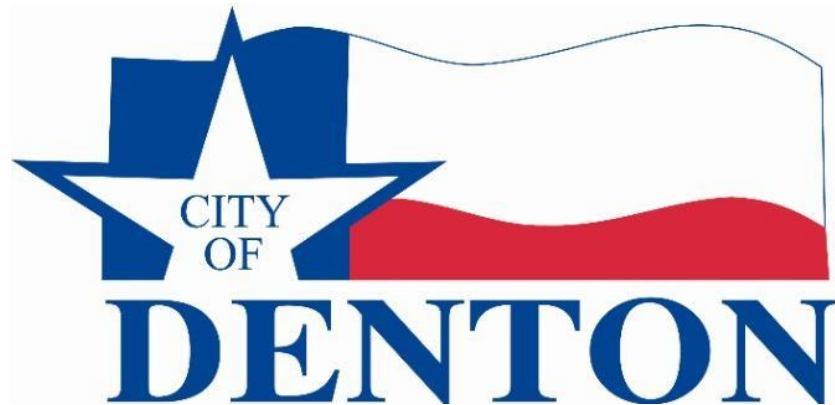


Denton Enterprise Airport ***DTO***

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CHAPTER 3 – AIRPORT



REVISIONS

REVISION NO.

1

DATE

TBD

SECTION

Removed all references to Council Airport Committee in the Definitions, 3-121, 3-124, 3-202, 3-505, 3-705, 3-805, and 3-807.

3-109, added leases and certain licenses or other agreements to Airport Advisory Board responsibilities.

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ARTICLE I. - IN GENERAL

Secs. 3-1—3-100. - Reserved.

Sec. 3-101. - Definitions.

The following words and phrases, whenever used in this chapter or documents promulgated hereunder, shall be construed as defined in this section unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases. All definitions contained in 49 U.S.C. § 40101 et seq. (previously known as the Federal Aviation Act of 1958, hereinafter cited as "FAA Act") and all amendments thereto shall be considered as included herein; and all definitions shall be interpreted on the basis and intention of the FAA Act and amendments thereto, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

Abate or abatement means to put an end to or correct a violation of this chapter.

Aeronautical Activity means any activity or service which involves, makes possible, or is required for the operation of aircraft, or contributes to, or is required for, the safety of such operations. "Aeronautical activities" include, but are not limited to, charter operations (under either Federal Aviation Regulation (FAR) Part 121 or 135), charter brokerage, aircraft hangar leasing, pilot training, aircraft rental and sight-seeing, aerial photography, crop dusting, fire suppression, aerial advertising and surveying, aircraft sales, leasing, and servicing, aircraft management, and sale of aviation petroleum products, whether or not conducted in conjunction with other included activities which have a direct relationship to the operation of aircraft, repair and maintenance of aircraft, sale of general aviation aircraft parts, and any other activities which because of their relationship to the operation of aircraft can appropriately be regarded as an "Aeronautical Activity."

Airport Business Permit means administrative approval issued by the Airport Manager to a person to conduct commercial aeronautical activity and to provide such services to based and transient aircraft on the Airport exclusively within facilities on the Airport at which such services are authorized.

Airport means all of the City owned or leased real or personal property comprising Denton Enterprise Airport as now exists or as may hereafter be expanded and developed. "Airport" includes all of its facilities as shown on the most current Airport Layout Plan.

Airport Advisory Board means the duly appointed seven-member Airport Advisory Board of the City.

Airport Appeals Board means a body consisting of the Chairman of the Airport Advisory Board, another Airport Advisory Board member appointed by the Chairman, and a City representative appointed by the City Manager or his designee.

Airport Manager means the duly appointed manager of the City's Airport or the City Manager's designee.

Based means an aircraft: (1) which the owner physically locates at the Airport with the intent and purpose to remain for an undetermined period; (2) which, whenever absent from the Airport, its owner intends to return to the Airport for permanent storage; and (3) whose presence in the Airport is not transitory in nature. Based includes an aircraft that is located at the Airport for a limited or seasonal duration.

City means the City of Denton, a Texas home-rule municipal corporation.

City Attorney means the duly-appointed attorney for the City or his designee. The City Attorney's office includes both the Civil and Criminal divisions.

Commercial activity means the conduct of any aspect of a business, concession, or service in order to provide goods or services to any person for compensation. An activity is a commercial activity even if it is bartered or the business is nonprofit, charitable, or tax-exempt.

Permission or permit means permission granted by the City.

Person means the state, county, a political subdivision of the state, other governmental entity, a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual. Person includes a trustee, receiver, assignee, or similar representative.

Runway means a defined area on the Airport for aircraft landings and takeoffs along its length.

Sec. 3-102. - General conditions of use.

The conditions under which the Airport or any of its facilities may be used shall be as established pursuant to this chapter or otherwise by the City Council.

Sec. 3-103. - Permission to use Airport conditional; denial of permission.

Any permission granted by the City directly or indirectly, expressly or by implication, to enter upon or use the Airport or any part thereof, including but not limited to, operators, off-Airport users, crew members and passengers, spectators, sightseers, pleasure and commercial vehicles, officers and employees of airlines, lessees and other persons occupying space at the Airport, persons doing business with the Airport, its lessees, sublessees, and permittees, and all other persons whatsoever, whether or not of the type indicated, is conditioned upon compliance with this chapter and any rules, regulations, or minimum operating standard promulgated hereunder. Entry upon or into the Airport by any person shall be deemed to constitute an agreement by such person to comply with this chapter. The City reserves the right to deny any or all usage of the Airport to any person or persons for any cause.

Sec. 3-104. - Consent of City.

Unless expressly provided otherwise, any consent or other permission of the City under this chapter must be obtained in advance, in writing, and signed by the Airport Manager.

Sec. 3-105. - Notices and applications.

