

# City of Ocala Lease Policy

The City of Ocala recognizes the importance of Ocala International Airport to the City, the community, the Florida Aviation System, and the United States Department of Transportation Federal Aviation Administration (FAA). Consequently, it is recommended that the City adopt a policy for the leasing and use of Airport land that is designed to:

- Encourage and ensure stable, essential, and safe aviation services;
- Foster the growth of non-aviation development on Airport land;
- Provide a fair market return to the Airport; and
- Comply with FAA and State obligations, policies and regulations.

This section sets forth the policy of the City of Ocala with respect to the leasing of Airport land and facilities and is arranged as follows:

- 1.0 Effective Date, Revisions, and Renewal
- 2.0 Definitions
- 3.0 Authority
- 4.0 General
- 5.0 Federal and State Requirements
- 6.0 Commercial Activity
- 7.0 Non-Commercial Aeronautical Activity
- 8.0 Airport Lease Categories
- 9.0 Airport Rates, Charges, and Fees
- 10.0 Miscellaneous
- 11.0 Lease Application and Proposal Requirements

## **1.0 EFFECTIVE DATE**

This policy is effective September 20th, 2011, pursuant to Resolution 2011-58 of the City Council.

## **2.0 DEFINITIONS**

Aeronautical Activity - Any activity which involves, makes possible, or is required for the operation of aircraft or which contributes to, or is required for, the safety of such operations and shall include, all activities commonly conducted at Airports such as charter operations, pilot training, aircraft rental, sightseeing, aerial photography, crop dusting, aerial advertising, surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products (whether or not conducted in conjunction with other included activities), repair and maintenance of aircraft, sale or maintenance of aircraft parts accessories radio or communication and navigation equipment, flying clubs, commercial skydiving, ultra-light aircraft operations and any

other activity which, because of its direct relationship to the operation of aircraft, can appropriately be regarded as an “aeronautical activity.”

Airport - The Ocala International Airport, operated by the City of Ocala, Florida.

Airport Advisory Board - The board created to assist the City Council with all non-personnel issues affecting the Airport.

Airport Commercial Lease - A Lease with a Commercial Operator for a nonexclusive right to conduct a specified commercial activity at the Airport.

Airport Development Guidelines - The standards developed to facilitate the short and long term goals for future development at the Airport prepared by the City dated October 16, 2007, as amended.

Airport Layout Plan - The Airport Layout Plan as approved by the Federal Aviation Administration (FAA), as amended.

Airport Manager - The City Manager or his/her designee who has direct supervisory and functional responsibility for the operation and maintenance of the Airport.

Airport Tenant or Tenant - Any person, leasing property or facilities at the Airport under a valid Lease.

Building - Any existing or planned facility, hangar, or T-hangar of wood, concrete, concrete block, or substantial metal construction on a concrete foundation to be located on Airport property and approved by the Airport Manager and the City.

Commercial activity - Any activity by any person, the purpose of which is to secure earnings, income, compensation, or profit, whether such objective or objectives are accomplished or not.

Commercial aircraft - Any aircraft used in the conduct of any commercial activity.

Commercial Operator - A person who conducts any commercial activity which uses the Airport.

Exclusive Right - A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right.

Fixed Base Operator (FBO) - Any person, firm, general or limited partnership, corporation, trust or association making application for, leasing or using any land or facility at the Airport, for the purpose of providing, or engaging in, aeronautical services and/or activities for the public.

Lease - A lease between the City and a Tenant.

Master Plan - Current master plan report as approved by the City, the State, and the Federal Aviation Administration.

Minimum Standards - The qualifications or criteria that have been established by City as *minimum* requirements that must be met as a condition for the right to conduct a *commercial aeronautical activity* on the Airport, as now existing or hereafter amended.

Person - An individual, partnership, corporation, LLC, or similar entity.

Sub-Tenant - A person occupying Airport property under a sublease with a Tenant.

Through the Fence Operation - Access to the Airport by independent operators offering an aeronautical activity, or access to aircraft based on land adjacent to, but not part of, the Airport.

