

TITLE X. - PUBLIC ENTERPRISES AND UTILITIES<sup>[1]</sup>

CHAPTERS

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GENERAL PROVISIONS

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Footnotes:

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**Cross reference**— Departments enumerated, § 2-4-3; public works and improvements, Ch. 3-2.

CHAPTER 10-1. GENERAL PROVISIONS

REPEAL SECTION 10-1-1.

REPEAL SECTION 10-1-2.

SECTION 10-1-3.

REPEAL SECTION 10-1-4

CHAPTER 10-2. AIRPORTS AND AIRCRAFT<sup>[2]</sup>

Footnotes:

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**Cross reference**— Administration, Title II; franchise required for certain transient service and utilities, § 7-1-1; vehicles for hire, Ch. 7-10; traffic, Ch. 11-2; streets, sidewalks and other public places, Ch. 11-4; airport zoning, Ch. 12-11; fire codes, Ch. 14-2.

**State Law reference**— Aircraft, F.S. Ch. 329; regulation of aircraft and pilots, F.S. Ch. 330; airports and air commerce, F.S. Ch. 331; airport law of 1945, F.S. Ch. 332; airport zoning, F.S. Ch. 333.

ARTICLE I. - IN GENERAL

Sec. 10-2-1. - Definitions.

For the purposes of this chapter, the following terms, words and abbreviations shall have the meanings given herein:

*Airport* as used in this article, shall be understood to designate the Pensacola International Airport, which is owned and operated by the city.

*Airport director.* The Manager of the Pensacola International Airport.

*F.A.A.* The Federal Aviation Administration.

*General aviation.* Public, private, commercial and business flying activity specifically delineated from that commonly called "air carrier".

(Ord. No. 7-96, § 1, 1-11-96)

Sec. 10-2-2. - Purposes of airport.

The airport shall be conducted as a public air terminal facility for the promotion and accommodation of air transportation, general aviation and recreational flying in accordance with federal and state regulations governing airport management and operations.

(Code 1968, § 59-9)

Sec. 10-2-3. - Airport hours.

The airport shall be open for public use at all hours of the day and night, subject to such restrictions due to inclement weather, the conditions of the landing area, the presentation of special events and like causes, as may be determined by the mayor.

(Code 1968, § 59-10)

Sec. 10-2-4. - Airport authority.

The city, through the mayor, shall at all times have authority to take such action as may be necessary in the handling, policing and management of the public in attendance at the airport. In any contingencies not specifically covered by these rules and regulations, the mayor may be authorized to make additional rules and regulations and render such decisions as seems proper.

The mayor is directed to designate locations for picketing, distribution of leaflets, fliers, and handbills, and the solicitation of contributions which will leave open ample alternative channels of communication for those who elect to use such channels. Violations of the mayor's regulations shall constitute a violation of this section of the Code of the City of Pensacola, Florida, and shall be enforced through penalties provided by section 1-1-8 of the Code of the City of Pensacola, Florida, as well as by other applicable provisions of law.

(Code 1968, § 59-11; Ord. No. 37-89, § 1, 7-27-89; Ord. No. 16-10, § 156, 9-9-10)

Sec. 10-2-5. - Franchise, lease, etc., required for certain airport services.

- (a) *Generally.* It shall be unlawful for any person, firm or corporation doing business at or with the Pensacola International Airport who does not have a license, permit, contract, concession, lease, franchise or other specific permission from the city, to operate a rent-a-car service or fixed-base operation; or to peddle or sell any goods, wares or merchandise, or to rent any automobile to any person who has not already engaged the automobile; or to furnish taxicab or limousine service to any person who has not called the service; or to provide off-site airport customer parking lot rental services or to offer to do any act herein prohibited; or to solicit any business of any type without express airport permission as provided herein.

(b) *Off-site airport parking lots.* Any person, firm or corporation that is an airport rental car provider as defined in section 10-2-93 or independent third party parking lot facility operator serving customers of the Pensacola International Airport shall execute a written agreement with the city in the form of an off-site airport parking lot facility license permit as established by the airport director before engaging in the offering for a rental fee vehicle parking spaces to such customers of the airport. "Customers" for the purposes of this section shall mean anyone who pays a fee for the parking of his/her vehicle at the licensee's parking lot facility that is not located on the Pensacola International Airport may be provided transportation in the licensee's courtesy vehicle to or from the airport as a part of such a vehicle parking transaction.

(1) Each airport rental car provider or independent third party parking lot facility operator licensee providing off-site airport parking lot services under an off-site airport parking lot facility license permit shall pay to the city a percentage amount of its gross revenues as defined below which shall equal the concession agreement percentage amount paid by on-airport concessionaire rental car providers. This fee shall be a separate and independent license charge payable by any rental car provider or independent third party parking lot facility operator offering for a rental fee vehicle parking spaces to customers of the airport. The existing off-site airport parking lot, discount airport parking, in its existing facility will be exempt from the requirements of this ordinance, but all new off-site providers which begins operations after the effective date of this amendment and any expansion of the existing Off-site provider to areas not contiguous to its current location at the southwest corner of Airport Boulevard and 12<sup>th</sup> Avenue will be subject to the requirements of this ordinance.

a. "*Gross revenue*" of a licensee shall mean: All amounts received by the licensee or which the licensee is entitled to receive from any rental of an off-site airport lot parking space by the licensee or its agent to an airport customer who may be transported to any point on the airport, including but not limited to, the airport terminal building, any premises leased by the city to a third-party doing business on the airport, or any other location within the airport, or from any point on the airport, including but not limited to, the airport terminal building, any premises leased by the city to a third party doing business on the airport, or any other location on the airport, or

All revenue it receives from every airport customer who at the business location of the licensee executes an agreement for rental of an off-site airport parking lot space. Gross revenues shall be deemed received at the time the transaction occurs giving rise to the licensee's right to collect said monies, regardless of whether the transaction was conducted in person, by telephone or by mail, whether the transaction was for cash or credit, and if for credit, regardless of whether the licensee ultimately collects the monies owed for said transaction from the airport customer involved. Any gross revenue owed the city and determined by the licensee at a later date to be uncollectible shall not offset future percentage rentals owed the city. If the initial agreement entered into between the licensee and the airport customer is subsequently amended, the percentage of gross revenue to which the city is entitled hereunder shall be based upon the gross revenue which the licensee is entitled to receive under the agreement with its airport customer, as amended. Gross revenue shall not include:

1. Federal, state, or municipal sales taxes separately stated and collected from the customers;
2. Amounts the licensee receives, or is entitled to receive, for the sale, disposition, loss, conversion, or abandonment of equipment, personal or real property, and trade fixtures; and
3. Gross revenue shall not be reduced by reason of any commission or similar amount paid by the parking lot facility operator to travel agents or others to secure customer business.

b. Each licensee shall submit to the airport director's office, on or before the 20th day of each month, a statement which will set forth:

1. The total gross revenue earned during the prior month; and
  2. Information demonstrating to the satisfaction of the airport director how much of the licensee's gross revenue during the prior month originated from airport customers and gross revenue originated from non-airport customers.
  3. It shall be presumed that ninety-five (95) percent of all gross revenue earned by the licensee during the month with respect to the statement submitted constituted airport customer generated gross revenue, unless, and to the extent the licensee demonstrates otherwise in its statement to the satisfaction of the airport director.
  4. Each licensee shall timely submit a statement of gross revenue each month even if such licensee earned no airport generated gross revenue during the prior month. In such case the statement of gross revenue shall state the licensee's total gross revenue during the prior month and shall demonstrate to the satisfaction of the airport director that none of such revenue constituted airport generated gross revenue.
  5. If any licensee fails to submit any remittance, as required by this section, by the end of the 10th day following the final day on which such remittance should timely have been submitted, the licensee shall pay interest to the city at the rate of eighteen (18) percent per annum (1.5 percent per month) (or, if less, the maximum rate of interest allowed by law) on such overdue amounts calculated from the date on which such amounts should timely have been paid. If any licensee fails to submit any statement of gross revenue, as required by this section by the end of the 30th day following the final day on which such statement should timely have been submitted, the city may, in its discretion, perform, or hire an agent to perform, an audit of such licensee's various books and records (including but not limited to the records such licensee required to maintain under the provisions of this section) to determine that licensee's gross revenue during the month which would have been the subject of such statement of gross revenue. The licensee shall, within thirty (30) days of receipt from the city of an invoice from the city reimburse the city for its reasonable cost of performing or of hiring an agent to perform, such audit.
- c. The city may issue an off-site airport parking facility license permit and once it has issued such a license, it may suspend or suspend and revoke that licensee under the provisions of this section, unless the licensee to whom the license is to be or has been issued continuously complies with the provisions of this section and the license permit agreement.
1. The airport director may suspend any license provided; however, that such suspension may be imposed only following fourteen (14) days written notice to the licensee whose license is to be suspended.
    - (a) A licensee whose license is suspended or may become subject to suspension may demonstrate to the airport director, at any time before or after such suspension has been imposed, that such licensee is in compliance or has remedied its noncompliance or that it is making good faith effort to do so.
    - (b) If the licensee whose permit is subject to suspension demonstrates that it has remedied its failure to satisfy the conditions of this section, the airport director shall remove the suspension of such licensee, if such suspension has been imposed, or shall abandon proceedings to suspend that license if such suspension has not yet been imposed.
    - (c) If the licensee whose license is subject to suspension demonstrates it is making a good faith effort to remedy its failure to comply (though it has not yet remedied such failure), the airport director may, in his/her discretion, remove the suspension of such licensee if such suspension has been imposed, or abandon proceedings to suspend the license if such suspension has not yet been imposed.

- (d) Once a license has been properly suspended, it shall remain suspended unless and until its suspension is removed or until it is revoked.
  - (e) A licensee whose license has been properly suspended by the airport director may appeal the decision to the Mayor of the City of Pensacola by filing a petition within twenty-one (21) days of the entry of such suspension with city clerk.
2. The airport director may revoke any off-site airport parking lot facility license, provided, however, that:
    - (a) A license may not be revoked unless, at the time of revocation, it has been properly suspended for at least thirty (30) days; and
    - (b) A license may not be revoked except following thirty (30) days written notice from the airport director, which notice may be issued to the licensee holding such permit only after the suspension of the license has been imposed.
    - (c) Upon the revocation of a license, the licensee to whom such license was issued must remove any courtesy car decals issued in connection with the revoked license permit from its courtesy vehicles serving the airport.
    - (d) A license which has been revoked may not be reinstated. Nonetheless, the licensee whose permit has been revoked may apply for a new license after curing all causes of revocation.
    - (e) A licensee whose license has been properly revoked by the airport director may appeal the decision to the Mayor of the City of Pensacola by filing a petition within twenty-one (21) days of the entry of such revocation with city clerk.
  3. Notwithstanding the notice provisions of this subsection, the airport director may revoke without notice the license of any licensee if, at any time while the license is suspended, any of licensee's courtesy vehicles seek to enter the airport under the authority of the suspended permit for the purpose of loading passengers for transport to or unloading passengers after transport from any off-site airport parking lot facility of licensee.
- d. During and with respect to the term of any license issued, each licensee shall maintain such books and records as would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing an audit or examination of the licensee's revenues and gross revenue in accordance with generally accepted accounting principles and this section.
    1. Each licensee to whom an off-site airport parking lot facility license is issued shall make all records available for inspection by the airport director during reasonable business hours, for a period of not less than three (3) years after the end of the term of the license to which such records relate; provided; however, that no such inspection will be conducted at a time or in a manner which causes undue interference with the business of the licensee.
    2. Licensee may make such records available for inspection in Pensacola, Florida or at its corporate headquarters. In the event the inspection of such records is made at the licensee's corporate headquarters, and said corporate headquarters are located outside the city limits of Pensacola, Florida, then the licensee shall reimburse the city for all reasonable travel expenses associated with the airport director traveling to licensee's corporate headquarters for the inspection of such records.
  - e. The term of such off-site airport parking lot facility license shall extend from the date it is issued until either midnight of the 31st day of December next following the date it is issued or the date on which revocation of such permit becomes effective, whichever is earlier. The courtesy car decals issued in connection with such a license shall expire at the end of the term of such license. The license shall be extended automatically for successive one-year periods, unless earlier suspended or revoked. If a suspension is in effect on January 1, the

licensee shall remedy all failures to comply with the provisions of this section and shall apply for a new license before such license be issued.

- f. An off-site airport parking lot facility license and any courtesy car decals or other identifying elements issued in connection with such a license may never be transferred, assigned, loaned or used in any way by any person other than the licensee to whom such license was issued or the operator of a courtesy vehicle operated under agreement with that licensee.
  1. Operation of any courtesy vehicle on the airport shall be allowed only with a color coded decal or other identifying element as required by city ordinance. Providers of courtesy vehicles shall observe all rules and regulations of this section in addition to those established by other provisions of the Code of the City of Pensacola, Florida.
  2. Licensee courtesy vehicle decals or other identifying elements shall be provided initially to the licensee after the successful completion of the vehicle safety inspection. Decals or other identifying elements shall be issued for each courtesy vehicle operated by the licensee. No decals or other identifying elements shall be issued without the operator having valid courtesy vehicle licenses as may be required by the City of Pensacola.
  3. Decals or other identifying elements shall be permanently affixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times. Decals or other identifying elements shall be issued by the airport director and shall expire at the time of expiration of the licensee's off-site airport parking lot facility license. Only those vehicles displaying valid decals or other identifying elements will be authorized to pick up or discharge customers at the airport.
  4. In the case of loss of a decal or other identifying elements is damage beyond recognition, a duplicate decal or other identifying element may be obtained after payment of five dollars (\$5.00) by the licensee and after submission of a statement setting forth the circumstances of the loss or damage of the decal or other identifying element.
  5. Application forms for yearly renewal of courtesy vehicle airport permit decals or other identifying elements must be submitted to the airport director at least ten (10) working days prior to the expiration of the current decal. Renewal applications shall be reviewed and renewal of the decal or other identifying element shall be made contingent upon satisfactory payment of the gross revenue percentage fees required under this section and the successful completion of the annual courtesy vehicle inspection.
  6. All courtesy vehicles will be inspected in accordance with the criteria found in section 7-10-31 of the City Code.
  7. The airport director , police officer, or airport safety officer may inspect a courtesy vehicle any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 of the City Code will be required to immediately leave the airport until the noted deficiencies are corrected.
  8. The city may suspend, or suspend and revoke the licensee's courtesy vehicle decal. Such power of suspension or suspension and revocation may be exercised only upon the failure of the licensee to satisfy the conditions of this section or the off-site airport parking lot license permit agreement or for noncompliance with city code regarding the operation of such vehicles.
  9. A vehicle shall be considered a licensee car courtesy vehicle if it is operated by, or under agreement, with the licensee. Such a courtesy vehicle shall be deemed operated under agreement with the licensee if the airport director finds that it is operated pursuant to the licensee's off-site airport parking facility license.