Unless expressly provided otherwise, any notice or application to the City must be given in writing to the Airport Manager during normal business hours at the Airport administration office in the terminal building.

Sec. 3-106. - Adopted by reference.

The following publications, on file with the City Secretary, are hereby adopted by reference as if set out at length in this chapter:

- (a) Denton Enterprise Airport Rules and Regulations and any amendments thereto as may be approved by the Airport Advisory Board.
- (b) Denton Enterprise Airport Minimum Operating Standards and any amendments thereto as may be approved by the Airport Advisory Board.
- (c) Denton Enterprise Airport Rates and Fees Schedule and any amendments thereto as may be approved by the Airport Advisory Board and City Council.

Sec. 3-107. - Conflicting laws, ordinances, regulations, and contracts.

- (a) In any case where a provision of this chapter, rules and regulations, minimum operating standards, or rates and fees schedule adopted hereunder is found by the City Attorney to be in conflict with any other provision of this chapter or regulations adopted hereunder or in conflict with a provision of any zoning, building, fire, safety, health, or other ordinance or code of the City, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- (b) In cases where two (2) or more provisions of this chapter are in conflict, the most stringent or restrictive shall prevail.
- (c) It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or to excuse any person from performing obligations to the City under any lease or other contract.
- (d) No existing or future City contract, lease, agreement, or other contractual arrangement, nor any payment or performance thereunder, shall excuse full and complete compliance with this chapter. Compliance with this chapter shall not excuse full and complete compliance with any obligations to the City under any existing or future City contract, lease, agreement, or other contractual arrangement.
- (e) Compliance with this chapter does not excuse failure to comply with any other law.

Sec. 3-108. - Application.

Except where expressly limited by its terms, this chapter is effective throughout the City.

Sec. 3-109. - Airport Advisory Board.

- (a) There is created an Airport Advisory Board consisting of seven (7) members who shall meet the qualifications and residency requirements as provided in section 2-61 of the Code of Ordinances.
- (b) All members shall be appointed by the City Council for terms not to exceed two (2) years, and continue in office until their successors are appointed.
- (c) The Airport Advisory Board shall establish bylaws to govern its affairs. The bylaws shall designate:
 - (1) Officers of the Airport Advisory Board, the time and manner of their election, the term of office, and the powers and duties of each officer.
 - (2) The time, place, and manner of notice of all regular and special meetings in compliance with the Texas Open Meetings Act.
 - (3) The manner of adoption, amendment, and repeal of Airport Advisory Board bylaws.
 - (4) Such other provisions as may be deemed necessary or desirable which are not contrary to the provisions of any ordinance or resolution, the City charter, or the laws of this state or the United States, to aid the Airport Advisory Board in conducting its affairs.
- (d) The Airport Advisory Board shall, with the assistance of City staff, advise the City Council as necessary on matters related to:
 - (1) Airport safety;
 - (2) Flight and ground operations;
 - (3) Safety and security issues arising from the creation and development of long-term master plans;
 - (4) Tenant/stakeholder outreach;
 - (5) Airport business plan and airport master plan as now written or hereafter amended or enacted;
 - (6) Airport infrastructure improvements or other major project impacting the Airport;
 - (7) Acquisition, review, and consideration of grant funding for the Airport;
 - (8) Long-term financial planning and budgetary issues affecting the Airport;
 - (9) Issues raised as a result of interface between citizens, airport tenants, or other interested parties;
 - (10) All leases of City-owned Airport property and those Airport licenses or other such agreements not meeting the criteria set forth in subsection 3-121(2); and
 - (11) Other Airport matters as may from time to time, be assigned by the City Council, or requested by the City manager or his or her designee.

- (e) The City Manager, or his or her designee, will act as staff liaison to the Airport Advisory Board, and will provide guidance and assistance to the board and shall be responsible for insuring that records are maintained in accordance with the requirements of the City Secretary's office.
- (f) The Airport Advisory Board shall meet not less than monthly unless any such meeting is cancelled by the Board Chairman after consultation with the City Manager, or his or her designee.
- (g) The Airport Advisory Board shall perform such other duties as are imposed on the Airport Advisory Board by this chapter.
- (h) The City Council shall have the right and prerogative to initiate review of any decision of the Airport Advisory Board and shall uphold, modify, or overrule said decision.

Sec. 3-110. - Effect of agreements with federal government.

All lease agreements, permits, and other contractual or governmental arrangements to which the City may be a party shall be subordinate to the provisions of any existing or future agreement between the City and the United States relative to the operation and maintenance of the Airport.

Sec. 3-111. - Conformance with federal, state, and other rules, regulations, and agreements.

- (a) No person shall navigate, land aircraft upon, or conduct any aircraft or other operations on or from the Airport, nor shall any person engage in any other Aviation Activity at the Airport or elsewhere within the City, otherwise than in conformity with the requirements of the Federal Aviation Administration and all other applicable federal, state, and City laws, statutes, ordinances, rules, regulations, and minimum operating standards.
- (b) Any use of the Airport by any Person constitutes that Person's agreement to conform in all respects to the requirements of any grant agreements by the City with the State of Texas, the United States, and any other governmental entity.

Sec. 3-112. - Liability of City.

The City is not responsible or liable for any loss, injury, or damage to persons or property on the Airport, or using Airport facilities, for any reason, including but not limited to fire, civil disorder, criminal activity, theft, vandalism, winds, flood, earthquake, collision, act of third parties or otherwise, or acts contrary to this chapter or any regulations promulgated hereunder.

Sec. 3-113. - Indemnification.