Transient Commercial Aircraft Operator - A person or corporation that provides on demand flying services, is based at another Airport, and only prepositions aircraft, or conducts operations with pre-positioned aircraft, at the Airport.

### **3.0 AUTHORITY OF THE CITY**

The Airport Manager shall at all times have the authority to take those necessary and legal actions required to ensure compliance with the provisions of the following:

- Existing Leases, licenses, permits, and other written agreements between the City and persons at the Airport, including the institution of lawsuits to enforce a Lease.
- This policy, and those other policies, rules or regulations established by the City Council, which apply at the Airport.
- Those temporary restrictions established in accordance with a federal, state, or city mandated activity or plan, or as may be required to safeguard people, aircraft, equipment or property at the Airport.
- Those responsibilities levied on the City by the federal or state governments with regards to Airport Management.

Any person wishing the exclusive use of any parcel of land on the Airport, or of any city-owned or operated facility must enter into a Lease with the City specifying the terms and conditions of such use.

The City Council may establish standard terms and conditions for such agreements by resolution, and may delegate by resolution the authority to execute and terminate such standardized agreements to the Airport Manager.

The Airport Manager may authorize an interim or emergency agreement to occupy or use city-owned improvements and infrastructure by appropriate public agencies. Examples of situations that may be suitable for such authorizations are military or law enforcement activities and the temporary occupation of Airport areas by government agencies during natural disasters, or aircraft accident investigations.

All users of the Airport shall submit to the Airport Manager any report or reports or information regarding their operations at the Airport when and as required by the City Council.

#### **4.0 GENERAL**

An Airport Lease Policy is needed at the Airport to provide a consistent and fair methodology for establishing Airport Leases. The Airport Lease Policy reflects the following:

**A. Provision of Essential Aviation Services** - Essential aviation services are needed at the Airport to provide for the aviation needs of the local community, region, and Florida Aviation System. The Lease policy will encourage and require the provision of stable, efficient, and safe aviation services.

**B. Aviation Growth** - The Airport Lease Policy will recognize that aviation use of Airport land is primary and will foster the stable growth of aviation at the Airport. Non-aviation uses of Airport land will be permitted only on portions of Airport land not needed for aviation purposes, as set forth in the Airport Master Plan. Non-aviation uses of Airport land will be in accordance with FAA policy and Airport rates and charges. Areas reserved for long-term aviation needs may be used for non-aviation purposes on a temporary basis if such short-term use does not conflict with the existing operation of the Airport or long-term expansion plans.

**C. Lease Revenues** - All revenues from aviation and non-aviation Leases will remain in the City's Airport fund and will be expended only for development, management, maintenance, operating, and/or other expenses directly related to the Airport.

**D. Minimum Operating Standards/ Rules & Regulations** - Any person, partnership, firm or corporation desiring to establish or renew a Lease to engage in any activity at the Airport must do so in accordance with current Airport Minimum Operating Standards and Rules and Regulations as may be amended by the City.

**E. Uniform Application of Policies, Standards, and Regulations** - The City of Ocala desires to make the opportunity to engage in commercial aeronautical activities available to any qualified person that meets reasonable standards. The City desires to require compliance with all standards and regulations on a uniform and objective basis, without unjust discrimination. The City will allow the safe and efficient use of the Airport by all types, kinds, and classes of aeronautical activity; however, the City may restrict or prohibit any type, kind, or class of activity that compromises the safety or efficiency of the Airport. Non-standard terms successfully negotiated by Tenant are not transferable or assignable and will be specifically noted as such in the Lease.

This policy is designed to promote fairness and consistency, be applied uniformly, and prohibit economic discrimination relative to aviation Leases. This shall not preclude the City from approving other Leases pursuant to Resolution 2011-58.

#### **5.0 FEDERAL AND STATE REQUIREMENTS**

In accepting Federal and State grants for the development of Ocala International Airport, the City of Ocala has agreed to assume numerous obligations pertaining to the operation, use and maintenance of the Airport. Most of these federal obligations are embodied in Federal Grant Applications for federal assistance as sponsor assurances and legally bind the City to compliance with their provisions. The State obligations are embodied in Exhibit "C" of the City's Joint Participation Agreements (JPA) with State.

