

**PORT OF ASTORIA**

**ORDINANCE 2023-01**

**AN ORDINANCE AMENDING ORDINANCE 97-01 AND ENACTING REGULATIONS AND PENALTIES FOR CERTAIN AIRPORT ACTIVITIES**

WHEREAS, pursuant to Oregon Revised Statutes (“ORS”) 777.210(6), the Port of Astoria (“Port”) operates and maintains the Astoria Regional Airport (“Airport”) and is authorized to collect charges for use of such facilities; and

WHEREAS, pursuant to ORS 836.210(6) the Port may adopt regulations establishing charges, fees and tolls for the use of the Airport, and enact civil penalties for violation of such regulations; and

WHEREAS, pursuant to ORS 777.190, the Port may adopt ordinances for policing or regulating of Port property and appoint peace officers to enforce the same; and

WHEREAS, the Port desires to amend Ordinance No. 97-01, “Regarding Fees, Fuel Flowage Fees, and Regulating Operation of Aircraft and Vehicles at Airport,” to establish or amend specific procedures for activities conducted at the Airport; establish or amend applicable fees; enact related rules and regulations; and enact penalties for violation of the same;

NOW, THEREFORE, the Port’s Board of Commissioners hereby ordains as follows:

1. Purposes. The general purposes of this ordinance are to: (1) establish regulations regarding certain activities at the Airport; (2) establish or clarify standardized procedures relating to such activities; (3) protect and preserve the health and safety of staff and the general public using or providing services at the Airport; and (4) effectuate the Port’s authority in ORS 777.258 to promote the maritime shipping, aviation and commercial interests of the Port.
2. Amendment of Ordinance 97-01. To further the Purposes herein described, Port of Astoria Ordinance No. 97-01 is hereby amended as follows:

**1. FINDINGS AND PURPOSE**

**1.1 Findings**

The Port of Astoria finds that:

1.1.1 The Port owns and operates the Astoria Regional Airport (“Airport”) which is used for the taking off, landing, operation and storage of aircraft, and the conduct of businesses supporting aviation activities; and

1.1.2 The Airport promotes a strong economic base for the county, assists and encourages trade opportunities and is of vital importance to the health, safety, and welfare of the Port district; and

1.1.3 It is essential that the Airport attain financial self-sufficiency to perform its transportation role in the county and to provide the county with cost effective aviation facilities; and

1.1.4 The revenues received from users of the Airport are vital to the economic well being of the Airport; and

1.1.5 The Port incurs and will continue to incur substantial expenditure for capital investment, operation, maintenance, and development of the facilities at the Airport; and

1.1.6 In accordance with U.S. Department of Transportation, Federal Aviation Administration (“FAA”) Order 5190.6B, Change 1 (effective date November 22, 2021, or as may be amended from time to time), the FAA has directed airports to ensure that rates, fees, rentals, landing fees, and other service charges imposed on aeronautical users of airports for aeronautical uses are of fair market value; and

1.1.7 The FAA has further directed that airport fees should be established using a consistent methodology for comparable aeronautical users, that fees imposed on a group of aeronautical users should not exceed the costs allocated to that user group, that reasonable distinctions may be made among aeronautical users, and that differing charges may be imposed on categories of aeronautical users based on those distinctions; and

1.1.8 ORS 777.210(6) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities, and ORS 836.210 further authorizes the Port to provide by regulation for charges, fees, and tolls for the use of the Airport and civil penalties for the violations of such regulations; and

1.1.9 In order to raise revenue for purposes of making the Airport as self-sustaining as possible under the circumstances existing at the Airport and maintaining, operating, and developing the Airport for the convenience of aviation users and the traveling public, and to preserve existing revenues, protect the public, preserve order, provide for the public health, safety and welfare, enhance the welfare of the Port, and govern use of Airport property, it is necessary to adopt and implement the fees specified in this Ordinance to be paid by persons utilizing the Airports for aviation purposes; and

## **1.2 Purpose**

The purpose of this Ordinance is to enact airport fees and to establish safety requirements for aircraft and vehicles and to ensure compliance with environmental regulations consistent with the above findings, and this Ordinance shall be liberally construed to effectuate this purpose.