- (a) To the fullest extent permitted by law, any Person accessing or using the Airport or any of its facilities, and the Person's successors, assigns, and guarantors, must indemnify, defend, and hold harmless, the City, its agents, employees, elected and appointed officials, directors, officers, commissioners, board members, and representatives from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, and expenses (including, but not limited to,

claims adjustment, attorney fees, and court costs), related to, arising from or out of, or resulting from:

- (1) Any negligent or intentional actions, acts, errors, mistakes, or omissions caused in whole or in part by such Person, or the Person's employees or agents; or
- (2) The exercise of any rights or privileges under the Denton Code of Ordinances, Chapter 3, or under the Airport Minimum Operating Standards, and Airport Rules and Regulations.

(b) This section includes, but is not limited to, environmental claims for property damage, cleanup, response, removal, and remediation.

Sec. 3-114. - Forms.

The Airport Manager shall have authority to specify forms to be used for applications, permits, reports, and other documents required under this chapter and to reject any documents not conforming to said forms.

Sec. 3-115. - Supplementing information.

Within fifteen (15) calendar days after any discovery of a material misstatement, omission, or other inaccuracy or material change in any information contained in any application, report, or other document provided to the City, the person submitting the information shall inform the City in writing of the inaccuracy or change and shall provide the City with the correct information in writing.

Sec. 3-116. - Payment of fees and charges.

No Person shall perform any activity for which a fee or charge is imposed under this chapter without first reporting the activity to the City and paying the appropriate fee to the City (as identified in the Airport Minimum Operating Standards and/or Airport Rates and Fees Schedule). Notwithstanding the preceding sentence, when a reporting procedure in this chapter specifically provides for subsequent reporting, prior reporting is not required. Fees, rates, and charges for use of any Airport facilities and for any service or accommodations provided by the City shall be established in the same manner as rules and regulations are established under this chapter. Nothing in this chapter impairs or limits the City's ability to impose fees or charges by contract.

Sec. 3-117. - Airport-related fee administration and collection.

The administration and collection of Airport-related fees is vested in the Airport Manager, or his designee. Except as expressly stated to the contrary in this chapter, all procedures, remedies, requirements, penalties, and other provisions for the determination, administration, and collection of other City fees shall apply to Airport-related fees.

Sec. 3-118. - Payment of bills and default of obligations.

All City billings are payable upon presentation. When any Person is formally notified that said Person is held in default of any written or implied obligation to the City, whether

it be for breach of performance, services, covenants, or nonpayment, the Person shall thereafter be billed for all losses of revenue and expenses incurred to reestablish performance or service and other costs, unless the Person files with the City, within ten (10) calendar days of receipt of the formal notification, a statement that corrective or preventive measures have been initiated and will diligently be carried out. If the promises contained in the statement are not fulfilled, the Person will be considered in absolute default and appropriate lawful steps will be initiated by the City.

Sec. 3-119. - Repealer and savings clause.

The effective date of this chapter shall be fourteen (14) days following the date this ordinance is adopted by the City Council. All future duties and obligations thereafter arising under the pre-existing Chapter 3 of the Denton Code of Ordinances shall cease, but liability for fees and violations of the pre-existing Chapter 3 of the Denton Code of Ordinances as of the effective date of this ordinance are preserved and continue unaffected by this ordinance.

Sec. 3-120. - Severability.

If any section, subsection, paragraph, sentence, clause, phrase, or portion of this chapter should be declared invalid or unconstitutional for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; the City Council of the City of Denton declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional; and, to this end, the provisions of this chapter are hereby declared to be severable.

Sec. 3-121. - Use of City-owned Airport property.

The Airport Manager may enter into a lease, license, permit, or other such agreement for the use of any City-owned Airport property, including but not limited to, land, buildings, office space, counter space, and aircraft storage facilities, subject to the following conditions:

- (1) Any lease of City-owned Airport property shall be in a form approved by the City Attorney and subject to recommendation by the Airport Advisory Board and approval of City Council.
- (2) Any Airport license or other such agreement shall be in a form approved by the City Attorney, with a term of three (3) years or less and a minimum of a thirty (30) calendar day cancellation clause. Any license or other such agreement not meeting these criteria shall be subject to recommendation by the Airport Advisory Board and approval of City Council.
- (3) Any Airport permit shall be in a form approved by the City Attorney and shall remain in effect until such time as the permittee requests cancellation in writing, or the permit is revoked pursuant to division 4 of this chapter.
- (4) Any use of City-owned Airport property for commercial aeronautical activities is subject to the requirements of the Airport Minimum Operating Standards.

Sec. 3-122. - Access keys/codes/gate access devices/access cards.

- (a) Persons who have been provided a key, code, gate access device, or access card to obtain access to the Airport shall only use Airport-issued key/codes/devices/cards and shall not divulge, duplicate, or otherwise distribute the same to any other Person, unless otherwise approved in writing by the Airport Manager.
- (b) If a gate access key, device, or access card is found in the possession of an unauthorized Person, the device/card shall be confiscated by the Airport Manager and the Person shall be escorted off the airside area.
- (c) A gate access device or access card that has not been used in one hundred eighty (180) consecutive days shall be deactivated.

Sec. 3-123. - Permit not transferable.

No lease, license, permit, or agreement shall be assigned, transferred, or in any other manner set over to another person without the prior written consent of the City.

Secs. 3-124—3-200. - Reserved.

ARTICLE II. - RULEMAKING AUTHORITY

Sec. 3-201. - Airport Rules and Regulations.

The Airport Manager is authorized to establish or amend such rules, regulations, and minimum operating standards as are necessary or useful to carry out or supplement the provisions of this chapter and provide for the orderly and safe operation of the Airport.

Sec. 3-202. - Limitation on rules and regulations by Airport Manager.

- (a) No rule, regulation, or minimum operating standard established by the Airport Manager shall be effective until fourteen (14) calendar days after it is approved by the Airport Advisory Board. Any regulation established by the Airport Manager shall be posted in the lobby or other area of the Airport terminal building open to the public during normal business hours for a period of not less than five (5) calendar days prior to approval by the Airport Advisory Board.
- (b) No regulation established by the Airport Manager shall increase fees identified in the Airport Rates and Fees Schedule.
- (c) Creation or modification of any fee is subject to approval by the Airport Advisory Board and the City Council.