The City of Ocala desires to maintain full compliance with all Federal and State obligations, policies, and regulations. Many of these obligations relate directly to the leasing of Airport land and are contained within FAA Order 5190.6A, Airport Compliance Handbook, and the FAA publication "Terms and Conditions of Accepting Airport Improvement Program Grants".

The prime obligation of the City of Ocala is to operate the Airport for the use and benefit of the public. Associated with this obligation is the obligation to make available suitable areas or space on reasonable terms to those who are willing and otherwise qualified to offer aeronautical services to the public or support services to aircraft operators. Accordingly, unless the City provides these services it shall negotiate in good faith for the lease of such premises as may be available for the conduct of aeronautical activities.

Accordingly, it is hereby the policy of the City of Ocala to:

- Operate the Airport for the use and benefit of the public, and to make it available for all types, kinds, and classes of aeronautical activity.
- Make the opportunity to engage in commercial aeronautical activities available to any person, firm, or corporation that meets reasonable minimum standards established by the City.
- Limit or prohibit any given type, kind, or class of aeronautical use of the Airport if such action is necessary for the safe operation of the Airport or necessary to serve the civil aviation needs of the public.
- Impose terms and conditions on those offering services and commodities to the public which are related to aeronautical activity only on a fair and reasonable basis and without unjust discrimination.
- Make facilities available to the public on fair and reasonable terms and without unjust discrimination.
- Endeavor to make the Airport as self-sustaining as possible.
- Implement revisions to adopted minimum standards only when the purpose of such revisions is to improve the quality of services to the public and/or promote fairness among tenants.
- Rates, charges, and fees derived from Lease of facilities will be at fair market rental value or higher.
- The Airport and all facilities which are necessary to serve the aeronautical users of the Airport, shall be operated all times and safe and serviceable condition and in accordance with the

minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation. The City will not permit any activity or action which would interfere with the operation of the Airport for Airport purposes.

## **6.0 COMMERCIAL ACTIVITIES**

All Commercial Operators, other than Transient Commercial Aircraft operators, shall enter into an Airport Commercial Lease, on those terms and conditions established by resolution of the City Council, before beginning the conduct of any commercial activity, basing an aircraft on the Airport, or occupying any property upon the Airport

Persons who have not entered into a Lease, other than transient aircraft operators, or those otherwise permitted by this chapter, are prohibited from offering any commercial service to the public upon or within the boundaries of the Airport. The holder of an Airport Commercial Lease will be authorized to conduct only those legal commercial activities approved in the Lease. Extensions to existing Airport Commercial Leases will not establish new activities in which the commercial subtenant may engage.

### **Exempted Commercial Activities**

Certain Commercial Operators offer services to the public at the Airport in common with the rest of the community, and do not require the Airport for the conduct of their business. These activities are currently exempted from the requirement to obtain an Airport Commercial Lease, and are only requested to obtain those permits and licenses required by law. These exempted activities currently include:

- Taxicabs, limousines, and hotel/motel shuttle buses.
- Mail and package pickup and delivery at fixed Airport addresses (this does not exempt mail and package pickup and/or delivery to or from an aircraft).
- Public utilities and services contracted by the City.
- Landscaping and janitorial services.
- Tow trucks.
- Small businesses engaged in non-aeronautical commercial activities, located in approved Airport office suites, subleasing or renting from Airport tenants authorized to sublet such space.
- Licensed general contractors, plumbers, electricians, and similar construction trade persons.

## **7.0 NON COMMERCIAL AERONAUTICAL ACTIVITY**

Persons desiring to “home base” an aircraft at the Airport for non-commercial purposes shall execute a Lease or enter into a sublease with an existing tenant, appropriate to the type of storage facility utilized, with the City and pay all fees, rates, and charges as established by City Policy, and be bound to all Airport rules, regulations, and policies.