## 2. DEFINITIONS

As used in this Ordinance:

**2.1 Airport.** “Airport” shall mean that certain airport located in Clatsop County, Oregon, known as the Astoria Regional Airport, including all facilities and roads located at or on such airport.

**2.2 Aircraft.** “Aircraft” shall mean every contrivance invented, used, or designed to navigate, or fly in, the air.

**2.3 Executive Director.** “Executive Director” shall mean the Port’s Executive Director or designee.

**2.4 “Fee”** “Fee” shall mean any Fee authorized by Section 6 of this Ordinance.

**2.5 Fuel.** “Fuel” shall mean any aviation gasoline 100LL and Jet A or any other inflammable or combustible gas or liquid useable as fuel for the operation of aircraft. For electric propulsion of aircraft, “Fuel” shall also mean the process of battery charging for aircraft propulsion.

**2.6 Fuel Flowage Fee.** “Fuel Flowage Fee” shall mean the Fuel Flowage Fee authorized in Section 3.1 of this Ordinance.

**2.7 Fuel Operator.** “Fuel Operator” shall mean any person who is authorized by the Port to operate any system or device used to store or dispense fuel at the Airport, including but not limited to a fuel storage tank, fuel transportation vehicle, or similar system or device.

**2.8 Fuel Transportation Vehicle.** “Fuel Transportation Vehicle” shall mean any form of transportation that is used in and capable of transporting fuel, including fuel for airplanes running on automobile gasoline, on Airport roads, parking areas, ramp areas, taxiways, runways, or elsewhere on the Airport.

**2.9 Government Aircraft.** “Government Aircraft” shall mean any aircraft owned or operated by the United States government or any of its agencies, including but not limited to the U.S. Coast Guard, Army, Navy, Marine Corps, and Air Force; and any state National Guard unit.

**2.10 “Peace Officer”** shall include the Clatsop County Sheriff; the Oregon State Police; the City of Warrenton Police; an authorized security officer for the Port; the Port’s Executive Director; or the Port’s Deputy Director.

**2.11 Permit.** “Permit” shall mean a Permit required pursuant to this Ordinance.

**2.12 Permittee.** “Permittee” shall mean any person required by this Ordinance to have a Permit for operation of a Fuel Transportation Vehicle at the Airport.

**2.13 Person.** “Person” shall mean an individual, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization.

### **3. FUEL TRANSPORTATION VEHICLES**

#### **3.1 Permit Required.**

Any Fuel Transportation Vehicle shall require a Permit to operate on Airport Premises. Operating a Fuel Transportation Vehicle on any Port property without a properly authorized Permit shall be a violation of this Ordinance. Failure to comply with any term or condition of a Permit shall be deemed a separate violation for which a separate penalty may be imposed.

#### **3.2 Fuel Purchase; Fuel Flowage Fee.**

Every Fuel Operator shall purchase fuel from the Port at the per-gallon rate fixed by the Port for all fuel purchasers, or pay a Fuel Flowage Fee on all fuel transported onto the Airport. The Fuel Flowage Fee shall be assessed at the time fuel is transported onto the Airport by a Fuel Operator. The Fuel Flowage Fee shall be an amount payable on each gallon or similar measuring unit established by the Executive Director for each category of fuel, and may be adjusted by the Executive Director.

#### **3.3 Collection.**

Fuel Flowage Fees shall be collected by the Port in accordance with procedures established by the Executive Director. Unless the Executive Director has established other payment procedures, or credit arrangements satisfactory to the Executive Director have been made in advance, all Fuel Flowage Fees shall be paid by a Fuel Operator no later than twenty (20) days after the end of the calendar month in which fuel is transported onto the Airport. A delinquency charge in an amount established by the Executive Director shall be imposed on all Fuel Flowage Fees not paid when due. All Fuel Operators shall promptly provide the Port reports containing information specified by the Port which is necessary to calculate the Fuel Flowage Fee.

#### **3.4 Penalties.**

Failure to timely pay fees assessed under this Section shall be grounds for immediate suspension of a Permit, and assessment of penalties as provided in Section 9 of this Ordinance.