(Code 1968, § 59-4; Ord. No. 24-12, § 1, 11-15-12)

Sec. 10-2-6. - General rules and regulations.

- (a) Special services may be rendered or special facilities may be provided on such terms as the council may prescribe from time to time. No person shall use the airport as a base or terminal for the carrying on of commercial aviation or agricultural aviation, or the carrying of passengers, freight, express or mail, or student flying, communications, or for other commercial transportation, or carrying on activities of a commercial nature upon the airport premises, or for the sale of fuel, refreshments or commodities or for any other commercial purpose, or on the airport premises solicit fares, alms or funds for any purpose or make any sale, expose any article for sale or charge an admission fee, unless specifically authorized in writing by the mayor.
- (b) The privileges of using the airport and its facilities shall be conditioned on the assumption of full responsibility and risk by the user thereof, and he shall release, hold harmless and indemnify the city, members of the council, boards or commissions, its officers and employees from any liability or loss resulting from such use. All aircraft owners and operators shall be covered at their expense by insurance in an amount established by the council.
- (c) No person shall navigate any aircraft or land upon or take off from, or service, repair or maintain any aircraft on, the airport otherwise than in conformity with this chapter and applicable laws of the state and the federal government, or rules and regulations of the Federal Aviation Administration.
- (d) No aircraft shall be operated on the ground in such manner as to cause unnecessary noise.
- (e) The airport director, by appropriate notice, may restrict or suspend entirely practice flights or student training when required in the interest of safety, and shall restrict or suspend all flights or flying when required by military need or special circumstances.
- (f) All fixed wing aircraft takeoffs and landings shall be confined to the runways. Rotary wing aircraft may be operated on ramp areas as directed by the tower to expedite operations.
- (g) No person shall take any aircraft from the landing area or hangars or operate such aircraft while under the influence of or while using or having used any intoxicating beverage or habit-forming drug.
- (h) No pedestrian shall be upon any landing area of the airport without first obtaining a written permit from the airport director, excepting persons engaged in the normal duties of their work and required by necessity to be on the landing area.
- (i) No experimental ground operation shall be conducted on the airport without approval of the airport director. The approval is not to be withheld unreasonably.

(Code 1968, § 59-12; Ord. No. 7-96, § 2, 1-11-96; Ord. No. 16-10, § 157, 9-9-10)

Sec. 10-2-7. - Ground operations.

- (a) No person shall operate any aircraft on the airport unless the same is equipped with effective and functioning wheel brakes, nor shall any person use or operate on the airport any aircraft equipped with a tail skid.
- (b) All movement of aircraft shall be confined to hard surfaces except as authorized by the airport director.
- (c) No person shall taxi any aircraft unless there will be no danger of collision with any person or object, and further, all aircraft shall be taxied at a safe and reasonable speed commensurate with safe operation in relation to existing conditions and with due regard for other aircraft, persons and property.

- (d) No aircraft engine shall be started unless there is a competent operator at the controls and the wheels are properly blocked or adequate brakes are set. Also, aircraft operators will ensure that propeller and/or engine jet wash will not be detrimental to structures or persons in its path.
- (e) Aircraft will not be parked except in an area and in a manner designated by the airport director.
- (f) All repairs to aircraft or engines except emergency repairs shall be made in spaces designated for this purpose and not on areas reserved for landing, taxiing or tie-down.
- (g) No person or persons except airmen, duly authorized personnel, passengers going to or from aircraft, or persons being personally conducted by airmen or airport attendants shall be permitted to enter the landing area proper, taxi strips or ramps. This does not give any person or persons so excepted the privilege of unrestricted use of the airport. These privileges are confined to necessary use of this space in connection with flights, inspections or routine duties.
- (h) Every aircraft owner, his pilots and agents severally shall be responsible for the prompt removal under the direction of the airport director of wrecked or disabled aircraft. Assessable costs incurred by the city in ensuring compliance with this subsection will be borne by the aircraft owner, his pilot and agents.

(Code 1968, § 59-13; Ord. No. 7-96, § 3, 1-11-96)

Sec. 10-2-8. - Seaplanes.

The landing of seaplanes in, over, and upon the waters of Bayou Texar located within, or bordering on, the city is prohibited.

(Code 1968, § 59-14; Ord. No. 9-89, § 1, 2-9-89; Ord. No. 7-96, § 4, 1-11-96)

Sec. 10-2-10. - Reserved.

**Editor's note**— Section 10-2-10 has been deleted by the editor, inasmuch as it appears to have been superseded by Ord. No. 29-88, §§ 1—5, adopted Aug. 11, 1988, codified as Art. III, §§ 10-2-51—10-2-65, of this chapter. Said § 10-2-10 pertained to landing fees and use charges, and was derived from Code 1968, § 59-18.

Sec. 10-2-11. - Fire prevention.

The following hazards and regulations are enumerated here to ensure safety, so far as practical, against fires on the airport. However, it is expected that every person using the airport or its facilities in any way shall use the utmost caution to prevent fires and shall not cause to exist, create or permit any condition constituting a fire hazard.

- (1) No aircraft shall be fueled or drained while its engine is running or while in a hangar or other enclosed place. Fueling shall be done in such a manner and with such equipment that adequate connections for the grounding of static electricity shall be maintained continuously during fueling. No smoking shall be permitted within fifty (50) feet of the point where gasoline is removed from or discharged into any aircraft.
- (2) No cylinder or flask or compressed flammable gas shall be kept or stored except at such a place as may be designated by the fire department.
- (3) The cleaning of motors or other parts of aircraft shall not be carried on in any hangar, except with nonflammable substances. If flammable liquids shall be employed for this purpose, the operation shall be carried on in the open air and at a safe distance from aircraft or structures,



unless the flammable liquids are confined, vented or otherwise utilized in a manner so as not to constitute a fire hazard in accordance with applicable codes and rules used by the city.

- (4) Repairs to aircraft in designated tie-down or storage areas shall be limited to inspection of aircraft.
- (5) Hangar entrances shall be kept clear at all times to permit ready access to the building for fire fighting.
- (6) Floors of buildings shall be kept clean and free of oil, and no volatile or flammable solvent shall be used for cleaning floors.
- (7) No boxes, crates, rubbish, paper or other litter shall be permitted to accumulate in or about any hangar; and all oil, paint and varnish cans, bottles or other containers shall be removed from any hangar immediately upon being emptied.
- (8) No aircraft engines will be started and/or run for any period of time whatsoever while the aircraft is wholly or partially in a hangar, except while under the control of a competent operator with an observer, with the airplane pointing into the hangar.
- (9) No person shall discard lighted cigarettes, matches or other burning items on grass areas of the airport or any other place on the airport where a fire hazard might be created.
- (10) There shall be no discarding of trash, rubbish, debris, paper or bottles anywhere on airport properties except in trash cans or in areas designated by the airport director.

(Code 1968, § 59-17)

**Cross reference**— Fire codes, Ch. 14-2.

Sec. 10-2-12. - Vehicular traffic regulations.

- (a) All vehicles and persons operating within the boundaries of the airport will operate according to the traffic laws and parking laws of the city. All violators of these traffic and parking laws will be subject to penalties provided for in ordinances of the city.
- (b) Automobiles, trucks, motorcycles and other like vehicles shall be parked within designated parking areas.
- (c) No person shall operate or propel any vehicle, machine or contrivance of whatsoever nature or description, except an airplane or other flying or lighter-than-air machine, on, upon or across any portion of the airport except along or upon roadways designated for travel by motor vehicles.
- (e) The airport director is hereby authorized to place on the airport stop signs and parking regulation signs as he may deem necessary. It shall be unlawful for the driver of any vehicle to enter any intersection of a roadway or a roadway and pedestrian crossing when such intersection is signposted with a stop sign, without first bringing his vehicle to a full stop within six (6) feet prior to such intersection. It shall also be unlawful to park any vehicle contrary to the directions or regulations contained on any parking sign.
- (f) The airport director shall have the authority to tow or otherwise move motor vehicles which are parked by their owners or operators on the airport in violation of the regulations of the airport, whenever it is determined by the airport director that a motor vehicle so parked creates a nuisance or hazard.
- (g) All vehicles hauling trash shall be covered. No vehicle used for hauling trash, dirt or other materials shall be operated on the airport unless the vehicle is constructed so as to prevent the contents thereof from dropping, sifting, leaking or otherwise escaping therefrom. No person shall spill dirt or any other material from vehicles operated on the airport.

- (h) The foregoing vehicle rules shall not be construed as prohibiting the operation of the following vehicles upon any portion of the airport for the following purposes:
- (1) Vehicles driven on the field in response to emergencies or emergency calls.
  - (2) Vehicles driven upon the field for the purpose of making repairs and improvements thereto to the airport.
  - (3) Federal Aviation Administration, state, city or county representatives operating a vehicle on official business.

(Code 1968, § 59-16)

**Cross reference**— Traffic, Ch. 11-2.

Secs. 10-2-13—10-2-25. - Reserved.

ARTICLE II. - REGULATED ACTIVITIES<sup>3</sup>

Footnotes:

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**State Law reference**— Solicitation of funds within public transportation facilities, F.S. § 496.40.

Sec. 10-2-26. - Definitions.

For the purposes of this article, the following words and terms shall have the meanings given herein:

*Airport.* The Pensacola International Airport.

*Airport director.* The chief administrative official of the Pensacola Regional Airport.

*Council.* That body which is charged by statute or otherwise with legislative and other authority over general operations at the Pensacola International Airport.

*Permittee.* A person conducting regulated activities pursuant to a permit duly issued under this article.

*Regulated activities.* Those activities within the airport, by persons or organizations desiring to exercise their constitutionally protected rights of free speech and expression and free exercise of religion, for which a permit is required under this article, namely:

- (1) Religious or other proselytism;
- (2) Solicitation and acceptance of donations;
- (3) Distribution of handbills, tracts and other literature.

(Code 1968, § 59-32)

Sec. 10-2-27. - Purpose.

Any person or organization desiring to use the Pensacola International Airport for the purpose of exercising his constitutional rights of free speech and freedom of religion, shall be protected in the activities providing they do not impair or interfere with the operational functions of the Pensacola Regional Airport and the activities are in compliance with the provisions set forth below. This article is hereby declared to be necessary for the accomplishment of the following:

- (1) To ensure that religious organizations are permitted to proselytize or solicit funds on the airport's premises;
- (2) To ensure that persons seeking to exercise constitutional freedoms of expression can communicate effectively with users of the airport;
- (3) To ensure adequate nearby police facilities for the protection of persons exercising their constitutional freedoms;
- (4) To restrict and to limit the activities to designated locations and/or buildings in public areas of the airport's buildings and premises;
- (5) To protect persons using the airport from repeated unsought communications or encounters with solicitors which might constitute harassment or intimidation;
- (6) To ensure the free and orderly flow of pedestrian traffic through the airport's premise; and

(Code 1968, § 59-31)

Sec. 10-2-28. - Permit—Required, application.

It shall be unlawful for any person or organization to engage in any regulated activities set forth in section 10-2-26 without first obtaining a written permit therefor from the airport director or his representative. For the purposes of obtaining such a permit, a written application shall be in a form prescribed by the director setting forth the following:

- (1) The full name, mailing address and telephone number of the person or organization sponsoring, promoting or conducting the proposed activities;
- (2) The full name, mailing address and telephone number of the individual person or persons who will have supervision of and responsibility for the proposed activities;
- (3) The full name, mailing address and telephone number of the individual person or persons who will be engaged in the proposed activities at the airport;
- (4) The subject matter of the proposed distribution or communication, and the purpose thereof;
- (5) A description of the proposed activities, indicating the type of communication to be involved;
- (6) The dates and hours which the activities or solicitation are proposed to begin, and the expected duration of the proposed activities; and
- (7) The purpose of the solicitation.

(Code 1968, § 59-33)

Sec. 10-2-29. - Same—Financial report.

- (a) If the proposed activity for which a permit is sought includes the solicitation or acceptance of contributions, the person or organization sponsoring, promoting or conducting the proposed activities, in addition to meeting the requirements of section 10-2-28, shall file with the airport director a financial report containing the following information, in the form set forth in Appendix A to this article which is on file in the clerk's office.
  - (1) Receipts (Revenues);
  - (2) Disbursements and expenses;
  - (3) Balance sheet of assets and liabilities;

- (4) A statement that the person or organization described in subsections 10-2-28(1)—(3) through c has not been convicted of a crime involving fraud within the two (2) years prior to the filing of the report.
- (b) The information contained in the financial report shall relate to the most recent full calendar year, or in the alternative at the election of the sponsoring person or organization's most recent full fiscal year.
- (c) In lieu of a financial report, the sponsoring person or organization may submit a copy of their most recent Internal Revenue Service Form 990 (Return of Organization Exempt from Income Tax Under Section 501(c) of the Internal Revenue Code) or other documents containing the information called for in the financial report form.
- (d) No permit for an activity involving the solicitation and/or acceptance of contributions may be issued unless the financial report required by this section is on file with the airport director; however, the contents of the financial report may not be considered in the permit application process.

(Code 1968, § 59-34)

Sec. 10-2-30. - Same—Applications and financial reports available to public.

All applications for permits required under section 10-2-28 and the financial reports required under section 10-2-29 shall be available for viewing by the public on any day during regular working hours.

(Code 1968, § 59-35)

Sec. 10-2-31. - Same—Grounds for denial.

Under the receipt of a completed permit application, the airport director must issue a permit unless he finds one or more of the following facts exist:

- (1) That one or more of the statements in the application is incorrect, provided that the applicant has been given the opportunity to correct or amend his application;
- (2) If the application is for a permit to solicit contributions, that the applicant or any agent or representative of the applicant who will participate under the permit has been convicted of a crime involving fraud within the past two (2) years;
- (3) If the application is for a permit to solicit contributions, that a completed, current financial report for the person or organization on whose behalf the solicitation will be made is not on file with the airport director as required under section 10-2-29.

(Code 1968, § 59-36)

Sec. 10-2-32. - Same—Denial or revocation.

- (a) If the airport director finds that one or more of the facts set forth in section 10-2-31 exist, he shall deny the applicant a permit, or if one has already been issued, he shall revoke the permit.
- (b) The airport director shall revoke a permit for a violation of any of the regulations listed in sections 10-2-34 through 10-2-36.
- (c) When a permittee is notified of the revocation of his permit, he must immediately cease all regulated activities.