Sec. 3-203. - Posting and filing of documents.

Airport Rules, Regulations, Minimum Operating Standards, and Rates and Fees Schedule shall be filed with the City Secretary. All amendments to these documents shall be filed with the City Secretary.

Sec. 3-204. - Emergency rules and regulations.

With the approval of the City Manager, the Airport Manager has authority to impose emergency regulations. Such emergency regulations are limited to a forty-five (45) calendar day duration and take effect immediately upon execution by both the Airport Manager and the City Manager, and posting of copies of the regulations at the Airport terminal building and at two (2) other public places within the City. Each emergency rule or regulation shall be reviewed and established as a permanent rule or regulation at the next regularly scheduled Airport Advisory Board meeting.

Secs. 3-205—3-300. - Reserved.

ARTICLE III. - AIRPORT BUSINESS PERMITS

Sec. 3-301. - Airport Business Permit required.

No Commercial Aeronautical Activity shall be conducted by any Person at the Airport without said person being in possession of a valid Airport Business Permit. Each Person holding an Airport Business Permit must hold a valid and current sales and use tax permit issued by the state, if such license is required by the state. Issuance of an Airport Business Permit does not entitle the holder to possess, occupy, or exclusively use any portion of the Airport, grant any exclusive right to conduct any business or activity, or authorize any conduct prohibited by zoning laws or any other applicable law.

Sec. 3-302. - Airport Business Permit applications.

Except as specifically stated otherwise in this chapter, an application for an Airport Business Permit is subject to approval by the Airport Manager as indicated in the Airport Minimum Operating Standards, and is subject to ratification by the Airport Advisory Board at its next regularly scheduled meeting. The City is not responsible or liable for any loss, injury, or damage as a result of the failure of the Airport Advisory Board to ratify an administrative approval of an Airport Business Permit. Each application for an Airport Business Permit shall be accompanied by the following:

- (1) An Airport Business Permit application;
- (2) All information identified in section 2-1 of the Airport Minimum Operating Standards; and
- (3) Such other information as the Airport Manager may reasonably request.

Sec. 3-303. - Temporary Airport Business Permits.

Notwithstanding section 3-302, the Airport Manager shall have authority to issue temporary Airport Business Permits and to establish procedures relating thereto. Such temporary permits shall cover a single period of not more than sixty (60) consecutive days identified on the permit. No more than one (1) temporary permit shall be issued to any Person in any twelve (12) month period. Each application for a temporary Airport

Business Permit shall be accompanied by an Airport Business Permit form and any other applicable documentation as determined by the Airport Manager.

Sec. 3-304. - Permit display.

Any Person conducting commercial Aeronautical Activity shall, upon demand, produce the Airport Business Permit to a City representative for inspection.

Sec. 3-305. - Duration of permit.

An Airport Business Permit shall remain in effect so long as the permittee complies with all of its terms, conditions, and covenants.

Sec. 3-306. - Nonwaiver of defaults.

The waiver by the City of any breach by the permittee of any term, covenant, or condition of any permit shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition of the permit. No term, covenant, or condition thereof can be waived except by the written consent of the Airport Manager, and forbearance or indulgence by City, in any regard whatsoever, shall not constitute a waiver of the term, covenant, or condition to be performed by permittee, and until complete performance by permittee of the term, covenant, or condition, the City shall be entitled to invoke any remedy available to it hereunder or by law, despite such forbearance or indulgence.

Sec. 3-307. - General conditions for all permits.

The City is neither a joint venturer with, nor a partner or associate of, the permittee with respect to any manner provided for in the permit. Nothing herein contained shall be construed to create any such relationship between the parties or to subject the City to any obligation of the permittee whatsoever. The permit is a license and not a lease.

Sec. 3-308. - Insurance.

- (a) The operator, lessee, licensee, permittee, or other person using the Airport, required to obtain and maintain insurance under the Airport Minimum Operating Standards, shall, at their own expense, obtain and maintain a general liability policy or Airport premises policy from an insurance company authorized to do business in Texas, with the minimum coverage required by the applicable Airport Minimum Operating Standards. All policies, except Workers' Compensation, shall name the City of Denton, its agents, employees, elected and appointed officials, directors, officers, commissioners, board members, and representatives as Additional Insureds.
- (b) The operator, lessee, licensee, permittee, or other person using the Airport, is responsible for working with an informed and reputable insurance representative to understand and obtain all the applicable insurance required by the Airport Minimum Operating Standards.
- (c) The City does not represent or warrant that the types of coverage or minimum limits contained in the applicable Airport Minimum Operating Standards are

sufficient to protect any Airport user from liabilities that might arise out of the access or use of the Airport, or any of its facilities.

Secs. 3-309—3-400. - Reserved.

ARTICLE IV. - ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 3-401. - Violations.

- (a) It shall be unlawful for any Person to cause, facilitate, aid, or abet any violation of any provision of this chapter, or any rules, regulations, or minimum operating standards promulgated hereunder, or to fail to perform any act or duty required by this chapter or rules, regulations, or minimum operating standards promulgated hereunder.
- (b) When two (2) or more persons have liability to the City or are responsible for a violation, their responsibility shall be joint and several.

Sec. 3-402. - Enforcement of judgments.

Any judgment for abatement, restitution, or civil sanctions taken pursuant to this article may be enforced as any other civil judgment.

Sec. 3-403. - Violations not exclusive.

Violations of this chapter are in addition to any other violation enumerated within this Code and in no way limit the penalties, actions, or abatement procedures which may be taken by the City for any violation of this chapter which is also a violation of any other provisions of this Code or statutes of the state.

Sec. 3-404. - Each day separate violation.

