the activity per year, whichever is the greater amount.

8-5-8: [ESCALATION:]

A. **[Review; Change:]** All fees and charges fixed in this chapter are subject to periodic review and change by the City Council.

B. **[Automatic Adjustments:]** Unless the City Council takes an alternate action, land rental rates, as determined by section 8-5-2 of this chapter, shall automatically be adjusted on January 1 of each year in accordance with corresponding changes in the Consumer Price Index published by the U.S. government for the preceding fiscal year ending September 30. Any automatic rental rate change shall apply to all rents due and payable during the calendar year when the change became effective. The "Consumer Price Index" shall mean those cost of living statistics published by the Bureau of Labor Statistics of the United States government for the area in which the City is included. In the event the Bureau of Labor Statistics ceases to publish a Consumer Price Index, those statistics provided by any successor governmental agency which are furnished for the same purpose shall be employed to determine the adjustment.

8-5-9: [BILLING PROCEDURES AND LATE CHARGES:]

Unless more restrictive provisions are imposed by written agreement, all amounts payable shall be paid within thirty (30) days of the due date, and late charges in the amount of five percent (5%) per month, or a minimum of twenty five dollars (\$25.00), shall accrue if the amount is not paid within thirty (30) days of the due date. If legal action is required to collect any amount, the City shall also be entitled to attorney fees and collection costs incurred.

8-5-10: [AUTHORIZATION TO WAIVE FEES:]

The Airport Manager is authorized to waive landing and/or aircraft parking fees in the event of any emergency or in conjunction with any civic event or activity.



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