(Code 1968, §§ 59-37, 59-41; Ord. No. 76-82, § 1, 7-22-82)

Sec. 10-2-33. - Appeal after denial or revocation.

- (a) Upon notification of revocation of a permit, a permittee may within ten (10) days after receipt thereof, file with the office of the airport director, a notice of appeal to the city council. Upon filing of the notice with the airport director, the permittee may resume regulated activities, and the activities shall not be restricted until final determination of the appeal by the council.
- (b) Upon receipt of the notice of appeal, the airport director shall set the matter for hearing before the city council within twenty (20) days thereof and shall issue a notice of hearing which shall contain the time and place of the hearing.
- (c) At the hearing the aggrieved permittee may be represented by counsel.
- (d) Testimony shall be taken upon oath or affirmation, first of witnesses in support of the denial or revocation of the permit; the aggrieved permittee may then testify and present witnesses on his/her behalf.
- (e) A stenographic (or tape recorded) record shall be made of the proceeding. A record shall be kept of all evidence received or considered, in addition to the oral testimony.
- (f) The findings and order of the city council shall within ten (10) days of the conclusion of the hearing be forthwith sent to the permittee by certified mail, return receipt requested, at the address listed on the permittee's application.
- (g) If the airport director's revocation is affirmed it will become effective immediately unless a court of competent jurisdiction rules otherwise.

(Code 1968, § 59-45)

Sec. 10-2-34. - Daily registration.

- (a) Anyone holding a valid permit may register to conduct regulated activities in either a terminal building or the airport as a whole, depending on the physical layout. Registration will occur on a daily basis between 9:00 a.m. and 11:00 a.m. each morning. If more than one registration is received by the airport manager, for the same location within the airport and for the same time period, the airport director will distribute locations on a first-come, first-serve basis. No registrant will be allowed to register for any person other than himself.
- (b) No more than two (2) permittees may register and conduct regulated activities at the same terminal building or in the airport as a whole, depending on physical layout.

(Code 1968, § 59-38)

Sec. 10-2-35. - Location of regulated activities.

Regulated activities may be conducted only in or upon those airport premises which are open to the general public for common use, except as hereinafter set forth.

- (1) Under no circumstances shall regulated activities be conducted:
  - a. Beyond the security check points through which passengers and visitors are required to pass when moving toward aircraft gate positions; i.e., on the side of the security check points where the gate positions of arriving and departing aircraft are located;
  - b. Within fifty (50) feet of any security check point;
  - c. Within ten (10) feet of any of the following:
    - 1. Information booths;

2. Concession counters;
  3. Another person conducting regulated activities;
  4. Entrances to, exists from, or on elevators, stairways, or escalators, or any doors;
  5. Restaurants, dining rooms, dining areas, or coffee shops;
  6. Snack bars, mobile push carts, or bars;
  7. Display cases or windows;
  8. Any other business establishment, business entity, or office located within the airport;
  9. Any person or persons who are waiting in line, such as, at a ticket counter, information booth, concession stand, or baggage claim area.
- d. In any areas of the airport which are open only to airport or airline personnel or to which access by the general public is restricted.
- (2) The mayor shall have the authority to limit regulated activities to designated locations and/or booths at the airport.

(Code 1968, § 59-39)

Sec. 10-2-36. - Restrictions on behavior.

In conducting regulated activities:

- (1) No permittee may use sound or voice amplification systems, musical instruments, radio communication systems or other mechanical sound devices.
- (2) No singing, chanting or dancing is permitted.
- (3) Each permittee shall wear an identification badge at all times on the airport property which badge shall be issued by the airport director and which shall contain, in a form authorized by the airport director, the following:
  - a. Name of the permittee;
  - b. Address of the permittee;
  - c. Telephone number of the permittee; and
  - d. Name of the group or organization, if any, on whose behalf the permittee is conducting regulated activities.
- (4) No permittee may in any way obstruct, delay or interfere with the free movements of any other person; seek to coerce or physically disturb any other person; or hamper to impede the conduct of any authorized business at the airport.
- (5) No permittee may engage in the physical contact of touching or pinning on a flower or other object upon a prospective donor unless the donor has either consented to such contact or already agreed to make a contribution.
- (6) A permittee shall immediately cease all regulated activities directed at any individual, where such individual has indicated his/her unwillingness to listen to the permittee, make a donation or accept any handbill, flower or other object proffered by the permittee.

(Code 1968, § 59-40)

Sec. 10-2-37. - Weapons, explosives and flammable materials.

It shall be unlawful for any person who is not duly authorized by law to do so to possess or carry on any airport property at the Pensacola International Airport any weapon capable of causing serious injury, any explosive or any flammable material.

(Code 1968, § 59-44; Ord. No. 09-16, § 1, 3-17-16)

Sec. 10-2-38. - Restricted areas.

It shall be unlawful for any person except a duly authorized employee of the city, a duly authorized licensee of the city, or a duly authorized employee of a licensee of the city to enter or go upon any area on airport property at the Pensacola International Airport that is not open to the public and that has been designated and posted by the city as a restricted area, unless the person entering or going upon the restricted area has first secured written permission to do so from the airport manager or his duly authorized representatives.

(Code 1968, § 59-43)

Sec. 10-2-39. - Emergency situations.

The mayor or his authorized representative may declare an emergency because of unusually congested conditions in a facility due to adverse weather, schedule interruptions, extremely heavy traffic movements, or for emergency security measures. In the event of an emergency, an announcement to this effect shall be made. Any person soliciting contributions shall immediately cease such activities for the duration of the emergency.

(Code 1968, § 59-42)

Secs. 10-2-40—10-2-50. - Reserved.

ARTICLE III. - FISCAL POLICY AND METHOD<sup>41</sup>

Footnotes:

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**Editor's note**— Ord. No. 41.88, § 1(1)—(15), adopted Sept. 22, 1988, amended Ord. No. 29.88, §§ 1—15, adopted August 11, 1988, which had been codified as Art. III, §§ 10-2-51—10-2-65, and pertained to similar subject matter. Ord. No. 41-88 has been included as enacted with the exception that the word "ordinance" has been changed to read "article" where appropriate, and a uniform style has been employed in keeping with the format of this Code.

Sec. 10-2-51. - Policy.

The city hereby adopts the following fiscal policy for the operation of the airport and the following method to establish and periodically adjust rents and fees to be paid by all airlines operating at the airport without a scheduled airline operating agreement and terminal building lease:

- (a) The cost of operating, maintaining and developing the airport will be paid solely with airport revenues and such government grants as may be received by the city and lawfully used for such purposes, without the use of ad valorem taxes or other city revenue or pledges, so as not to place any burden on taxpayers or residents of the city.
- (b) The city will fix, establish, maintain and collect such rates, fees, rentals and other charges for the use and services of the airport and revise the same from time to time whenever necessary,

as will always provide net revenues (as hereinafter defined) sufficient to pay one hundred twenty-five (125) per centum of the current annual debt service requirement (which shall be defined in the bond resolution) on the city's bonds (as hereinafter defined), and as will always provide airport revenues sufficient to pay all reserve and other payments provided for in the bond resolution (as hereinafter defined) and all other obligations and indebtedness payable out of the revenues of the airport. Such rates, fees, rentals and other charges shall not be reduced so as to be insufficient to provide adequate airport revenues for such purposes.

- (c) In furtherance of this policy and in accordance with the authority conferred upon the city by the laws of the State of Florida, the city shall establish and periodically adjust as required, certain rates, fees, rentals and other charges for the use and occupancy of airport facilities, so that they are scheduled to recover from airline and nonairline owners or operators of aircraft, on a reasonable and nondiscriminatory basis, the fully allocated costs of the facilities and services used by such airlines and nonairline owners or operators or aircraft using the airport. In recovering the costs of these facilities and services, the city will take into account all airport revenue.

(Ord. No. 41-88, § 1(1), 9-22-88; Ord. No. 46-90, § 1(1), 9-27-90)

Sec. 10-2-52. - Definitions.

The following terms in this article shall have the following meanings unless the text otherwise expressly requires:

*Air transportation* shall mean the carriage of persons, property, cargo, and mail by aircraft.

*Aircraft arrivals* shall mean the landing of aircraft at the airport, including, without limitation, scheduled, charter, sightseeing, test, ferry, courtesy, and inspection flights or any other flights. Aircraft arrivals shall not include any flight that immediately returns to the airport after takeoff because of mechanical, meteorological, or other precautionary reasons.

*Aircraft parking positions* shall mean those portions of the airport's apron area designated by city from time to time for aircraft parking in order to receive and discharge passengers.

*Airfield area* shall mean those areas of the airport, as they now exist or as they may hereafter be modified, changed, or developed, that provide for landing and takeoff, taxiing, parking, or other operations of aircraft.

*Airline* shall mean any entity engaging in the business of providing air transportation services at the airport.

*Airline rentable space* shall mean the total of an airline's exclusive use space and preferential use space.

*Airport* shall mean the lands and facilities owned and operated by the city, known collectively as Pensacola International Airport as it now exists or as it may change from time to time.

*Airport cost centers* shall mean the following areas, as herein defined, which shall be used in accounting for airport revenues and expenses and for calculating and adjusting certain rents and fees described herein: Terminal building; terminal area; airfield area; apron area; loading bridges; other buildings and areas.

*Airport consultant* shall have the meaning set forth in the bond resolution.

*Airport revenues* shall have the meaning set forth in the bond resolution.

*Annual budget* shall mean the airport capital and maintenance and operating budget prepared by the mayor and approved by resolution of the city council as amended from time to time.

*Annual debt service requirement* shall have the meaning set forth in the bond resolution.



*Apron area* shall mean the area dedicated to parking and ground handling of aircraft at the terminal building, as it now exists or may be constructed in the future.

*Bond resolution* shall mean Resolution No. 51-88, adopted September 8, 1988, as it may be amended or supplemented from time to time, or any other resolution of the city council regulating or authorizing the issuance of bonds, as amended or supplemented from time to time, other than special purpose facility bonds, payable from airport revenues.

*Bonds* shall mean debt instruments of the city issued or made for the purpose of financing or refinancing the cost, or a portion thereof, of any improvements to the airport the payment of which debt is secured by a pledge of and lien upon airport revenues.

*Capital improvement* shall have the meaning set forth in the bond resolution.

*Capital fund* shall have the meaning set forth in the bond resolution.

*Capital improvement plan* shall mean the plan adopted by the city council setting forth the capital improvements the city intends to make at the airport in the current and following five (5) fiscal years.

*Certificated maximum landing weight* shall mean the maximum weight, in thousand (1,000) pound units, that each aircraft operated by an airline is authorized by the FAA to land at the airport, as recited in the airline's flight manual governing that aircraft type.

*Date of beneficial occupancy or DBO* shall mean that date or dates upon which the premises, or a substantial portion thereof, in the new passenger terminal building, or other improvements at the airport which are financed, in whole or in part, by proceeds from the bonds, are so substantially complete that they are usable by the airlines and the public without hazard or undue inconvenience, but in no event later than thirty (30) days after the city notifies the airlines that the premises have been certified by the project architect/engineer as available for public use and airline occupancy.

*Exclusive use space* shall mean the space leased by the city to an airline from time to time for the airline's exclusive use. FAA or Federal Aviation Administration shall mean the Federal Aviation Administration created by the federal government under the Federal Aviation Agency Act of 1958 or such similar federal agency as may from time to time have similar jurisdiction over the airlines or their businesses.

*Fiscal year* shall mean the twelve-month period beginning October 1 of any year and ending September 30 of the following year or any other period adopted by the city for its financial affairs.

*Joint use formula* shall mean the formula that is used to prorate the specified charge for joint use space according to the ratio of the number of each airline's enplaned passengers at the airport during the most recent month for which such information is available to the total number of enplaned passengers of all airlines at the airport during that same month. Twenty (20) percent of the specified charge shall be prorated equally among the airlines using the applicable facility or service and eighty (80) percent shall be prorated among the airlines based on the number of enplaned passengers. An enplaned passenger is a passenger boarding an aircraft at the airport.

*Joint use space* shall mean the premises leased by the city jointly to an airline and one or more other airlines from time to time for common use by such airlines.

*Loading bridges* shall mean any loading bridges owned by the city serving aircraft at the terminal building.

*Maintenance and operating expenses* shall have the meaning set forth in the bond resolution.

*Maintenance and operating reserve requirement* shall have the meaning set forth in the bond resolution.

*Net revenues* shall mean airport revenues, less all maintenance and operating expenses, and amounts deposited to the rebate fund.

*Nonairline revenues* shall mean airport revenues less rents, fees and other charges collected from airlines pursuant to this article or pursuant to operating agreements between the city and one or more airlines.

*Other buildings and areas* shall mean those portions of airport other than the terminal building, terminal area, airfield area, apron area and loading bridges, including the facilities, installations, and improvements thereon as they now exist or as they may hereafter be modified, changed, or developed.

*Passenger holdrooms* shall mean the passenger waiting rooms located inside the terminal building adjacent to the aircraft parking positions.

*Preferential use space* shall mean the premises from time to time provided by the city to an airline for its preferential and nonexclusive use and shall include passenger holdrooms, aircraft parking positions, and loading bridges.

*Public areas* shall mean those terminal building areas not leased on an exclusive, preferential, or joint use basis, or otherwise, to any person, company, or corporation and that are open to the general public.

*Scheduled airline operating agreement and terminal building lease* shall mean an agreement between the city and an airline providing for the operation of the airline at the airport and for the possession, occupancy and use of facilities in the terminal building by the airline for a term expiring no sooner than September 30, 2003.

*Signatory airlines* shall mean airlines that operate at the airport under a scheduled airline operating agreement and terminal building lease with the city.

*Special purpose facility* shall have the meaning set forth in the bond resolution.

*Subordinate securities fund* shall mean the account by the same name established by the bond resolution and referred to in section 10-2-53 of this article.

*Terminal building* shall mean the terminal building serving the airlines as it now exists or as it may hereafter be reconstructed, modified, changed, or developed. After the date of beneficial occupancy of the new passenger terminal complex, terminal building shall mean the proposed new terminal building presently being planned by the city at the airport including the related signing, landscaping, and curbside areas.

*Terminal area* shall mean the access roads and parking areas surrounding the terminal building, as such areas now exist or as they may hereafter be modified, changed, or developed.

*Total landed weight* shall mean the sum of the certificated maximum landing weights for all airline aircraft arrivals over a stated period of time. Said sum shall be rounded up to the nearest thousand (1,000) pound unit for all landing fee computations.

*Usable space* shall mean the total square feet in the terminal building less mechanical and utility space.