Each day any violation of any provision of this chapter, or the failure to perform any act or duty required by this chapter, continues shall constitute a separate offense.

Sec. 3-405. - Inspections.

- (a) The Airport Manager shall enforce the provisions of this chapter, and is hereby authorized and directed to make inspections in the normal course of job duties; or in response to a complaint that an alleged violation of the provisions of this chapter may exist; or when there is a reason to believe that a violation of this chapter has been or is being committed.
- (b) The Airport Manager may enter onto any property, or into any building or premises, at all reasonable times to inspect or to perform the duties imposed upon the Airport Manager by this chapter, provided that if such property, building, or premises is occupied, the Airport Manager shall present credentials to the occupant and

request entry. If such property, building, or premises is unoccupied, the Airport Manager shall first make a reasonable effort to locate the owner or other Person having charge or control of the property, building, or premises and request entry. If entry is refused, the Airport Manager has recourse to every remedy provided by law to secure entry.

- (c) When the Airport Manager shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant, or Person having charge, care, or control of any property, building, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry by the Airport Manager for the purpose of inspection and examination pursuant to this chapter.
- (d) No Person shall interfere with, prevent, or attempt to interfere with or prevent an individual employed by the City or other person contracted for by the City, from investigating an alleged violation of this chapter, or from abating a violation of this chapter.

Sec. 3-406. - False information.

No Person shall knowingly make a false or fraudulent statement, or knowingly misrepresent a fact, or mislead an individual employed by the City or other person contracted for by the City, when that individual is investigating or abating a violation of this chapter.

Sec. 3-407. - Service of notices.

- (a) Any notice required to be given for any purposes under this chapter to the City shall be given by the Airport Manager or his designee by hand-delivery; by mailing the notice by certified mail, return receipt requested; by email, return receipt requested; or by facsimile transmission.
- (b) Notice is deemed effective on the date it is hand-delivered, deposited in the United States mail, emailed, or faxed.
- (c) Nothing herein shall preclude the City from giving additional oral or written notice at its discretion. If the City does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.

Sec. 3-408—3-500. - Reserved.

DIVISION 2. - DENIAL OF USE

Sec. 3-501. - Denial grounds.

- (a) The Airport Manager may deny access to, and deny the use and privileges of, the Airport or any of its facilities to any Person:

- (1) Who violates this chapter or any rules, regulations, or minimum operating standards promulgated hereunder;
 - (2) Whose action would place the Airport in violation of 49 U.S.C. § 47160 et seq., 14 C.F.R. Part 1 et seq., or the FAA Grants and Assurances (see 14 C.F.R. Part 152); or
 - (3) Who violates any future conditions which the City may impose by appropriate process or any federal statute or regulations hereafter enacted.
- (b) The Person to whom the aircraft is registered is responsible for the acts of all Persons (including, but not limited to, all agents, employees, and pilots) to whom control, operation, or any authority to use said aircraft is granted. The involvement of said aircraft in any act or omission that violates any of the above-enumerated laws, statutes, ordinances, rules, regulations, minimum operating standards, or other conditions may result in one (1) or more enforcement actions by the City.
 - (c) The Airport Manager may deny access for up to five (5) years. After the denial period ends, a Person may request access, but the Airport Manager may continue to deny access if denial is in the best interests of the Airport. A denial may be appealed to the Airport Appeals Board as set forth in sections 3-504 and 3-505.
 - (d) Notwithstanding the provisions of this section, the Airport Manager may summarily deny Airport access, effective immediately, pending the hearing specified in section 3-503, to any Person for whom probable cause exists to believe the Person committed an act or omission relating to dangerous refueling, dangerous aircraft or vehicle operation, lack of insurance, theft of or damage to property, assault and battery, or such other act or omission as may constitute a danger to the health, safety, or welfare of any individual or the public in general.

Sec. 3-502. - Denial procedure.

- (a) Upon probable cause to believe that a Person has committed acts constituting grounds for denial of access, the Airport Manager shall provide the affected party with notice of an order to show cause why access should not be denied. The notice shall give at least seventy-two (72) hours' notice of the hearing date and list the grounds for the possible denial of access.
- (b) Persons subject to subsection 3-501(d) shall be provided a hearing as soon as reasonably practical but in no event shall said hearing be delayed more than seventy-two (72) hours after the effective time of the denial of access, except upon mutual agreement of the Airport Manager and the affected party.

Sec. 3-503. - Denial hearing.

Except for the summary denial of access under subsection 3-501(d), access to, and the use and privileges of, the Airport or any of its facilities shall be denied at the date and time of the hearing if the affected party fails to appear to contest the denial. The affected party shall have the right to present evidence and cross-examine any witnesses. The hearing shall be informal and the rules of evidence shall not apply. The Airport Manager may rule on the denial of use at the close of the evidence and argument, but, in any case,

shall enter a ruling within ten (10) calendar days after the completion of the hearing. The Airport Manager shall notify the affected party in accordance with section 3-407. Pending any appeal to the Airport Appeals Board, the Airport Manager's denial of access shall be effective immediately if the ruling is made by the Airport Manager at the time of the hearing, or upon notice of the ruling when the ruling is made after the hearing.

Sec. 3-504. - Appeal.

- (a) A person may appeal the denial of use to the Airport Appeals Board by filing a written notice of appeal with the Airport Manager not later than ten (10) calendar days after the Airport Manager has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed. Except as provided under subsection 3-501(d), the timely filing of an appeal shall stay enforcement of the denial of access until the appeal is finally determined by the Airport Appeals Board.
- (b) This division contains all the appellate relief to which an aggrieved party is entitled through City procedures. The exhaustion of appellate remedies at the City level does not preclude an aggrieved party from seeking any other remedies provided by law.

Sec. 3-505. - Appeal procedure.