## **Non-profit clubs and organizations.**

Non-profit clubs and organizations shall enter into a Lease with the City prior to basing offices, facilities, personnel, or aircraft at the Airport. Such agreement shall include those terms and conditions under which the club or organization may operate. Only clubs or organizations possessing a 501(c) (3) tax exemption from the Internal Revenue Service, or which are registered as a Florida non-profit corporation, may be based at the Airport. Non-profit clubs shall not offer any goods or services whatsoever to any person other than another member of the same club.

## **8.0 AIRPORT LEASE CATEGORIES**

Leases and rates and charges at the Airport are established in accordance with aviation and non-aviation categories, as follows:

**A. Aviation** - Includes Fixed Base Operators (FBO's), , and any other commercial or non-commercial aeronautical aviation activity.

**B. Non-aviation** - The non-aviation category includes all non-aeronautical uses of the Airport land such as restaurants, motels, and commercial/industrial parks, corporate and recreational facilities.

## **9.0 AIRPORT RATES AND CHARGES**

The City Council may establish by resolution those fees and charges, and those terms and conditions it deems appropriate and applicable to Leases. Daily use fees may be suspended by the Airport Manager for special events.

In establishing base rental and other fees at the Airport, the City's primary objective is to ensure the provision of, at least, essential aviation services to the community and, at least, offset the cost of maintaining, operating, and developing the Airport. The secondary objective is to obtain fair market revenues from non-aviation uses of Airport land, and to achieve financial self-sufficiency for the Airport through these revenues.

### **A. Base Minimum Rental**

**Aviation** - The minimum annual base rental shall be between eight and twelve percent (8% - 12%) of the appraised fair market value of the leased land and improvements. Small parcels of one acre or less shall increase at three percent (3%) annually, larger parcels of more than one acre shall have rates that are reviewed annually and adjusted in accordance with the All Items South Urban (not seasonally adjusted) Consumer Price Index (CPI-U).

**Non-aviation** - Current marketable rates shall be charged, but these rates will not be lower than a minimum annual base rental of between eight and twelve percent (8% - 12%) of the appraised fair market value of the leased land. Every effort will be made to obtain a maximum fair return. Annual adjustments will be made in accordance with the CPI-U. Appraised value will be based on fair market value.

## **B. Other Fees**

In addition to the base minimum rental, other fees for new or renewed aviation and non-aviation Leases may be negotiated by the Airport Manager. These fees may include, but are not limited to, fuel flowage, percent of gross revenues, and others appropriate to the type of business. These fees are subject to approval of the City, and shall be imposed with fairness and consistency, and without unjust discrimination.

### **10.0 Miscellaneous**

1. Any individual, partnership, firm or Corporation desiring to initiate or renew a Commercial Activity at the Airport must prove financially and technically able. Prior to City Council review of any application or renewal, the Tenant, or proposed Tenant, shall furnish a statement of financial condition, certified by an officer of the firm as to its correctness.

2. Any individual, partnership, firm, or corporation desiring to construct an aircraft hangar on Airport property may do so on a site approved by the City, not in conflict with existing uses, and in conformity with the Airport Master Plan and Development Policy of the Airport. The facility must have a life expectancy of at least 40 years. All construction plans must be approved by the City. The Lease will contain requirements that the Tenant maintain the Building to stringent standards so that at the end of the Lease period, the Building will be in a high-class condition, reasonable wear and tear is expected. The Tenant shall be limited to uses of these Buildings for only those purposes specifically defined by the Lease, and shall not be authorized to engage in any additional activities which may conflict with Airport minimum operating standards.

3. The Tenant shall be required to obtain and maintain insurance on the Building and other assets in sufficient amounts to allow reconstruction at then current costs, and to hold the City harmless from any claim. All Tenant insurance coverage will be approved annually by the Airport Manager. The Airport Manager shall consult the City's insurance carrier with regard to recommended policy limits prior to entering into a Lease or annual insurance renewal.

4. No additional business activity, not specifically authorized by the Lease, shall be conducted without the prior written approval of the City.