(Ord. No. 41-88, § 1(2), 9-22-88; Ord. No. 46-90, § 1(2), 9-27-90)

#### Sec. 10-2-53. - Disposition of airport revenues.

All airport revenues shall be deposited, applied and allocated in the funds and accounts created by the bond resolution in the manner and according to the priority provided for therein. Included among the indebtedness to be paid out from the subordinate securities fund shall be that portion of the debt obligation of the city's \$36,000,000 Sale & Excise Tax Revenue Refunding Bonds (Series 1985) which is attributable to the cost of airport improvements and the existing debt obligation from the airport to the city's utility deposit account. The capital fund, as defined and created by the bond resolution, shall be divided into two (2) separate accounts, the capital improvement account and the prepaid revenue account, into which all remaining monies, after fulfilling the obligations with respect to funds and accounts of higher priority, shall be deposited, allocated and applied in the following manner and order of priority:

- (a) Monies shall first be deposited in the capital improvement account in an amount equal to seventeen and one-half (17.5) percent of that fiscal year's budgeted nonairline revenues. This amount shall be reduced by the amount of the previous fiscal year's unencumbered or

uncommitted balance in the capital improvement account at the end of the fiscal year. Monies shall be paid out of the capital improvement account from time to time for capital improvements.

- (b) Any amount remaining in the capital fund shall be deposited in the prepaid revenue account.

(Ord. No. 41-88, § 1(3), 9-22-88; Ord. No. 46-90, § 1(3), 9-27-90)

Sec. 10-2-54. - Payment of rates and fees.

- (a) *Time of payment.* Rents for exclusive use space, preferential use space, joint use space, and the apron area and loading bridge use fees shall be payable, without deduction or setoff, in monthly installments in advance on or before the first day of each month.

Landing fees shall be due on the first day of, and payable without deduction or setoff no later than the last day of each month for the preceding calendar month of operations.

Rents and fees shall be paid by check payable to City of Pensacola, which shall be delivered or mailed, postage prepaid, to Pensacola International Airport, 2430 Airport Boulevard, Suite 225, Pensacola, Florida 32504.

- (b) *Interest on overdue rents and fees.* Any rents and fees not received within three (3) business days after the due date shall accrue interest at the maximum interest rate then provided by applicable law; provided, however, that if no maximum interest rate is then provided by applicable law, the interest rate shall be eighteen (18) percent per annum. Such interest shall not accrue with respect to disputed items being contested in good faith by an airline.
- (c) *Insufficient revenue.* The city reserves the right to adjust the rents and fees at any time during a given fiscal year, in the event that such adjustment is deemed necessary by the city to satisfy the requirements of section 10-2-51(b) of this article.

(Ord. No. 41-88, § 1(4), 9-22-88; Ord. No. 46-90, § 1(4), 9-27-90)

Sec. 10-2-55. - Monthly activity report.

Each airline shall furnish to the city, on or before the tenth day of each month, an accurate report, on forms prescribed by the city. Said report shall include: (1) the airline's total number of aircraft arrivals, by type of aircraft and certificated maximum landing weight of each type of aircraft, (2) the total number of enplaning and deplaning passengers, and (3) the amount of enplaned and deplaned freight, mail, and other cargo for such month. Each airline shall also report the above information for the aircraft of others, including charter flights, for which it provides ground services.

If any airline fails to furnish the city with the report required by this section, that airline's landing fee shall be determined by assuming that the total landed weight for that airline during the preceding month was one hundred and twenty-five (125) percent of the total landed weight during the most recent month for which such figure is available for that airline.

(Ord. No. 41-88, § 1(5), 9-22-88; Ord. No. 46-90, § 1(5), 9-27-90)

Sec. 10-2-56. - City records.

The city shall maintain an accounting system and accounting records which document the following for each airport cost center: (1) airport revenue, (2) maintenance and operating expenses, (3) capital improvements and other expenses incurred by city for the improvement, renovation, or enhancement of facilities, (4) debt service on the bonds, (5) debt service on subordinate securities, and (6) any other funding requirements of the airport.

The city shall further maintain records evidencing the allocation of capital funds to each airport cost center obtained from the proceeds of bonds or other capital fund sources. Included in the allocation to each airport cost center shall be its proportionate share of the expenses of any bond issuance, capitalized interest, and funding of special funds, determined with reference to the allocation of costs funded through securities or other capital fund sources.

(Ord. No. 41-88, § 1(6), 9-22-88; Ord. No. 46-90, § 1(6), 9-27-90)

Sec. 10-2-57. - Calculation of rents and fees.

Rents and fees, as set forth in this article, shall be adjusted at the beginning of each fiscal year based upon the annual budget adopted by the city council. The recalculation shall be effective on the first day of each fiscal year to which it applies (or in the case of the fiscal year in which DBO occurs, on DBO in accordance with the terms of this article). Notwithstanding the foregoing and other provisions of this section, the city may adjust rents and fees whenever and in such amount as it determines is necessary to satisfy the requirements of section 10-2-51(b) of this article.

- (a) *Calculation of terminal building rental rates.* The city shall calculate the rental rates for space in the terminal building in the following manner:
  - (1) The rental rates to be effective upon occupancy of the new terminal building and thereafter shall be calculated pursuant to this paragraph (1) and paragraphs (2) and (3) of this subsection. The city shall calculate the terminal building costs for the succeeding fiscal year (or in the case of the fiscal year in which DBO occurs, for that portion of such fiscal year commencing with DBO), by totaling the following estimated amounts, as set forth in the city's annual budget:
    - a. The total maintenance and operating expenses allocated to the terminal building.
    - b. An amount equal to 1.25 times the pro rata portion of the annual debt service requirement allocated to the terminal building, or such other amount as may be required by the bond resolution.
    - c. An amount equal to the pro rata portion of the maintenance and operating reserve requirement allocated to the terminal building.
    - d. An amount equal to the pro rata portion of the annual requirement of any subordinate securities or loans made to the airport by the city or other loans allocated to the terminal building.
    - e. An amount equal to the pro rata portion of other deposits, if any, required by the bond resolution or this article and allocated to the terminal building.
    - f. The amount of any assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable by the city relating directly to airport or its operation and allocated to the terminal building.
    - g. An amount equal to any deficit or credit estimated for operation of the terminal building during the then-current fiscal year or any adjustment carried over from preceding fiscal years to reflect any difference between actual versus estimated expenses.
  - (2) The average rental rate shall then be calculated by dividing the terminal building costs computed pursuant to paragraph (a)(2) by the amount of usable space. The average rental rate shall then be multiplied by the total amount of square feet included in each airline's rentable space to determine the annual terminal building space rents payable by each airline.
  - (3) The space rents for all joint use space shall be prorated among all airlines according to the joint use formula and each airline shall pay its pro rata share of such space rents.

- (b) *Calculation of apron area rents.* The city shall calculate apron area rents, to be effective upon the DBO of the apron area and thereafter, in the following manner:
- (1) The city shall calculate the apron area rents for the succeeding fiscal year (or in the case of the fiscal year in which DBO occurs, for that portion of such fiscal year commencing with DBO) by totaling the following estimated amounts, as set forth in the annual budget:
    - a. The total maintenance and operating expenses allocated to the apron area.
    - b. An amount equal to 1.25 times the pro rata portion of the annual debt service requirement, if any, allocated to the apron area, or such other amount as may be required by the bond resolution.
    - c. An amount equal to the pro rata portion of the maintenance and operating reserve requirement allocated to the apron area.
    - d. An amount equal to the pro rata portion of the annual requirement of any subordinate securities or loans made to the airport by the city or other loans allocated to the apron area.
    - e. An amount equal to the pro rata portion of other deposits, if any, required by the bond resolution or this article and allocated to the apron area.
    - f. The amount of an assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable by city relating directly to airport or its operation, and allocated to the apron area.
    - g. An amount equal to any deficit or credit estimated for operation of the apron area during the then current fiscal year or any adjustment carried over from preceding fiscal years to reflect any difference between actual versus estimated expenses.
  - (2) The apron area rental rate per linear foot shall be calculated by dividing apron area rents by the total linear feet of apron area measured one hundred (100) feet from the terminal building. An airline's apron area rent shall then be calculated by multiplying the rental rate per linear foot by the total linear feet of airline's apron area measured one hundred (100) feet from the terminal building.
- (c) *Calculation of loading bridge use fees.* The city shall calculate loading bridge use fees in the following manner:
- (1) The city shall calculate the loading bridge use fees for the succeeding fiscal year (or in the case of the fiscal year in which DBO of the loading bridges occurs, for that portion of such fiscal year commencing with DBO) by totaling the following estimated amounts, as set forth in the annual budget:
    - a. The total maintenance and operating expenses allocated to the loading bridges.
    - b. An amount equal to 1.25 times the pro rata portion of the annual debt service requirement, if any, allocated to the loading bridges, or such other amount as may be required by the bond resolution.
    - c. An amount equal to the pro rata portion of the maintenance and operating reserve requirement allocated to the loading bridges.
    - d. An amount equal to the pro rata portion of the annual requirement of any subordinate securities or loans made to the airport by the city or other loans allocated to the loading bridges.
    - e. An amount equal to the pro rata portion of other deposits, if any, required by the bond resolution or this article and allocated to the loading bridges.
    - f. The amount of any assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable by the city relating directly to the airport or its operation, and allocated to the loading bridges.

- g. An amount equal to any deficit or credit estimated for operation of the loading bridges during the then current fiscal year or any adjustment carried over from preceding fiscal years to reflect any difference between actual versus estimated expenses.
- (2) The loading bridge use fee rate per loading bridge shall be calculated by dividing the loading bridge use fee by the number of loading bridges. An airline's loading bridge use fee shall then be calculated by multiplying the loading bridge use rate per loading bridge by the number of loading bridges assigned to the airline.
- (d) *Calculation of landing fee rate.* The city shall calculate the landing fee rate for the fiscal year commencing October 1, 1988, and for each succeeding fiscal year, in the following manner:
  - (1) The city shall calculate the airport landing fee based upon the city's proposed annual budget for the succeeding fiscal year by totaling the following estimated amounts:
    - a. The total maintenance and operating expenses of the airport.
    - b. An amount equal to 1.25 times the annual debt service requirement, or such other amount as may be required by the bond resolution.
    - c. An amount equal to the total maintenance and operating reserve requirement.
    - d. An amount equal to the annual requirement of any subordinate securities or loans made to the airport by the city or other loans pertaining to the airport.
    - e. An amount equal to the amount of other deposits, if any, required by the bond resolution.
    - f. The amount of any assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable during the fiscal year by the city relating directly to the airport or its operation.
    - g. An amount equal to seventeen and one-half (17.5) percent of nonairline revenues.
    - h. An amount equal to any operating deficit of the airport during the current fiscal year.
  - (2) The following airport landing fee credits shall be subtracted from the amount calculated pursuant to paragraph (d)(1) of this section to determine the airport landing fee requirement:
    - a. An amount equal to the estimated unrestricted investment income to be earned by the city pursuant to the bond resolution during the succeeding fiscal year, except for the amount of any adjustments to the annual debt service requirement because of any transfers from the capital fund or any interest earnings.
    - b. The total of all terminal building rents, loading bridge use fees, and apron area rents to be paid by airlines during the succeeding fiscal year.
    - c. All other airport revenues from whatever other sources, excepting monies in the prepaid revenue account, derived during the succeeding fiscal year.
  - (3) The landing fee rate for the succeeding fiscal year shall be calculated by dividing the airport landing fee requirement computed pursuant to paragraphs (d)1 and (d)2 of this section by the estimated total landed weight of all airline aircraft arrivals at the airport for the succeeding fiscal year as estimated by the city. If the landing fee rate, as calculated above is greater than one hundred thirty (130) percent of the landing fee rate paid by the signatory airlines, then the landing fee rate shall be one hundred thirty (130) percent of the landing fee rate paid by the signatory airlines.
  - (4) The landing fee shall be calculated by multiplying the airline's portion of the total landed weight for the month by the landing fee rate then in effect.

(Ord. No. 41-88, § 1(7), 9-22-88; Ord. No. 46-90, § 1(7), 9-27-90)

Sec. 10-2-58. - Insurance.

- (a) Each airline shall purchase at its cost, and maintain, at all times while this article is in force, comprehensive general liability and aviation liability insurance for protection, defense, and indemnification against any and all claims for property damage, including loss of use, personal injury, bodily injury, or death allegedly arising out of an airline's activities into, near, about, on, and/or leaving any portion of airport premises. Such insurance limits of liability shall be in an amount not less than one hundred fifty million dollars (\$150,000,000.00) per occurrence for airlines operating aircraft over one hundred (100) seats, not less than one hundred million dollars (\$100,000,000.00) for airlines operating aircraft with between ninety-nine (99) and sixty (60) seats, and not less than fifty million dollars (\$50,000,000.00) for airlines operating aircraft with fifty-nine (59) or fewer seats. The number of seats shall be determined based upon the largest aircraft in an airline's fleet. The personal injury limit of that liability applicable to nonpassengers shall be twenty-five million dollars (\$25,000,000.00) per occurrence in aggregate. The city, its city council, its mayor, its officers, agents, and employees shall be additional insured to the full extent of the airline's insurance coverage.
- (b) Each airline shall purchase at its cost, and maintain, worker's compensation insurance coverage for any and all worker's compensation obligations imposed by law. Additionally, the policy, or separately obtained policy, must include employer's liability coverage of at least one million dollars (\$1,000,000.00) for each person-accident, one million dollars (\$1,000,000.00) for each person. disease, and four million dollars (\$4,000,000.00) for aggregate disease.
- (c) Each airline shall purchase at its cost a business automobile liability policy, in a form no more restrictive than the latest edition of such type policy filed by the insurance services office (ISO). Such policy shall have limits of liability not less than five million dollars (\$5,000,000.00) per accident.
- (d) All policies of insurance required herein shall be in a form and with a company or companies reasonably satisfactory to the city. Each such policy shall provide that such policy may not be materially changed, altered, or cancelled by the insurer during its term without first giving at least thirty (30) days written notice to the city.
- (e) Required insurance shall be documented by certificates of insurance which provide that the city shall be notified at least thirty (30) days in advance of cancellation, nonrenewal, material change or alteration, or restriction in coverage. Any wording in a certificate of insurance which makes notice of cancellation an option of the insurer shall be deleted by the insurer, its agent or representative. If required by the city, an airline shall furnish copies of its insurance policies, forms, endorsements, jackets, and other items forming a part of, or relating to, such policies. The city shall be identified as an additional insured upon all certificates of insurance.
- (f) At least thirty (30) days before the expiration of any then-current policy of insurance, each airline shall deliver to the city evidence showing that such insurance coverage had been renewed. Within fifteen (15) days after the date of written notice from the insurer of cancellation or reduction in coverage, each airline shall deliver to the city a policy or certificate reinstating or otherwise providing the required insurance.
- (g) The coverage required of an airline shall be considered primary, and all other insurance shall be considered as excess, over and above the airline's coverage. An airline's policies of coverage will be considered primary as relates to all provisions of this article.
- (h) Precaution shall be exercised at all times by each airline for the protection of all persons, including employees, and property. Each airline shall make special effort to detect hazardous conditions and shall take prompt action where loss control/safety measures shall reasonably be expected.