- (a) Upon receipt of a written notice of appeal, the Airport Appeals Board shall set an appeal hearing within ten (10) calendar days and shall give notice of the hearing as provided in this division.
- (b) When required in the interest of fairness, the Airport Appeals Board may grant continuances of the hearing, but all hearings on denial of access shall be heard not later than thirty (30) calendar days from the date on which the notice of appeal was filed.
- (c) Except for the summary denial of access under subsection 3-501(d), access to, and the use and privileges of the Airport or any of its facilities shall be denied at the date and time of the hearing unless the affected party or the party's counsel appears to contest the denial.
- (d) An appellant may be represented by counsel at the hearing and the City may be represented by the City Attorney. Formal rules of evidence shall not apply. Both the appellant and the City shall have the right to present evidence through testimony or exhibits and to cross-examine witnesses. The Airport Appeals Board shall preside over the proceedings and shall determine the order and manner of proof.
- (e) At the conclusion of the hearing, the Airport Appeals Board shall rule on the appeal and notify the appellant of the ruling in accordance with section 3-407, within ten (10) calendar days after the hearing, unless all parties stipulate that additional time is required to render a decision. The Airport Appeals Board's decision shall be supported by a preponderance of evidence. Subject to section 3-807, the decision of the Airport Appeals Board is final.

- (f) Except for the summary denial of access under subsection 3-501(d), the denial of access shall be effective immediately if the ruling is made by the Airport Appeals Board at the time of the hearing, or upon notice of the ruling when the ruling is made after the hearing.

Sec. 3-506. - Settlement agreements.

- (a) After the Airport Manager denies access to, and the use and privileges of the Airport or any of its facilities, and before the Airport Manager enters a ruling, the Airport Manager and affected Person may enter into a settlement agreement to allow access.
- (b) After the affected person appeals the denial of access to the Airport Appeal Board, and before the Airport Appeals Board enters a ruling, the Airport Appeals Board and the affected person may enter into a settlement agreement to allow access.

Secs. 3-507—3-600. - Reserved.

DIVISION 3. - SANCTIONS; PROCEDURES

Sec. 3-601. - Remedies.

The Airport Manager, the City Attorney's office, and the City Manager, or their designees, may pursue any or all of the remedies provided in this article.

Sec. 3-602. - Jurisdiction of City court.

- (a) Jurisdiction of all proceedings to enforce the provisions of this chapter shall be in the Denton municipal court.
- (b) Civil actions commenced in the Denton municipal court to enforce this chapter may be adjudicated by a judge or a court hearing officer.

Sec. 3-603. - Civil violation; commencement of action.

- (a) A civil violation may be commenced by issuance of a citation or by complaint.
- (b) The citation shall be substantially in the same form as a Traffic Citation and shall direct the defendant to appear in municipal court within ten (10) calendar days after issuance of the citation.
- (c) The citation shall further notify the defendant that failure to appear on or before the date specified in the complaint will result in the entry of a judgment by default against the defendant, and the court may, in its discretion, impose a civil sanction not to exceed two hundred fifty dollars (\$250.00).
- (d) Service of the citation/complaint may be accomplished and shall be deemed proper and complete by any of the following methods:
 - (1) By having the defendant sign the citation/complaint with a promise to appear in court within ten (10) calendar days of the issuance of the citation/complaint;

- (2) By hand delivering a copy of the citation/complaint to the defendant;
- (3) By mailing a copy of the citation/complaint to the person charged by certified or registered mail, return-receipt requested, to the person's last known address; or
- (4) In the event service cannot be accomplished as set forth in (d)(1), (2) or (3), the City may serve the defendant by any means allowed by the Texas Rules of Civil Procedure.

Sec. 3-604. - Civil citation, authority to issue.

The Airport Manager, the City Attorney, or the City Manager, or their designees, may issue a civil citation pursuant to this chapter.

Sec. 3-605. - Appearance by defendant.

The defendant shall, within ten (10) calendar days of the issuance of the citation or summons and complaint, appear in person or through the defendant's attorney in the municipal court and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegations, the court shall enter judgment against the defendant and impose a civil sanction for the violation not to exceed two hundred fifty dollars (\$250.00), and may, in its discretion, deny defendant use of the Airport pursuant to section 3-612. If the defendant denies the allegations contained in the citation, the court shall set the matter for hearing.

Sec. 3-606. - Default judgment.

If a defendant fails to appear as directed on the civil citation or complaint or at the time set for hearing by the court, the allegations in the civil citation or complaint shall be deemed admitted and the court shall enter judgment against the defendant and impose a civil sanction for the violation not to exceed two hundred fifty dollars (\$250.00), and may, in its discretion, deny defendant use of the Airport pursuant to section 3-612.

Sec. 3-607. - Rules of procedure for civil violations.

The Texas Rules of Criminal Procedure shall be followed by the Denton Municipal Court for civil violations of this chapter, except as modified or where inconsistent with the provisions of this chapter.

Sec. 3-608. - Civil sanctions.

Upon a finding of responsible to a civil violation, the court shall impose a civil sanction not to exceed two hundred fifty dollars (\$250.00).

Sec. 3-609. - Rules of procedure for criminal violations.

The Texas Rules of Criminal Procedure shall be followed by the Denton Municipal Court for criminal violations of this chapter, except as modified or where inconsistent with provisions of this chapter.

Sec. 3-610. - Criminal penalty.

Upon a conviction of a misdemeanor the court may impose a penalty in accordance with subsection 1-8(a) of this Code and state law for class c misdemeanors.

Sec. 3-611. - Restitution.

In addition to any civil sanction or criminal penalty provided for in this article, any Person violating this chapter shall be liable for all costs which may be associated with the City's rectifying any violation of this chapter. The court shall impose restitution in addition to any civil sanction or criminal penalty.

Sec. 3-612. - Denial of Airport use.