### **11.0 Lease Application Process & Proposal Requirements**

#### **Leasing of Facilities at Ocala International Airport**

*Any individual, firm, or corporation desiring to lease Airport facilities shall be required to submit a written application containing the items specified herein. The City shall review, evaluate, and act upon the application within a period of 90 days from receipt of the completed application following the procedures contained in this section.*

#### **Lease Proposal Requirements**

The City will not accept, or take action on, a request to lease Building space or land area, or a request for assignment of an existing Lease, or in any way permit the installation of a Commercial Activity

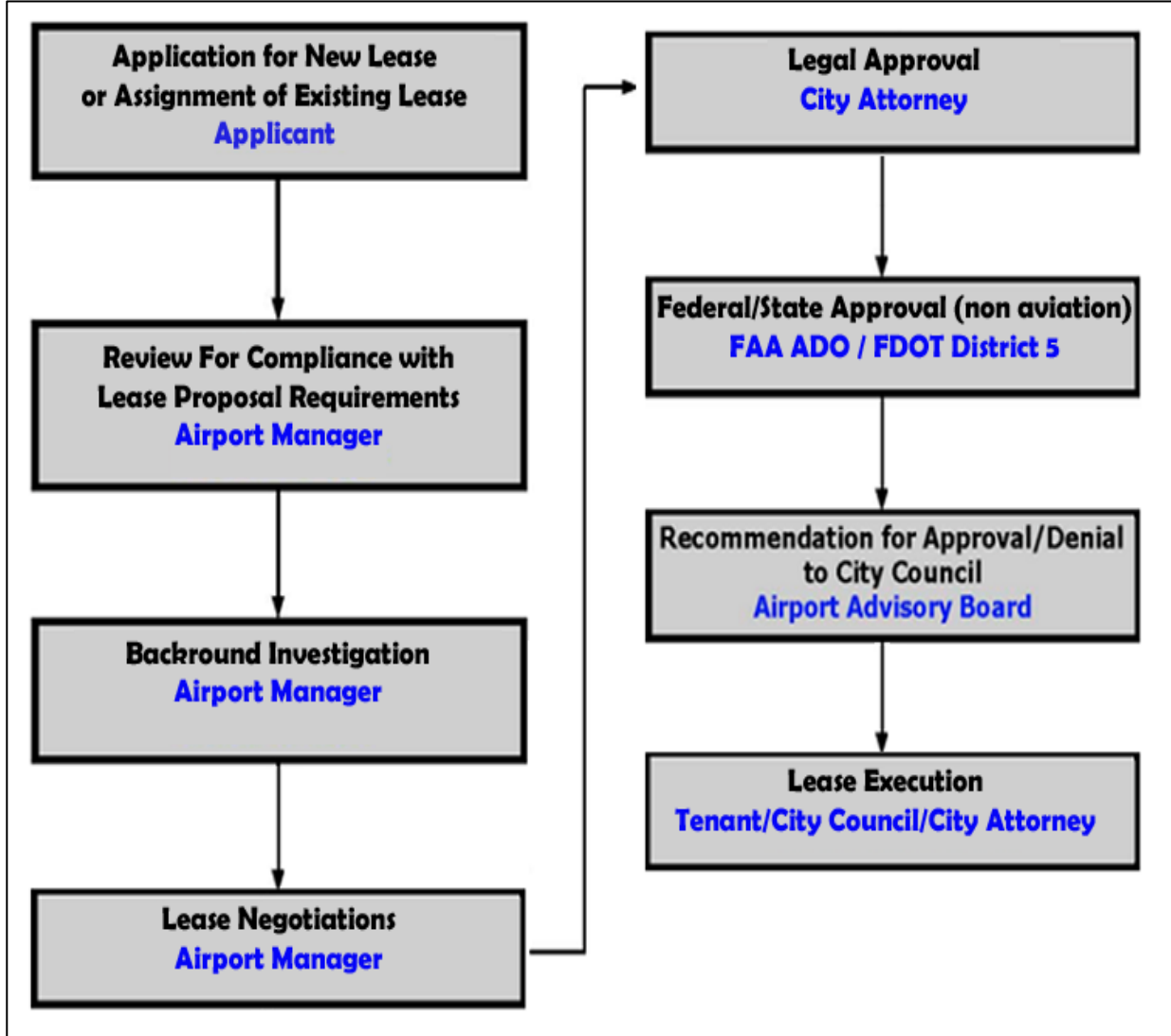


until after the proposed Lessee, in writing, submits a proposal, which clearly sets forth the scope and type of operations being proposed, including the following:

1. A description of the proposed Commercial Activity and detailed business plan.
2. The names of all parties owning an interest in the business and those that will be directly responsible for the day to day management of the business.
3. The amount of land Tenant desires to lease.
4. The facilities to be constructed or leased.
5. The services to be offered, hours of proposed operation, number of persons to be employed, and the number of aircraft to be based at the Airport.
6. Certificate of Insurance or other satisfactory evidence indicating the capability to obtain coverage as required.
7. Evidence of financial capability (including current financial statement) to perform and provide the services and facilities proposed.
8. Historical evidence of satisfactory performance of previous similar Commercial Activity at other locations, including dates and location. Record of any insolvency or bankruptcy proceeding in any past business relationships.
9. Aeronautical qualifications including years' experience in proposed operation, past experience in other related activities, and four references.
10. Other information the City may require and specifically request.
11. Payment of application fee in an amount sufficient to reimburse City for review, processing and background investigation.

Lease Application / Proposal Process

← 90 Days from Receipt of Application →



## **CITY APPLICATION REVIEW AND ACTION**

Following receipt of an application for Lease of Airport facilities, or assignment of an existing Airport Lease, the Airport Manager shall evaluate the application(s) on the basis of the items specified in “Lease Proposal Requirements”. A background investigation shall be performed relative to criminal history, immigration status, credit worthiness and past business performance. The Airport Manager shall forward the results of the background investigation of applicants to the Airport Advisory Board, which shall make a recommendation for approval or denial.

City will attempt to review and act upon all applications within 90 days from the receipt of the application. This time period may be extended to provide sufficient opportunity to provide information or to comment on a proposed Lease. Applications may be denied for one or more of the following reasons:

1. The application does not comply or meet this policy.
2. The applicant does not meet qualifications, standards and requirements established by Minimum Standards.
3. The applicant’s proposed operations or construction will create a safety or security hazard.
4. The granting of the application will require unauthorized expenditure of local funds, labor or materials on the facilities described in, or related to, the application, or the operation will not provide the minimum rate of return specified in the City Lease Policy.
5. There is no appropriate or adequate available space or Building on the Airport to accommodate the entire activity of the applicant.
6. The proposed operation, Airport development or construction does not comply with the approved Airport Layout Plan or Airport Development Guidelines.
7. The development or use of the area requested will result in a congestion of aircraft or Buildings, or will result in excessive interference with the operations of any existing Tenant on the Airport, such as preventing free access and egress, or will result in depriving, without the proper economic study, an existing Tenant of portions of its leased area in which it is operating.
8. A party applying, or having an interest in the business, has supplied false information, or has misrepresented a material fact in the application or in supporting documents, or has failed to make full disclosure on the application.
9. A party applying, or having an interest in the business, has a record of violating the Rules, or the Rules and Regulations of any other Airport, Civil Air Regulations, Federal Aviation Regulations, or any other rules and/or regulations applicable to this or any other Airport.
10. A party applying, or having an interest in the business, has defaulted in the performance of any Lease or other agreement with the City or any lease or other agreement at any other Airport.

11. A party applying, or having an interest in the business, is not sufficiently credit worthy and responsible in the judgment of the City to provide and maintain the business to which the application relates, and to promptly pay amounts due under the Lease.
12. The applicant has committed a crime, or violated a local ordinance, rule, or regulation, which adversely reflects on its ability to conduct the operation applied for, or otherwise renders applicant unsuitable.
13. Any other reason that would result in an activity deemed not consistent with City Policy, or not be in the best interest of the City of Ocala or National and/or Florida Aviation System.
14. The applicant proposes a “Through the Fence” operation.

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