(Ord. No. 41-88, § 1(8), 9-22-88; Ord. No. 46-90, § 1(8), 9-27-90)

Sec. 10-2-59. - Indemnification.

- (a) It is the city's policy that, as a condition of airport use, each airline shall indemnify the city from losses arising out of the airline's use and/or occupancy of airport facilities.
- (b) By continuing to use and occupy airport facilities following notice of this article, an airline is deemed to have agreed to protect, defend, and hold the city and its officers and employees 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 the airline's use or occupancy of, or operations of the airline at or about, the airport or the acts or omissions of the airline'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 city. The city shall give to the airline reasonable notice of any such claims or actions.

(Ord. No. 41-88, § 1(9), 9-22-88; Ord. No. 46-90, § 1(9), 9-27-90)

Sec. 10-2-59.1. - Security deposit.

- (a) In order to guarantee the timely payment of all rentals, fees, and charges provided for herein, all airlines that have not established or maintained a satisfactory credit history with the city (as evidenced by having promptly paid rentals, fees, and charges when due for a period of twelve (12) consecutive months) shall remit to the city a security deposit in the amount of (a) the airline's estimated landing fees for three (3) months (as determined on the basis of the airline's published flight schedule as of that date times the actual landing fee rate effective as of that date), plus (b) the airline's estimated terminal building rentals and preferential apron area rentals for three (3) months (as determined on the basis of the airline's occupied space as of that date multiplied by the actual rental rates effective as of that date, plus the historical portion of rent for joint use space allocable to the three (3) months prior to that date). The security deposit may be adjusted by the city as the airline's flight activity and space rental commitment increases.

Such security deposit shall be in the form of a bond or an irrevocable letter of credit. Said bond or irrevocable letter of credit shall be in effect until the airline has established a prompt payment record for a period of twelve (12) consecutive months or sixty (60) days after the airline terminates service to the airport. The bond or irrevocable letter of credit shall expressly permit partial payment. If a bond, it shall be written by a company authorized to write bonds in the State of Florida and shall be in a form approved by the appropriate authorities.

- (b) If payments required by the airline under the terms of this article are not made in accordance with the payment provisions set forth in section 10-2-54, the city shall have the right to forfeit, take, and use so much of such security deposit as may be necessary to make such payment in full and to exercise any other legal remedies to which it may be entitled.

(Ord. No. 46-90, § 1(10), 9-27-90)

**Editor's note**— Section 1(10) of Ord. No. 46-90, adopted Sept. 27, 1990, which amended Ord. No. 41-88, was included as § 10-2-59.1 at the discretion of the editor.

Sec. 10-2-60. - Rules and regulations.

- (a) Every airline shall observe and obey all rules and regulations promulgated from time to time by the city and other appropriate state and federal entities having jurisdiction over the airport, including the Federal Aviation Administration (FAA).



(b) Should an airline, its customers, agents, employees, officers, or guests violate any rules and regulations, and should said violations result in a citation or fine to the city, then the airline shall fully indemnify and reimburse the city for said citation or fine and for all costs and expenses, including reasonable attorney's fees, incurred by the city in defending against the citation or fine.

(Ord. No. 41-88, § 1(10), 9-22-88; Ord. No. 46-90, § 1(11), 9-27-90)

Sec. 10-2-61. - Compliance with law.

No airline will use the airport or any part thereof, or permit the same to be used by any of its employees, officers, agents, contractors, subcontractors, subtenants, invitees, or licensees for any illegal purposes and will, at all times, comply with all applicable ordinances, laws, rules or regulations of any city, county, or state government or of the United States government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass such laws or ordinances or to make and enforce such rules or regulations with respect to use and occupancy of the airport facilities.

(Ord. No. 41-88, § 1(11), 9-22-88; Ord. No. 46-90, § 1(12), 9-27-90)

Sec. 10-2-62. - Severability.

If any section of this article or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining portions of this article.

(Ord. No. 41-88, § 1(12), 9-22-88; Ord. No. 46-90, § 1(13), 9-27-90)

Sec. 10-2-63. - Amendments.

Except to the extent expressly prohibited by or inconsistent with the bond resolution, the city reserves the right to amend this article from time to time or to repeal this article in its entirety. It is the city's intent to amend this article from time to time as necessary to make it consistent with the bond resolution.

(Ord. No. 41-88, § 1(13), 9-22-88; Ord. No. 46-90, § 1(14), 9-27-90)

Sec. 10-2-64. - Repeal of conflicting ordinances.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

(Ord. No. 41-88, § 1(14), 9-22-88; Ord. No. 46-90, § 1(15), 9-27-90)

Sec. 10-2-65. - Penalties.

Any violation of this article shall be punishable as provided in section 1-1-8 of the Code of Ordinances.

(Ord. No. 41-88, § 1(15), 9-22-88; Ord. No. 46-90, § 1(16), 9-27-90)

Secs. 10-2-66—10-2-79. - Reserved.

## ARTICLE IV. - RENTAL CAR BUSINESS REGULATIONS

### Sec. 10-2-80. - Policy.

The city hereby adopts the following fiscal policy for the establishment of percentage fee rents to be paid by all non-concessionaire rental car businesses operating at the airport without tenant agreements with city:

- A. The cost of operating, maintaining and developing the airport will be paid solely with airport revenues and such government grants as may be received by the city and lawfully used for such purposes, without the use of ad valorem taxes or other city revenue or pledges, so as not to place any burden on taxpayers or residents of the city.
- B. The city will fix, establish, maintain and collect such rates, fees, rentals and other charges for the use and services of the airport and revise the same from time to time whenever necessary, as will always provide net revenues sufficient to pay for operating, maintaining and developing the airport.
- C. In furtherance of this policy and in accordance with the authority conferred upon the city by the laws of the State of Florida, the city shall establish and periodically adjust as required, percentage fees upon the gross revenues of non-concessionaire rental car providers (as hereinafter defined) operating at the airport.

(Ord. No. 6-96, 1-11-96)

### Sec. 10-2-81. - Definitions.

The following terms in this article shall have the following meanings unless the text otherwise expressly requires:

- A. *Airport* shall mean the lands and facilities owned and operated by the city, known collectively as Pensacola International Airport, as it now exists or as it may change from time to time.
- B. *Non-concessionaire rental car provider or operator or permittee* shall mean all persons, firms, agencies, or companies providing rental car services from locations based outside the airport and which are not signatory to a concession lease providing terminal building counter locations and ready lot vehicular parking.
- C. *Gross revenue of a non-concessionaire rental car provider* shall mean:
  1. All amounts received by the non-concessionaire rental car provider, or which the non-concessionaire rental car provider is entitled to receive, from any rental of a motor vehicle to any person picked up by the non-concessionaire rental car provider, or its agent, from any point on the airport, including but not limited to the airport terminal building, any premises leased by the city to a third-party doing business on the airport, or from any other location within the airport, or from any rental of a motor vehicle to any person returned by non-concessionaire rental car provider, or its agent, to any point on the airport, including but not limited to the airport terminal building, any premises leased by the city to a third party doing business on the airport, or to any other location on the airport.
  2. All revenue it receives from every airport customer who, at the business location of the non-concessionaire rental car provider, either (1) executes an agreement for the rental of a motor vehicle from the non-concessionaire rental car provider, or (2) takes delivery of a motor vehicle rented from the non-concessionaire rental car provider. Gross revenues shall be deemed received at the time the sales, lease or service transaction occurs giving rise to the non-concessionaire rental car provider's right to collect said monies, regardless of whether the transaction was conducted in person, by telephone or by mail, whether the transaction was for cash or credit, and if for credit, regardless of whether the non-

concessionaire rental car provider ultimately collects the monies owed for said transaction from the airport customer involved. Any gross revenue owed the city and determined by the non-concessionaire rental car provider at a later date to be uncollectible shall not offset future percentage rentals owed the city. If the initial rental car agreement entered into between the non-concessionaire rental car provider and the airport customer is subsequently amended, because the airport customer's actual usage of the rental car vehicle differs from the usage contemplated by the original agreement, and the charges to be paid by the airport customer are therefore different from the charges contemplated by the original agreement, the percentage of gross revenue to which the city is entitled hereunder shall be based upon the gross revenue which the non-concessionaire rental car provider is entitled to receive, under the rental car agreement with its airport customer, as amended. Gross revenue shall not include:

- a. federal, state, or municipal sales taxes separately stated and collected from the customers;
  - b. amounts the non-concessionaire rental car provider receives, or is entitled to receive, for the sale, disposition, loss, conversion, or abandonment of non-concessionaire rental car provider's used motor vehicles and other equipment, personal property, and trade fixtures; and
  - c. amounts which the non-concessionaire rental car provider receives, or is entitled to receive, for the repair of damages to its motor vehicles.
3. Gross revenue shall not be reduced by reason of any commission or similar amount paid by the non-concessionaire rental car provider to travel agents or others.
- D. *Airport customer* shall mean anyone who is provided transportation to or from the airport as part of a rental car transaction in a rental car courtesy vehicle of the non-concessionaire rental car provider and who either (1) executes an agreement to rent a motor vehicle from the non-concessionaire rental car provider or had executed an agreement to rent a motor vehicle and had completed the rental transaction with the non-concessionaire rental car provider, or (2) takes delivery of a motor vehicle rented from the non-concessionaire rental car provider or had returned a motor vehicle rented from the non-concessionaire rental car provider.
- E. *Rental car courtesy vehicle* shall be considered a rental car courtesy vehicle of the non-concessionaire rental car provider if it is operated by, or under agreement, with the non-concessionaire rental car provider. A courtesy vehicle shall be deemed operated under agreement with the non-concessionaire rental car provider if the airport director finds that such courtesy vehicle is operated pursuant to any agreement.

(Ord. No. 6-96, 1-11-96; Ord. No. 47-07, § 1, 9-13-07)

Sec. 10-2-82. - Non-concessionaire rental car business permit.

- A. Each non-concessionaire rental car provider seeking to operate at the airport shall execute a written agreement with the city in the form of a non-concessionaire rental car business permit before engaging in any business activities on the airport. Application for such non-concessionaire rental car business permit shall be made to the office of the airport director.
- B. The non-concessionaire rental car business permit shall be substantially in the form appended to the ordinance adopting this article, the terms of which are incorporated in and made a part of this article by reference. The airport director may modify the form of the permit in any manner not inconsistent with the provisions of this article. In the event of conflict between any provisions of this article and any provision of the permit, this article shall be controlling.
- C. Operation of any courtesy vehicle on the airport shall be allowed only with a color coded decal as required by city ordinance. Providers of courtesy vehicles shall observe all rules and regulations of

this article in addition to those established by other provisions of the Code of the City of Pensacola, Florida.

- D. Non-concessionaire rental car courtesy vehicle decals shall be provided initially to the non-concessionaire rental car provider upon the execution of the non-concessionaire rental car business permit and the successful completion of the vehicle safety inspection. Decals shall be issued for each courtesy vehicle operated by the non-concessionaire rental car provider. No decals shall be issued without the operator having valid courtesy vehicle licenses as may be required by the City of Pensacola.
- E. Decals shall be permanently affixed to the lower righthand corner of the front windshield and shall be clearly visible at all times. Decals shall be issued by the airport director and shall expire at the time of expiration of the non-concessionaire rental car business permit. Only those vehicles displaying valid decals will be authorized to pick up passengers at the airport.
- F. In the case of loss of a decal or damage beyond recognition, a duplicate decal may be obtained after payment of five dollars (\$5.00) by the operator and after submission of a statement setting forth the circumstances of the loss or damage of the decal.
- G. Application forms for yearly renewal of courtesy vehicle airport permit decals must be submitted to the airport director at least ten (10) working days prior to the expiration of the current decal. Renewal applications shall be reviewed and renewal of the decal shall be made contingent upon satisfactory payment of the percentage fees and completion of the annual courtesy vehicle inspection.
- H. All courtesy vehicles will be inspected in accordance with the criteria found in section 7-10-31 of the City Code.
- I. The airport director or his representative, police officer, or airport safety officer may inspect a courtesy vehicle at any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 of the City Code will be required to immediately leave the airport until the noted deficiencies are corrected.
- J. The city may suspend, or suspend and revoke, any non-concessionaire rental car business permit, including the non-concessionaire rental car courtesy vehicle decal. Such power of suspension or suspension and revocation may be exercised only upon the failure of the non-concessionaire rental car provider to satisfy the conditions of this article or the non-concessionaire rental car business permit or for non-compliance with city code regarding the operation of courtesy vehicles.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-83. - Operational procedures.

All non-concessionaire rental car provider courtesy vehicles shall operate on the airport in compliance with Section 7-10-181 of the City Code of the City of Pensacola.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-84. - Percentage fee.

- A. *Amount.* Each non-concessionaire rental car provider offering rental car services from locations based outside the Airport shall pay to the city a percentage amount of all gross revenues which shall equal the concession agreement percentage amount paid by on-airport concessionaire rental car providers that is derived by said non-concessionaire rental car provider from the rental of motor vehicles to airport customers picked up by said non-concessionaire rental car provider from any point within the airport or returned by said non-concessionaire rental car provider to any point within the airport.

- B. *Statement of gross revenue.* Each non-concessionaire rental car provider shall submit to the city, on or before the 20<sup>th</sup> day of each month, a statement which will set forth:
1. The total gross revenue earned during the prior month; and
  2. Information demonstrating to the satisfaction of the city which of the non-concessionaire rental car provider's gross revenue during the prior month originated from airport customers and which gross revenue originated from non-airport customers.
  3. It shall be presumed that ninety-five (95) percent of all gross revenue earned by the non-concessionaire rental car provider during the month with respect to which the statement is submitted constituted airport customer generated gross revenue, unless, and to the extent the non-concessionaire rental car provider demonstrates otherwise in its statement to the satisfaction of the city.
  4. The statement of gross revenue shall be submitted together with the non-concessionaire rental car provider's remittance in payment of the non-concessionaire rental car percentage fee it incurred during the prior month. Each non-concessionaire rental car provider shall timely submit a statement of gross revenue each month even if such non-concessionaire rental car provider earned no airport generated gross revenue during the prior month (and therefore incurred no non-concessionaire rental car percentage fee during such prior month). In such case the statement of gross revenue shall state the non-concessionaire rental car provider's total gross revenue during the prior month and shall demonstrate to the satisfaction of the city that none of such revenue constituted airport generated gross revenue.