In addition to any civil sanction or criminal penalty provided for in this article, the court may issue an order suspending the right of any person violating this chapter to use the Airport or any of its facilities.

Secs. 3-613—3-700. - Reserved.

DIVISION 4. - LICENSE AND PERMIT REVOCATION

Sec. 3-701. - Revocation grounds.

The Airport Manager may revoke any license or permit issued pursuant to this chapter, upon the happening of any of the following events:

- (1) A violation of the terms of such license or permit, of any provision of this chapter, or any rules, regulations, or minimum operating standards promulgated pursuant to this chapter;
- (2) Falsification of any application or other information provided to the City under this chapter;
- (3) Any action which would place the Airport in violation of 49 U.S.C. § 47160 et seq., 14 C.F.R. Part 1 et seq., or the FAA Grants and Assurances (see C.F.R. Part 152); or
- (4) A violation of any future rules, regulations, minimum operating standards, or other conditions which the City may impose by appropriate process or any federal statute or regulation hereafter enacted.

Sec. 3-702. - Revocation procedure.

Upon probable cause to believe that the licensee or permittee has committed acts constituting grounds for revocation as provided in section 3-701, the Airport Manager shall provide the affected party with notice of an order to show cause why the license or permit should not be revoked. The notice shall give at least seventy-two (72) hours' notice of the hearing date and list the grounds for the possible revocation. The affected party shall have the right to present evidence and cross-examine any witnesses. The hearing shall

be informal and the rules of evidence shall not apply. Except for the summary suspension under subsection 3-703(c), the license or permit revocation is effective at the date and time of the hearing if the affected party fails to appear to contest the revocation.

Sec. 3-703. - Revocation hearing.

- (a) The Airport Manager may rule at the close of the evidence and argument, but shall enter a ruling within ten (10) calendar days of the completion of the hearing. Upon the decision of revocation, the aggrieved party shall forthwith surrender the subject license or permit.
- (b) After a revocation, any Person responsible for the acts constituting the ground for the revocation shall be ineligible to reapply for a like license or permit within an appropriate period of time as determined by the Airport Manager. A partnership, corporation, company, or association which has as a partner, officer, stockholder, or member ineligible for reapplication as provided by this subsection shall itself be ineligible for a like period.
- (c) Notwithstanding the provisions of (b) of this section, the Airport Manager may summarily suspend, effective immediately, pending a revocation hearing, the license or permit of any Person for whom probable cause exists to believe he/she committed an act relating to dangerous refueling, dangerous aircraft or vehicle operation, lack of insurance, theft of or damage to property, assault and battery, or such other act or omission as may constitute danger or threat to the health, safety, or welfare of any Person or the public in general. The affected party shall be provided a hearing as soon as reasonably practical but in no event shall said hearing be delayed more than seventy-two (72) hours after the effective time of the summary suspension, except upon mutual agreement of the Airport Manager and the affected party.

Sec. 3-704. - Appeal.

- (a) An aggrieved party may appeal the denial of a license or permit renewal or revocation to the Airport Appeals Board by filing a written notice of appeal with the Airport Manager not later than ten (10) calendar days after the Airport Manager has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed. Except as provided under subsection 3-703(c), the timely filing of an appeal shall stay enforcement of the revocation until the appeal is finally determined by the Airport Appeals Board.
- (b) This division contains all the appellate relief to which an aggrieved party is entitled through City procedures. The exhaustion of appellate remedies at the City level does not preclude an aggrieved party from seeking any other remedies provided by law.

Sec. 3-705. - Appeal procedure.

- (a) Upon receipt of a written notice of appeal, the Airport Appeals Board shall set an appeal hearing within ten (10) calendar days and shall give notice of the hearing as provided in this division.

- (b) When required in the interest of fairness, the Airport Appeals Board may grant continuances of the hearing, but all hearings on license or permit revocations and suspensions shall be heard not later than thirty (30) calendar days from the date on which the notice of appeal was filed.
- (c) An appellant may be represented by counsel at the hearing and the City may be represented by the City Attorney. Formal rules of evidence shall not apply. Both the appellant and the City shall have the right to present evidence through testimony or exhibits and to cross-examine witnesses. The Airport Appeals Board shall preside over the proceedings and shall determine the order and manner of proof. Except for the summary suspension under subsection 3-703(c), the license or permit revocation is effective at the date and time of the hearing unless the affected party or the party's counsel appears to contest the revocation.
- (d) At the conclusion of the hearing, the Airport Appeals Board shall rule on the appeal and notify the appellant of the ruling in accordance with section 3-407, within ten (10) calendar days after the hearing, unless all parties stipulate that additional time is required to render a decision. The Airport Appeals Board's decision shall be supported by a preponderance of evidence. Subject to section 3-807, the decision of the Airport Appeals Board is final.
- (e) Except for summary suspension under subsection 3-703(c), the revocation shall be effective immediately if the ruling is made by the Airport Appeals Board at the time of the hearing, or upon notice of the ruling when the ruling is made after the hearing.
- (f) The licensee or permittee shall surrender all revoked licenses and permits to the Airport Appeals Board at such time as the revocation becomes effective.

Sec. 3-706. - Settlement agreements.

- (a) After the Airport Manager revokes or suspends a license or permit, and before the Airport Manager enters a ruling, the Airport Manager and affected person may enter into a settlement agreement regarding the license or permit.
- (b) After the affected Person appeals the revocation to the Airport Appeals Board, and before the Airport Appeals Board enters a ruling, the Airport Appeals Board and the affected Person may enter into a settlement agreement regarding the license or permit.

Secs. 3-707—3-800. - Reserved.

DIVISION 5. - ABATEMENT OF VIOLATIONS

Sec. 3-801. - Abatement in lieu of or in addition to other actions.