(Ord. No. 6-96, 1-11-96; Ord. No. 12-11, § 1, 7-21-11)

Sec. 10-2-85. - Conditions of non-concessionaire rental car business permit.

The city will not issue a non-concessionaire rental car business permit, and once it has issued such a permit, may suspend or suspend and revoke that permit under the provisions of section 10-2-86, unless the non-concessionaire rental car provider to whom the permit is to be or has been issued continuously complies with the provisions of this article and the non-concessionaire rental car business permit.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-86. - Suspension or suspension and revocation of non-concessionaire rental car business permit.

A. *Suspension of permit.*

1. The city may suspend any non-concessionaire rental car business permit upon the failure of the non-concessionaire rental car provider to whom such permit was issued continuously to comply with any provision of this article or of the non-concessionaire rental car business permit provided, however, that such suspension may be imposed only following fourteen (14) days' written notice to the non-concessionaire rental car provider whose non-concessionaire rental car business permit is to be suspended.
2. A non-concessionaire rental car provider whose permit is suspended or may become subject to suspension may demonstrate to the city, at any time before or after such suspension has been imposed, that such operator is in compliance or has remedied its noncompliance or that it is making good faith effort to do so.
  - a. If the non-concessionaire rental car provider whose permit is subject to suspension demonstrates that it has remedied its failure to satisfy the conditions of this article, the city shall remove the suspension of such rental car provider's non-concessionaire rental car

business permit, if such suspension has been imposed, or shall abandon proceedings to suspend that permit if such suspension has not yet been imposed.

- b. If the non-concessionaire rental car provider whose permit is subject to suspension demonstrates it is making a good faith effort to remedy its failure to comply (though it has not yet remedied such failure), the city may, in its discretion, remove the suspension of such operator's non-concessionaire rental car business permit, if such suspension has been imposed, or abandon proceedings to suspend the permit if such suspension has not yet been imposed.
  3. Once a non-concessionaire rental car business permit has been properly suspended, it shall remain suspended unless and until its suspension is removed or until it is revoked.
  4. A non-concessionaire rental car provider whose non-concessionaire rental car business permit has been properly suspended by the mayor may appeal the decision to the mayor of the City of Pensacola.
- B. *Revocation of permit.*
1. The city may revoke any non-concessionaire rental car business permit upon the failure of the non-concessionaire rental car provider to whom such permit was issued to continuously comply with all provisions of this article and its non-concessionaire rental car business permit, provided, however, that:
    - a. A non-concessionaire rental car business permit may not be revoked unless, at the time of revocation, it has been properly suspended for at least thirty (30) days, and
    - b. A non-concessionaire rental car business permit may not be revoked except following thirty (30) days' written notice, which notice may be issued to the non-concessionaire rental car provider holding such permit only after the suspension of the permit has been imposed.
  2. Upon the revocation of a non-concessionaire rental car business permit, the non-concessionaire rental car provider to whom such permit was issued must remove any rental car decals issued in connection with the revoked permit from its rental car courtesy vehicles.
  3. A non-concessionaire rental car business permit which has been revoked may not be reinstated. Nonetheless, a non-concessionaire rental car provider whose permit has been revoked may apply for a new non-concessionaire rental car business permit after curing all causes of revocation.
- C. Notwithstanding the notice provisions of subsection B.1.b., the city may revoke without notice the non-concessionaire rental car business permit of any non-concessionaire rental car provider if, at any time while that permit is suspended, any of such non-concessionaire rental car provider's vehicles seek to enter the airport under the authority of the suspended permit for the purpose of loading passengers for transport to or unloading passengers after transport from any facility of such operator non-concessionaire.

(Ord. No. 6-96, 1-11-96; Ord. No. 16-10, § 158, 9-9-10)

Sec. 10-2-87. - Failure to pay fees.

- A. If any non-concessionaire rental car provider fails to submit any remittance, as required by section 10-2-84, by the end of the 10th day following the final day on which such remittance should timely have been submitted, the non-concessionaire rental car provider shall pay interest to the city at the rate of eighteen (18) percent per annum (1.5% per month) (or, if less, the maximum rate of interest allowed by law) on such overdue amounts calculated from the date on which such amounts should timely have been paid.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-88. - Failure to submit statement of gross revenue.

If any non-concessionaire rental car provider fails to submit any statement of gross revenue, as required by subsection 12-2-85 B., by the end of the 30th day following the final day on which such statement should timely have been submitted, the city may, in its discretion, perform, or hire an agent to perform, an audit of such operator's various books and records (including but not limited to the records such operator is required to maintain under the provisions of this section) to determine that operator's gross revenue during the month which would have been the subject of such statement of gross revenue. The non-concessionaire rental car provider shall, within thirty (30) days of receipt from the city of an invoice from the city therefor, reimburse the city for its reasonable cost of performing or of hiring an agent to perform, such audit.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-89. - Records to be maintained by non-concessionaire rental car provider.

- A. During and with respect to the term of any non-concessionaire rental car business permit issued to it, each non-concessionaire rental car provider shall maintain such books and records as would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing an audit or examination of the operator's revenues and gross revenue in accordance with generally accepted accounting principles and this article.
- B. Each non-concessionaire rental car provider to whom a non-concessionaire rental car permit is issued shall make all records available for inspection by the city, during reasonable business hours, for a period of not less than three (3) years after the end of the term of the non-concessionaire rental car business permit to which such records relate; provided, however, that no such inspection will be conducted at a time or in a manner which causes undue interference with the business of the non-concessionaire rental car provider.
- C. Non-concessionaire rental car provider may make such records available for inspection in Pensacola, Florida or at its corporate headquarters. In the event the inspection of such records is made at non-concessionaire rental car provider's corporate headquarters, and said corporate headquarters are located outside the city limits of Pensacola, Florida, then non-concessionaire rental car provider shall reimburse the city for all reasonable travel expenses associated with the city and/or its duly authorized representatives travelling to non-concessionaire rental car provider's corporate headquarters for the inspection of such records.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-90. - Term of non-concessionaire rental car business permit.

- A. The term of such non-concessionaire rental car business permit shall extend from the date it is issued until either midnight of the 31st day of December next following the date it is issued or the date on which revocation of such permit becomes effective, whichever is earlier. The rental car decals issued in connection with a non-concessionaire rental car business permit shall expire at the end of the term of such permit.
- B. On the first day of January of each succeeding year the non-concessionaire rental car business permit shall be extended automatically for successive one-year periods, unless earlier suspended or revoked. If a suspension is in effect on January 1, the non-concessionaire rental car provider shall remedy all failures to comply with the provisions of this article and shall apply for a new non-concessionaire rental car business permit before such permit may be issued.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-91. - Non-concessionaire rental car business permit non-transferrable.

No non-concessionaire rental car business permit, and no rental car Decal issued in connection with a non-concessionaire rental car business permit, may ever be transferred, assigned, loaned or used in any way by any person other than the non-concessionaire rental car provider to whom such permit was issued or the operator of a rental car courtesy vehicle operated under agreement with that non-concessionaire rental car provider.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-92. - Rental Car Customer Facility Charge Policy.

The city hereby adopts the following fiscal policy for establishment of a Rental Car Customer Facility Charge to be collected and remitted to the city by all Rental Car Providers (as hereinafter defined).

- (a) The cost of operating, maintaining, and developing Pensacola International Airport shall be paid solely with airport revenues and such government grants as may be received by the city and lawfully used for such purposes, without the use of ad valorem taxes or other city revenue or pledges so as not to place any burden on taxpayers or residents of the city.
- (b) The city will fix, establish, maintain, and collect such rates, fees, rentals, and other charges for the use and services of the airport, and revise the same from time to time whenever necessary, so as to always provide net revenues sufficient, together with other amounts legally available and allocated by the airport for such purpose, to pay the costs of operating, maintaining, and developing the airport.
- (c) In furtherance of this policy and in accordance with the authority conferred upon the city by the laws of the State of Florida, the city shall establish and periodically adjust, as required, Rental Car Customer Facility Charges upon the rental contracts of Rental Car Providers (as hereinafter defined) operating at the airport and their customers.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 09-08, § 1, 1-31-08)

Sec. 10-2-93. - Customer Facility Charge Policy Definitions.

The following terms shall have the meanings set forth below unless expressly required otherwise:

*Airport* shall mean the lands and facilities owned and operated by the city, known collectively as Pensacola International Airport, as it now exists or as it may change from time to time.

*Allocated Cost* shall mean the allocation of the costs of providing any of the facilities described in herein, in the manner and to the extent the city shall reasonably determine, including, without limitation, the allocation of costs representing the rental value of land used for such facilities, as established in accordance with Section 10-2-100(b) hereof, and a ratable portion of the planning, design, engineering, program management construction oversight, construction costs, depreciation, borrowing charges, permitting and licensing expenses, administrative oversight by city staff and consultants and all other costs, expenses or charges determined by the airport to be allocable to such facilities.

*Concessionaire* shall mean all persons, firms, agencies, or companies having a rental car concession agreement authorizing the conduct of a rental car business on at the airport.

*Contract Day* shall mean each twenty-four (24) hour period, and any fraction thereof, during which a motor vehicle, having been delivered by Rental Car Providers to each customer at the airport, is rented by such customer from such Rental Car Provider. Any fractional period less than a twenty-four-hour period shall be deemed a Contract Day.

*Fiscal Year* shall mean the annual period corresponding to the City's Fiscal Year for financial reporting purposes, as established in accordance with applicable law.



*Ready Car Area Customer Facility Charge* shall mean the charge to recover all costs and expenses of planning, financing, constructing, operating, and maintaining the three hundred forty-two (342) parking spaces provided for the rental car companies in the airport parking garage for use as a ready car area.

*Rental Car Customer Facility Charge* shall mean a charge imposed on a transactional basis in a fixed uniform amount applied each Contract Day to each subject contract, and which shall be added to the amount collected by Rental Car Providers from the rental car customer. The Rental Car Customer Facility Charge shall consist of the Ready Car Area Customer Facility Charge and the Service Site Area Customer Facility Charge.

*Rental Car Provider* shall mean all persons, firms, agencies, or companies providing rental car services at the airport. Rental Car Providers include both rental car concessionaires of the airport and non-concessionaire (off-Airport) Rental Car Providers conducting activities at the airport.

*Service Site Area Customer Facility Charge* shall mean the charge to recover substantially all costs and expenses of planning, financing, developing, and constructing service sites for rental car operators to service rental cars plus all costs and expenses of operating and maintaining common areas, access, street lighting, security, and landscaping, as well as any other costs and expenses incurred by the city and associated with the Service Site Area.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 09-08, § 2, 1-31-08)

Sec. 10-2-94. - Customer Facility Charge.

The city provides two types of support facilities for Rental Car providers. The city provides ready car parking spaces for cars ready to be rented and for cars being returned to the Rental Car Provider—i.e., the Ready Car Area. Additionally, the city provides an area for the servicing of rental cars on the Airport. The cost of these facilities and improvements (including direct and allocated operating and capital costs) will be recovered primarily by charging the customers of Rental Car Providers a Rental Car Customer Facility Charge per contract day. On customer contracts, receipts, and documentation provided to customers, the public, and the city, the Contract Day rates shall be combined and shown as a single daily Rental Car Customer Facility Charge per Contract Day.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 28-06, § 1, 10-26-06; Ord. No. 09-08, § 3, 1-31-08)

Sec. 10-2-95. - Calculation of Customer Facility Charge Rates.

- (a) Prior to the end of each Fiscal Year, the city shall recalculate the daily Rental Car Customer Facility Charge rates for the following Fiscal Year as hereinafter provided. Revised daily rates shall become effective as of the first day of each Fiscal Year.
- (b) Ready Car Area Customer Facility Charge-Annually, the city will recalculate the Ready Car Area Customer Facility Charge to recover the direct cost and Allocated Cost of planning, financing, constructing, operating, and maintaining the three hundred forty two (342) parking spaces (included in the 1998 Airport Capital Improvement Program) made available to the Rental Car Providers for the Ready Car Area in the Airport parking garage. The city will expand the number of ready car parking spaces as part of a future Airport Capital Improvement Program. The cost of expanding the Ready Car Area shall be recovered through a direct space rental charge to the Rental Car Providers using the Ready Car Area. The cost of expanding the Ready Car Area shall not be recovered through an increase in the Ready Car Area Customer Facility Charge. Each year, the city will advise the Rental Car Providers of changes in the Ready Car Area Customer Facility Charge rate. This amount shall be collected from rental car customers by the Rental Car Providers, as agents for the city, and remitted to the city, as provided for below.
- (c) Service site area customer facility charge-The Rental Car Providers shall, as agents for the city, collect from their customers a Service Site Area Customer Facility Charge in an amount as determined by the city. On the first day of each Fiscal Year thereafter, the Service Site Area

Customer Facility Charge shall be adjusted to recover all direct and Allocated Costs and expenses of planning, financing, and constructing the service sites plus all costs and expenses of operating and maintaining common areas, access, street lighting, security, and landscaping, as well as any other cost or expense incurred by the city and associated with the Service Site Area.

- (d) The Service Site Area Customer Facility Charge proceeds remitted by the Rental Car Providers shall be used for the purpose of paying, reimbursing or bearing the expenses of the following:
  - i. To pay financing, physical planning, and architecture and engineering design costs associated with the new rental car service sites and facilities, as determined by the city.
  - ii. To pay project management and construction costs associated with the new rental car service sites and facilities, as determined by the city.
  - iii. To pay debt service on bonds and or loans, the proceeds of which were used to pay the development costs of the rental car service sites.
  - iv. To pay the operating and maintenance expenses of the city that are allocable to the rental car operations and operating areas at the airport.
  - v. To pay any other cost or expense associated with development of the rental car service sites or any other airport direct and indirect cost or expense associated with the rental car service sites.
  - vi. Costs of collection, processing, enforcement of payment of the Service Site Area Customer Facility Charges, administration of the Service Site Area Customer Facility Charges and audits of Rental Car Provider's compliance with the Rental Car Customer Facility Charge regulation.
- (e) The city may annually adjust the Ready Car Area Customer Facility Charge and the Service Site Area Customer Facility Charge per Contract Day based on the city's estimates of the costs expenses of providing the ready car area and the Service Site Area and the projected number of Contract Days for the upcoming year. Each year, approximately sixty (60) days prior to the end of the city's Fiscal Year (September 30), the city may recalculate the Ready Car Area Customer Facility Charge per Contract Day and the Service Site Area Customer Facility Charge per Contract Day and notify Rental Car Providers of the revised Ready Car Area Customer Facility Charge and Service Site Area Customer Facility Charge per Contract Day. Any credits or shortfalls from the prior Fiscal Year, as determined by the city, shall carry forward to the next Fiscal Year in the calculation of the revised Ready Car Area Customer Facility Charge per Contract Day and the Service Site Area Customer Facility Charge per Contract Day.
- (f) If, at any time during each Fiscal Year, the city determines that either or both of the Rental Car Ready Area Customer Facility Charge or the Service Site Area Customer Facility Charge will not be sufficient to pay when due all costs and expenses of each area respectively, the city shall recalculate and increase either or both of these charges to a level that will assure the payment of all costs and expenses of these areas from the respective components of the Rental Car Customer Facility Charge proceeds.
- (g) All amounts collected or required to be collected pursuant to this Section 10-2-95 shall be considered Airport Revenues from the moment of collection, shall belong to the city and shall be retained by the city in the Airport Fund and used to pay the costs and expenses associated with the improvement, operations, financing, and maintenance of Rental Car Provider facilities at the airport.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 09-08, § 4, 1-31-08)

Sec. 10-2-96. - Customer Facility Charge Collection.

Each Rental Car Provider shall collect Rental Car Customer Facility Charges from all rental car customers, including customers receiving complimentary or discounted car rentals under Rental Car Provider's bona fide marketing plans. The Rental Car Customer Facility Charge shall be imposed on a transactional basis and shall be a fixed uniform amount applied each day, or fraction thereof, to each rental car contract and shall be added to the amounts collected by the Rental Car Providers from their

rental car customers. The Rental Car Customer Facility Charges collected by Rental Car Providers shall be the amount established by the city for all Rental Car Providers renting cars to Airport passengers.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 28-06, § 2, 10-26-06; Ord. No. 09-08, § 5, 1-31-08)

Sec. 10-2-97. - Customer Facility Charge Remittance.

Rental Car Providers shall submit the amount equivalent to that collected or required to be collected from its customers to the city no later than the last day of each month following the month of collection. An amount exactly equivalent to the Rental Car Customer Facility Charges collected by Rental Car Providers from their customers shall be payable to the city. Such amount shall be immediately due the city on collection by Rental Car Providers, who shall be required to hold such amount in trust for the city's benefit. These funds shall be considered the city's property and rental car providers shall hold only a possessory interest, not an equitable interest, in these funds, which shall be deemed to be held in trust for the airport until actually remitted to and paid to the Airport.

(Ord. No. 09-08, § 6, 1-31-08)

Sec. 10-2-98. - Customer Facility Charge Records and Controls.

- (a) Each Rental Car Provider shall maintain records and controls sufficient to demonstrate the correctness of the Rental Car Customer Facility Charge revenue collected by the Rental Car Provider and the amount of Rental Car Customer Facility Charge Revenue paid to the city. The records shall be subject to review and audit annually by the city.
- (b) The number of transactions completed by the Rental Car Providers shall be reported electronically to the city each month upon a form promulgated by the city. The report, which shall be signed by an authorized agent of each Rental Car Provider, is to be received by the city no later than the last day of the month following such transactions, and shall be remitted to the city with Rental Car Providers' Rental Car Customer Facility Charge proceeds for the month.

(Ord. No. 09-08, § 7, 1-31-08)

Sec. 10-2-99. - Failure To Pay Fees.

If any Rental Car Provider fails to remit on a timely basis the Rental Car Customer Facility Charge proceeds, as required by Sections 10-2-96 and 10-2-97 hereof, by the end of the tenth (10<sup>th</sup>) day following the final day on which such remittance should timely have been remitted, the Rental Car Provider shall pay interest to the city at the rate of eighteen percent (18%) per annum (1.5% per month) (or, if less, the maximum rate of interest allowed by law) on such overdue amounts calculated from the date on which such amounts should timely have been remitted. Interest payments received by the city as a result of any Rental Car Provider failing to timely remit the Rental Car Customer Facility Charge proceeds shall not be credited to the calculation of the Rental Car Customer Facility Charge pursuant to section 10-2-95 hereof.

(Ord. No. 09-08, § 8, 1-31-08)

Sec. 10-2-100. - Rental Car Service Site Area Other Sources of Funds.

If the Service Site Area Customer Facility Charge proceeds are not sufficient to pay when due all costs and expenses associated directly or indirectly with the Service Site Area, the city will supplement the Customer Facility Charge proceeds to cure any such deficiencies, from the sources described in paragraphs (a) through (c) of this Section 10-2-100. The city may employ any or all of the other sources

of funds listed below to pay obligations when due. The sources of the other funds that will be applied are as follows:

- (a) *Facilities Rent* —The city may charge Rental Car Providers using the rental car service sites a facilities rent for use of the pavement, buildings, and equipment.
  - i. At any time during a Fiscal Year in which the city projects that Service Site Area Customer Facility Charge proceeds will be insufficient to pay when due all Service Site Area costs and expenses, the city may charge the Rental Car Providers, for the use of the Rental Car Service Sites a facilities rent for the pavement, buildings, and equipment on each Rental Car Service Site.
  - ii. The facilities rent shall be calculated to recover a prorated share of the city's debt service and other requirement allocable to each rental car service site.
  - iii. Facilities rent shall be payable monthly in advance on the first day of each month. Facility rent will be held in a separate account of the airport and relating to the Rental Car Provider's Rental Car Service Site and applied exclusively to pay the cost and expenses of the Rental Car Service Site Area. Facilities rent will be for separately from general airport revenue.
  - iv. Anytime during the Fiscal Year it appears that the Customer Facility Charge proceeds supplemented with facilities rent for the Fiscal Year will not be sufficient to pay when due all costs and expenses of the Service Site Area, the city may increase the facilities rent to a level that will, when combined with Customer Facility Charge proceeds, be sufficient to pay all costs and expenses of the Service Site Area; and
- (b) *Ground Rent* —The city will charge Rental Car Providers using the Service Site Area a ground rent for use of the land on which the rental car service sites are located.
  - i. The ground rent requirement will be equal to ten percent (10%) of the appraised value of the entire Service Site Area or such other percentage determined appropriate by the city. The ground rent requirement will be charged to the Rental Car Providers using the Rental Car Service Sites. The ground rent will be allocated to each Rental Car Provider using a Service Site based on the Service Site size.
  - ii. Ground rent is payable monthly in advance on the first day of each month and shall be accounted for separately from general airport revenue. Ground rent is dedicated to the payment of debt service and operating and maintenance costs of the Service Site Area.
  - iii. In each Fiscal Year, if Service Site Area Customer Facility Charge proceeds plus Facilities Rent are projected to be sufficient to pay when due all costs and expenses of the Service Site Area, the ground rent may be used for other airport purposes.
- (c) Such other airport revenue sources, and in such amounts, as the city may, in its sole and absolute discretion, determine. In the event that the city may exercise its discretion to secure the financing of any facilities described herein with such other airport revenue sources, the amount actually paid from such sources to carry or repay such financing shall be treated as a temporary advance, to be repaid from the rates and charges imposed under this Ordinance, in such manner as the city shall determine.

(Ord. No. 09-08, § 9, 1-31-08)

Sec. 10-2-101. - Rental Car Concession Agreements, Service Site Leases, Non-Concessionaire Rental Car Business Permits.

Any Rental Car Concession Agreements, Service Site Leases, and Non-Concessionaire Rental Car Business Permits, entered into by the city after the effective date of this policy, will be subject and subordinate to the terms and condition of this Rental Car Customer Facility Charge Policy.

(Ord. No. 09-08, § 10, 1-31-08)

CHAPTER 10-3. HARBORS AND WATERWAYS<sup>5</sup>

Footnotes:

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**Cross reference**— Offenses upon waters, Ch. 8-3; traffic, Ch. 11-2; floodplain management, Ch. 12-10.

ARTICLE I. - IN GENERAL

REPEAL SECTION 10-3-1.

Secs. 10-3-2—10-3-15. - Reserved.

ARTICLE II. - PORT OF PENSACOLA

Sec. 10-3-16. - Created; administrative head.

There is hereby established a department which shall be known as the Port of Pensacola with its administrative head to be the port director who shall be appointed by and report directly to the mayor.

(Code 1968, § 73-4; Ord. No. 16-10, § 159, 9-9-10)

Sec. 10-3-17. - Powers and authority to publish tariff.

- (a) The port director shall have the power to prescribe rules and regulations not inconsistent with the Charter and the ordinances passed in pursuance thereof, for the conduct of the officers and employees of the department, for the distribution and transaction of its business, and for the custody of the books, papers and property under his or her control.
- (b) The mayor with approval of the city council shall have the authority to publish and amend the port tariff.

(Code 1968, §§ 73-6, 73-8; Ord. No. 16-10, § 160, 9-9-10)

Sec. 10-3-18. - Tariff—May be imposed for certain terminal services and privileges.

The city may impose a tariff for certain terminal services and privileges at the Port of Pensacola to include, but not limited to, wharfage, handling, berthing, storage, dockage, sheddage, rail car switching within the port terminal, use of port terminal rail trackage or the transferring of freight or cargo in export, import and coastwise traffic to and from ships, barges and rail cars. Said tariff shall be maintained, applied and enforced in accordance with applicable rules, regulations and policies of the Federal Maritime Commission.

(Code 1968, § 73-7)

REPEAL SECTION 10-3-19

## CHAPTER 10-4. ENERGY SERVICES<sup>61</sup>

Footnotes:

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**Cross reference**— Administration, Title II; authority to set rates, etc., § 3-2-1; discontinued utility services delinquent customers, § 3-2-7; public service tax levy, § 3-4-66; franchise required for certain transient services and utilities, § 7-1-1; public works and improvements, Ch. 3-2.

### ARTICLE I. - IN GENERAL

#### Sec. 10-4-1. - Fees for natural gas utility service.

Fees for all city furnished natural gas utility services are hereby established based on the cost to provide these services to the customer in addition to those fees and charges provided for elsewhere in this Code. Fees will be reviewed each year through an annual cost of service study to determine any changes in costs to provide service to customers. City council will be notified of any changes through the budget review process each year.

Fees are based on an average annual labor cost for the service including fringe benefits plus the actual equipment cost per hour times the average time (including drive time) to complete each type of work order. The fees will be adjusted from time to time in order to cover the cost of providing this service. The following fees will be reviewed annually:

- (1) *New account and transferred accounts:* This fee covers the initial premises visit to either set the meter and/or establish the beginning meter reading. The technician ensures the meter is working properly, lights all appliances in the home or business, and answers any customer questions.
- (2) *Resumption of terminated service:* This fee covers two (2) site visits. The first visit is to stop service for non payment where the meter is locked and sealed and the second visit is to reactivate service and light all appliances in the home or business.
- (3) *Meter re-reads:* A fee is added to the customer's account for each subsequent request to read a meter if the initial reading has been substantiated.
- (4) *Appliance turn-ons:* This fee covers the premises visit to light pilots.
- (5) *Late payment charge:* One and one-half (1½) percent per month of the amount of the unpaid previous balance charged.
- (6) *Deposits:* Deposits in an amount up to the total of the highest two (2) months bills for service within the previous twelve (12) months may be required of customers who, after the passage of this chapter, have their service cut for nonpayment or have a late payment history. The city will be responsible for the judicious administration of deposits.
- (7) *Special request fee:* For new accounts, transferred accounts, resumption of terminated service, and pilot light turn-ons to be performed on the same day of the request, and miscellaneous appliance adjustments, a fee of twenty-five dollars (\$25.00) in addition to the fees charged in (1), (2) and (4).
- (8) *Unauthorized overrun fee:* An unauthorized overrun fee of two hundred (200) percent of the applicable rate times the unauthorized quantities of gas taken in excess of the contract quantity will be charged.
- (9) *Operational Flow Order (OFO) charges:* Customers will be given at least eight (8) hours notice of an operational flow order unless a shorter time is required to protect the operational integrity

of the system. A customer exceeding allocated volume by less than ten (10) percent during the period restricted by the operational flow order shall be charged for each MMBtu taken in excess of the allocated volume the greater of 1) The city's weighted average cost of gas multiplied by one hundred five (105) percent or 2) the customer's contract rate multiplied by one hundred five (105) percent. A customer exceeding by greater than ten (10) percent their allocated volume during the restriction shall be charged for each MMBtu taken in excess of the allocated volume the city's weighted average cost of gas multiplied by one hundred five (105) percent plus twenty-five dollars (\$25.00) per MMBtu.

(Code 1968, § 90-3; Ord. No. 40-86, § 1, 9-11-86; Ord. No. 52-89, § 2, 10-5-89; Ord. No. 14-94, § 4, 5-12-94; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 44-00, § 1, 9-28-00; Ord. No. 13-05, § 1, 9-29-05; Ord. No. 01-06, § 1, 1-12-06)

**Editor's note**— Ord. No. 40-86, § 1, adopted Sept. 11, 1986, amended § 10-4-1 to read as herein set forth. Prior to such amendment, § 10-4-1 set out fees for municipal utility services.

Section 4 of Ord. No. 01-06 provided for an effective date of Jan. 13, 2006.

**Cross reference**— Schedule of gas rates and charges, § 10-4-19.

Secs. 10-4-2—10-4-15. - Reserved.

ARTICLE II. - GAS<sup>7</sup>

Footnotes:

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**Cross reference**— Certain utility ordinances saved from repeal, § 1-1-7(10).

Sec. 10-4-16. - Installation of services.

- (a) The city will install for any new customer of its gas service a service line measuring from the gas main to the proposed meter site. For such portion of any such service line, the customer shall pay an installation charge equal to the cost of such installation minus the estimated net first annual revenue to the city derived from the sale of gas at the service address, such estimate to be determined by a city representative. There shall be no installation charge if the estimated net first annual revenue exceeds the cost of installation.
- (b) The city may perform work on its distribution system upon customer or contractor request. Where applicable, the customer or contractor will pay a charge to offset the labor and materials expense as determined by a representative of the city.

(Code 1968, § 98-1(C); Ord. No. 98-83, § 1(§ 98-1C), 7-28-83; Ord. No. 44-00, § 1, 9-28-00; Ord. No. 13-05, § 1, 9-29-05; Ord. No. 01-06, § 1, 1-12-06; Ord. No. 21-11, § 1, 9-22-11; Ord. No. 08-17, § 1, 4-13-17)

Sec. 10-4-17. - Reserved.

**Editor's note**— Ord. No. 14-94, § 5, adopted May 12, 1994, repealed former § 10-4-17, which pertained to utility services deposit for city residents, as derived from Code 1968, § 98-5; Ord. No. 54-82, § 2, adopted May 13, 1982 and Ord. No. 28-85, § 2, adopted Sept. 26, 1985.