- (a) In addition to or in lieu of denial of access or filing a civil or criminal complaint, the City may file notice to abate any violation of this chapter. Such abatement shall

proceed independently of any denial of access or civil or criminal violation filed pursuant to this chapter.

- (b) If any Person, served a notice to abate by the City pursuant to this chapter, fails to comply with such notice or order, the City may abate the conditions subject to the notice.
- (c) If the City elects to abate the violation, the Airport Manager or his designee shall prepare a verified statement as to the actual cost of abating the violation, and shall add an additional fifteen (15) percent for costs of inspection and other incidental costs associated with abating the violation. The statement shall be sent in accordance with section 3-407, to the owner(s) or other Person(s) upon whom the notice to abate or order was served. That statement shall further set forth the following:
 - (1) The person has fifteen (15) calendar days from the date of the statement to pay; and
 - (2) Appeal procedures.

Sec. 3-802. - Emergency abatement.

If a situation presents an imminent danger or threat to the health, safety, or welfare of any Person or the public in general, the City may issue a notice to abate directing the responsible Person to take such immediate action as is appropriate to abate the emergency. In addition, the City may act to abate the emergency. In the event the City is unable to contact the responsible person, such inability in no way affects the City's right to abate the emergency. The responsible Person shall be granted a review before the Airport Appeals Board on the matter upon that Person's request, as soon as practicable, but such appeal shall in no case stay the abatement of such emergency.

Sec. 3-803. - Notice to abate.

- (a) If, after an inspection, the City finds one (1) or more violations of this chapter, and the City elects to use the abatement process, the City shall, in writing, notify the owner, or agent for the owner.
- (b) The notice to abate shall set forth the following information:
 - (1) The owner has fifteen (15) calendar days from service of notice in accordance with section 3-407 to abate the violation;
 - (2) Identification of the property in violation by street address if known, and if unknown, then by book, map and parcel number;
 - (3) Statement of the violation in sufficient detail to allow a reasonable person to identify and correct the violation(s);
 - (4) Reinspection date and time;
 - (5) Name, address, and phone number of the City inspector who sent the notice to abate;

- (6) A warning stating that, if the violations are not corrected within the fifteen (15) calendar day period, the City can abate the problem and assess the owner the cost of such abatement and record a lien on the property for the assessment;
- (7) Appeal procedures; and
- (8) The fifteen (15) calendar day notice set forth in this section shall not apply to emergency abatements pursuant to section 3-802.

Sec. 3-804. - Appeal of notice to abate.

- (a) Any notice to abate or any assessment can be appealed to the Airport Appeals Board.
- (b) An appeal must be filed within fifteen (15) calendar days of the service of the notice to abate or the assessment and must be filed with the Airport Manager's office.
- (c) Failure of a Person entitled to appeal under this chapter to timely file an appeal shall constitute a waiver of the right to appeal and such Person shall be estopped to deny the validity of any notice or assessment which could have been timely appealed.
- (d) The notice of appeal shall set forth, in writing, the Person's reasons for believing no violation of the chapter has occurred or that the assessment is excessive.
- (e) The individual appealing shall accompany the written appeal with an appeal fee of twenty-five dollars (\$25.00), such sum to be deposited in the Airport enterprise fund of the City.
- (f) In case of financial hardship, the fee may be suspended by the Airport Manager until the decision on appeal is rendered. The Airport Appeals Board may waive the fee upon a finding of financial hardship.

Sec. 3-805. - Procedure on appeal.

- (a) The Airport Appeals Board shall set a hearing date for review of the appeal within forty (40) calendar days of the receipt of notice of appeal by the Airport Manager.
- (b) The Airport Appeals Board shall take testimony from all parties to the appeal. The hearing shall be informal and the rules of evidence shall not apply. The parties may, if they choose, be represented by an attorney.
- (c) The Airport Appeals Board shall prepare a written summary of the hearing and shall set forth the decision reached. A decision shall be rendered and sent in accordance with section 3-407 to all parties to the appeal within fifteen (15) calendar days of the hearing. Subject to section 3-807, the decision of the Airport Appeals Board is final.

Sec. 3-806. - Abatement variances and time extensions.

- (a) Any Person may request a variance or time extension of a notice to abate or an assessment. Such request shall be made to the Airport Appeals Board.

- (b) The same time limits for filing and written requirement that appear in section 3-704 on appeals applies to this section.
- (c) The procedure shall be the same as set forth in section 3-705.
- (d) The Airport Appeals Board may grant a variance only where it is determined that all of the following apply:
 - (1) Special circumstances or conditions apply to this appeal application such as hardship;
 - (2) Authorization of the variance is necessary for the preservation and enjoyment of substantial property rights; and
 - (3) Authorization of the variance will not be materially detrimental to Persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.
- (e) If a variance is granted by the Airport Appeals Board, the conditions in paragraph (d) allowing the variance and the extent of the variance shall be explicitly stated.
- (f) The Airport Appeals Board may grant one (1) extension of the time limit set forth in section 3-803. Such extension shall not exceed one hundred eighty (180) calendar days. The extension period granted by the Airport Appeals Board starts to run on the day the Airport Appeals Board issues a decision pursuant to section 3-805(c). The Airport Appeals Board may grant an extension only where it is shown that:
 - (1) It would create a hardship to comply with the decision within the fifteen (15)-day period of section 3-803; and
 - (2) The moving party presents a plan that is approved by the Airport Appeals Board, by which said party will comply with the decision within no more than one hundred eighty (180) calendar days.

Sec. 3-807. - Appeal from decision of Airport Appeals Board.

Any party aggrieved by a decision of the Airport Appeals Board may seek review by the City Council.

Sec. 3-808. - Stay of order during appeal.

Except for orders to vacate or violations presenting an imminent hazard, the timely filing of an appeal shall stay enforcement of a notice to abate or assessment until the appeal is finally determined by the Airport Appeals Board.

Sec. 3-809—3-900. - Reserved.