Sec. 10-4-18. - Reserved.

**Editor's note**— Ord. No. 14-94, § 5, adopted May 12, 1994, repealed former § 10-4-8, which pertained to advance deposit for other than in-city residential, as derived from Code 1968, § 98-5; Ord. No. 54-82, § 2, adopted May 13, 1982 and Ord. No. 28-85, § 2, adopted Sept. 26, 1985.

Sec. 10-4-19. - Schedule of rates and charges.

(a) The charges and assessments set forth below shall be levied and assessed by the department of Pensacola Energy through the mayor for natural gas services provided by the city to consumers.

The charges for gas are segregated according to the following service classifications: residential gas inside and outside the city limits (GR-1, GR-2), commercial gas inside and outside the city limits (GC-1, GC-2), interruptible industrial contract (GI-1, GI-2, GI-3, GI-4), City of Pensacola, almost firm service (GAF), flexible gas transportation (GTS, GPT, GIT, GVT), compressed natural gas service (CNG), and street or outdoor lighting.

(b) Purchased gas adjustment (PGA)—Service classifications having a distribution charge stated in Mcfs shall have the price per Mcf adjusted by the amount of any increase or decrease in the cost of gas purchased for resale. Changes to the PGA will be effective at the beginning of a monthly billing cycle.

(c) For the purpose of calculating the municipal public service tax, the city's cost of gas prior to October 1, 1973, was forty-five cents (\$0.45) per Mcf.

(d) Weather normalization adjustment (WNA)—To adjust for fluctuations in consumption due to colder or warmer than normal weather during the months of October through March of the previous or current fiscal year, a WNA will be assessed on service classifications GR-1, GR-2, GC-1, GC-2, and GIT according to the following formula:

$$WNA = \frac{R \times (HSF \times (NDD-ADD))}{(BL + (HSF \times ADD))}$$

Where:

WNA = Weather normalization adjustment factor for each rate schedule classification expressed in cents per Mcf.

R = Weighted average base rate of temperature sensitive sales for each included rate schedule.

HSF = Heat sensitive factor for the appropriate rate schedule.

NDD = Normal billing cycle heating degree.

ADD = Actual billing cycle heating degree day.

BL = Average base load sales for each billing cycle.



Normal degree days (NDD) shall be based on the most current National Oceanic and Atmospheric Administration (NOAA) thirty-year normal data. Actual degree days (ADD) shall be based on NOAA data.

- (e) The distribution pipeline infrastructure cost adjustment (DPICA) shall be adjusted annually, effective each October 1 by a percentage equal to the amount of eligible distribution pipeline infrastructure costs divided by the total test year margin revenues associated with the residential gas inside and outside city limits (GR-1 and GR-2), commercial gas inside and outside city limits (GC-1, GC-2, and GIT), and municipal operated building and facilities as shown for the 2012 Test Year shown in the most recent Cost of Service and Rate Design Study. Eligible distribution pipeline infrastructure costs include costs that meet all of the following conditions:
- (1) The principal purpose of the project is not to increase revenues by directly connecting the infrastructure replacement to new customers;
  - (2) The project, or discrete portions thereof, are in service and used and useful;
  - (3) The costs of the project are not included in the city's existing base rates;
  - (4) The principal purpose of the project is to replace or extend the useful life of existing infrastructure, or otherwise enhance the infrastructure of city's physical plant; and
  - (5) City undertakes the project to comply with a valid statute, rule, regulation, order or ordinance, or other lawful requirement of a federal, state, or local governing or regulatory body having jurisdiction over pipeline integrity.

The percentage shall not exceed ten (10) percent of the non-gas operating expenses in the current fiscal year budget and will be applied to the rates used for each bill over the following twelve (12) months.

- (f) Distribution and customer charge rates shall be adjusted annually if approved by the city council during budget sessions, effective each October based upon the percentage difference in the cost of living as computed under the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1 of the preceding year and ending March 31 of the current year. The applicable rates are residential gas inside and outside the city limits (GR-1, GR-2), commercial gas inside and outside city limits (GC-1, GC-2), contract delivery, and municipal operated buildings and facilities.
- (g) Tariff changes to pipeline transportation fees shall be assessed to each rate class upon implementation by the interstate or intrastate pipeline.
- (h) Service charges shall include a customer charge and a distribution charge. The customer charge is a fixed monthly charge for having gas available and the distribution charge is a variable monthly charge based on consumption of gas. Service charges are as follows:
- (1) *Service classification: GR-1, residential gas service.* (Within city limits of the City of Pensacola).
    - (1a) *Availability.* Available to any consumer using the city's natural gas service for any purpose in a residence only.
    - (1b) *Customer charge.* Nine dollars and ninety-four cents (\$9.94) fixed monthly charge, plus
    - (1c) *Distribution charge.* Eight dollars and thirty-four cents (\$8.34) per Mcf.
  - (2) *Service classification: GR-2, residential gas service.* (Outside city limits of the City of Pensacola).
    - (2a) *Availability.* Available to any consumer using the city's natural gas service for any purpose in a residence only.
    - (2b) *Customer charge.* Eleven dollars and nine cents (\$11.09) fixed monthly charge, plus
    - (2c) *Distribution charge.* Ten dollars and thirty-one cents (\$10.31) per Mcf.
  - (3) *Service classification: GC-1, commercial service.* (Within the city limits of the City of Pensacola).

- (3a) *Availability.* Available to any commercial consumer for cooking, water heating, space heating, air conditioning, and like uses.
- (3b) *Customer charge.* Seventeen dollars and fifty-eight cents (\$17.58) fixed monthly charge, plus
- (3c) *Distribution charge.* Eight dollars and thirty-four cents (\$8.34) per Mcf.
- (4) *Service classification: GC-2 commercial service.* (Outside the city limits of the City of Pensacola).
  - (4a) *Availability.* Available to any commercial consumer for cooking, water heating, space heating, air conditioning, and like uses.
  - (4b) *Customer charge.* Nineteen dollars and ninety-seven cents (\$19.97) fixed monthly charge, plus
  - (4c) *Distribution charge.* Ten dollars and thirty-one cents (\$10.31) per Mcf.
- (5) *Service classification: GI-1, interruptible industrial contract service, small volume.*
  - (5a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.
  - (5b) *Contract volume.* Not less than twenty-five (25) Mcf per day.
  - (5c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus
  - (5d) *Distribution charge.* Two dollars and five cents (\$2.05) per Mcf.
- (6) *Service classification: GI-2, interruptible industrial contract service, large volume.*
  - (6a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.
  - (6b) *Contract volume.* Not less than two hundred fifty (250) Mcf per day.
  - (6c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus
  - (6d) *Distribution charge.* One dollar and five cents (\$1.05) per Mcf.
- (7) *Service classification: GI-3, interruptible industrial flexible contract service, large volume.*
  - (7a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayo. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.
  - (7b) *Contract volume.* Not less than five hundred (500) Mcf per day.
  - (7c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus,
  - (7d) *Distribution charge.* Rates to be negotiated.

- (8) *Service classification: GI-4, interruptible transportation flexible contract service.*
- (8a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.
- (8b) *Contract volume.* Not less than one hundred (100) Mcf nor more than five hundred (500) Mcf per day.
- (8c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus
- (8d) *Distribution charge.* The GI-4 distribution charge shall consist of the following components:
1. The contracted cost of gas as it may vary from time to time, plus
  2. The existing transportation rate on the city's natural gas distribution system as established under the annual pipeline transportation fees of One dollar and seventy-four cents (\$1.74) plus ninety-two cents (\$0.92) local transportation charge net per one (1) MMBTU/day transported for gas transportation service, plus
  3. A seven cent (\$0.07) margin on the contracted cost of natural gas.
- These three (3) components shall determine the monthly cost of any consumer in this class or rate times the number of MMBTUs used by the consumer.
- (9) *Service classification: City of Pensacola.*
- (9a) *Availability.* Available to all current municipally operated buildings and facilities, and current and former municipally operated utilities, and other uses as authorized by the Mayor. Measurement shall be by standard meter as normally used within the city.
- (9b) *Customer charge.* Twenty-two dollars and eighteen cents (\$22.18) fixed monthly charge, plus
- (9c) *Distribution charge.* Three dollars and twenty-four cents (\$3.24) per Mcf.
- (10) *Service classification: GTS, gas transportation service.* (For large volume commercial/industrial consumers).
- (10a) *Availability.* Available to a consumer with sufficient resources for purchasing its own natural gas supplies and transporting it on the city's natural gas system to the consumer's facilities. The city will determine which gate station on the city's interstate pipeline transporter system has adequate capacity to receive the transportation request. There shall be a separate contract with each consumer for each service location which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this service must be for not less than one (1) year.
- Consumers using this service must have adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary.
- (10b) *Contract volume.* Transportation volumes not less than two hundred (200) MMBTU per day. Volume requirements shall be reviewed in determining if a consumer shall qualify for this rate.
- (10c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus
- (10d) *Distribution charge.* Rates to be negotiated.

An additional \$0.0475/MMBTU shall be added to cover administrative, maintenance, and monitoring costs for the transportation distribution on a daily basis. The consumer must notify

the city a minimum of five (5) working days prior to the beginning of each month and identify the volume of the third party gas to be transported on the system during that month.

(11) *Service classification: GPT, gas purchased transportation service.* (For large volume commercial/industrial consumers).

(11a) *Availability.* Available to a consumer using the city's natural gas service. There shall be a separate contract with each consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this service must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(11b) *Contract volume.* Transportation volumes not less than two hundred (200) MMBTU per day. Volume requirements shall be reviewed in determining if a consumer shall qualify for this rate.

(11c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus

(11d) *Distribution charge.* Rates to be negotiated.

A seven cent (\$0.07) margin on the contracted cost of natural gas.

(12) *Service classification: GAF, almost firm service.*

(12a) *Availability.* Available to any consumer using the city's natural gas service. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contract will be executed by the Mayor. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(12b) *Contract volume.* Not less than seventy-five (75) Mcf per day.

(12c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus

(12d) *Distribution charge.* One dollar and seventy-four cents (\$1.74) for annual pipeline transportation fees plus ninety-two cents (\$0.92) local transportation charge net per one (1) MMBTU/day transported for gas transportation service, plus

A seven cent (\$0.07) margin on the contracted cost of natural gas.

(13) *Service classification: GIT, flexible gas transportation service.*

(13a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contract will be executed by the Mayor. Contracts for this service must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(13b) *Customer charge.* Nineteen dollars and ninety-seven cents (\$19.97) fixed monthly charge, plus

(13c) *Distribution charge.* Rates to be negotiated.

(14) *Service Classification: CNG, Compressed Natural Gas Service.*

(14a) *Availability.* Available to any commercial or industrial customer utilizing natural gas for compressed natural gas refueling facilities. Service under this rate classification shall be governed by individual contracts with consumer. Such contract will be executed by the Mayor. Contracts for this service must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(14b) *Distribution charge.* Rates to be negotiated.

(15) *Service classification: GVT, flexible governmental industrial transportation service.*

(15a) *Availability.* Available to all governmental industrial transportation customers utilizing the city's gas services. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contract will be executed by the Mayor. Contracts for this service must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(15b) *Contract volume.* Transportation volumes not less than two hundred fifty (250) MMBTU per day. Volume requirements shall be reviewed in determining if a consumer shall qualify for this rate.

(15c) *Customer charge.* Two hundred dollars (\$200.00) fixed monthly charge, plus

(15d) *Distribution charge.* Seventy cents (\$0.70) per MMBTU.

(16) *Service classification: Street or outdoor lighting.*

(16a) *Availability.* Available to firm residential or commercial customers for continuous street, outdoor lighting, or communications power supply.

(16b) *Monthly rate.*

Communications power supply flat rate .....\$10.85

Gas lights small, up to 2.36 cu. ft. per hour .....\$10.85

Gas lights medium, up to 3.48 cu. ft. per hour .....\$15.95

Gas lights large, up to 4.86 cu. ft. per hour .....\$22.33

(Code 1968, § 98-1(A); Ord. No. 86-82, § 1, 7-22-82; Ord. No. 168-82, § 1, 11-11-82; Ord. No. 17-83, § 1, 1-27-83; Ord. No. 101-83, § 1, 8-11-83; Ord. No. 42-91, § 1, 9-26-91; Ord. No. 4-92, § 1, 2-13-92; Ord. No. 23-93, § 1, 9-30-93; Ord. No. 46-96, § 1, 9-26-96; Ord. No. 49-98, §§ 1—10, 9-24-98; Ord. No. 43-00, § 1, 9-28-00; Ord. No. 12-04, § 1, 5-27-04; Ord. No. 27-07, § 1, 5-24-07; Ord. No. 37-08, § 2, 7-24-08; Ord. No. 16-10, § 161, 9-9-10; Ord. No. 28-11, § 1, 9-28-11; Ord. No. 14-12, § 1, 7-19-12; Ord. No. 25-13, § 1, 9-26-13; Ord. No. 40-14, § 1, 10-9-14; Ord. No. 18-15, § 1, 9-17-15; Ord. No. 27-17, § 1, 9-14-17; Ord. No. 13-18, § 1, 9-13-18; Ord. No. 21-19, § 1, 9-26-19)

Sec. 10-4-20. - Reserved.

**Editor's note**— Ord. No. 14-94, § 5, adopted May 12, 1994, repealed former § 10-4-20, which pertained to charge for lighting gas appliances, as derived from Code 1968, § 98-1(D) and Ord. No. 98-83, § 1, adopted July 28, 1983.

Sec. 10-4-21. - Billing.

The city shall issue and send to the consumers of natural gas and the customers of the natural gas services provided by the city, bills and invoices for natural gas furnished consumers and customers by Energy Services of Pensacola, based upon the schedules on file in the clerk's office.

(Code 1968, § 98-3; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 37-08, § 3, 7-24-08)

Sec. 10-4-22. - Collection of charges.

It shall be the duty of the mayor to collect the charges set forth on the bills and invoices issued to consumers and customers for natural gas services furnished the consumers and customers by Energy Services of Pensacola.

(Code 1968, § 98-4; Ord. No. 26-99, § 6, 7-22-99)

Sec. 10-4-23. - Disposition of funds collected.

Fees that result from installing gas services should accrue to the gas bond and construction account.

(Code 1968, § 98-1(E); Ord. No. 98-83, § 1, 7-28-83; Ord. No. 14-94, § 6, 5-12-94)

#### CHAPTER 10-5. TELECOMMUNICATIONS

REPEAL SECTION 10-5-1.

REPEAL SECTION 10-5-2.