### **4. TIE-DOWN FEES**

“Tie-Down Fees” shall be established, and may be adjusted, by resolution of the Commission. The Port Executive Director or designee is authorized to execute month-to-month Tie-Down License Agreements with aircraft owners wanting tie-down space for

their aircraft. Aircraft leased back to a designated FBO are required to pay Tie-Down Fees.

#### **5. HANGAR FEES**

Terms of Hangar Agreements, including fees, shall be approved by resolution of the Commission. The Port Executive Director, or designee, is authorized to execute month-to-month Hangar License Agreements with aircraft owners wanting hangar space for their aircraft.

#### **6. TRANSIENT FEES**

“Transient Fees” shall be established, and may be adjusted, by resolution of the Commission. Such resolution may provide for reduced rates for groups, Government Aircraft, or other special use circumstances. Transient Fees include any of the following:

Call-Out Fee

Landing Fee

Overnight Tie-down Fee

Monthly Tie-down Fee

Ramp/Facility Fee

Overnight Vehicle Parking Fee

Monthly Vehicle Parking Fee

Catering Fee

Transient Hangar Use Fee

#### **7. OPERATION OF AIRCRAFT**

Aircraft operators shall abide by all federal, state, and FAA regulations, and all rules established by the Port. Operators shall direct their prop wash away from hangar areas. No fueling of aircraft shall take place in or between hangars. Fueling is allowed only in the aircraft tie-down area or designated fueling area.

#### **8. AUTOMOBILE OPERATION**

Excluding authorized commercial, agricultural, or emergency vehicles, driving is forbidden on Airport ramps and runways except for hangar and tie-down use as follows:

- a) Access to hangars shall be only through the hangar security gate.
- b) Authorized ramp driving is allowed only through the main gate to the hangars.
- c) Ramp speed shall not exceed 15 MPH.

- d) Entrance to the tie-down area is through the gate located between Life Flight Network and the airport terminal building.
- e) Entrance to tie-down area is only for loading, unloading or minor aircraft maintenance.
- f) Any aircraft under power shall have the right of way over any non-aircraft vehicle or pedestrian.
- g) Any non-aircraft vehicle operating inside the security fence shall engage its emergency flashers or utilize a yellow rotating beacon on its roof.

## **9. ENFORCEMENT**

**9.1 Penalties.** Pursuant to ORS 777.990, any Person violating this Ordinance commits a Class A misdemeanor. Maximum fines shall be as follows:

9.1.1 For an individual:

- A. First offense: \$100 per violation
- B. Subsequent offenses: \$500 per violation

9.1.2 For a corporation:

- A. First offense: \$1,000 per violation
- B. Subsequent offenses: \$3,000 per violation

9.1.3 A separate penalty may be assessed for each day or portion thereof that the violation continues.

9.1.4 Penalties assessed under this Section shall be separate from, and in addition to, any penalties or other remedies available under state or local law or described in a lease or other agreement.

**9.2 Enforcement Authority.** The provisions of this Ordinance may be enforced by any Peace Officer.

**9.3 Enforcement Procedure.** This Ordinance shall be enforced as follows:

9.3.1 Notice of Violation. Any Peace Officer may issue a written Notice of Violation by hand-delivery or by certified mail addressed to the Fuel Operator. The Notice shall describe the nature of the violation; cite to the specific regulation being violated; and the maximum penalty for the violation. Except when the Peace Officer determines in his or her sole discretion that emergency conditions require immediate

abatement of the violation, the Notice of Violation shall provide a minimum of twenty-four (24) hours for the violation to be remedied.

9.3.2 Penalty Assessed. If the violation is not fully remedied within the time stated in the Notice of Violation, the Peace Officer shall issue a Notice of Penalty in the amount described in Section 5 of this Ordinance.

9.3.3 Suspension of Permit. The Fuel Operator's Permit shall be deemed suspended until any and all violations are remedied and all applicable penalties have been paid in full. Continuing to operate a Fuel Transportation Vehicle while a Permit is suspended shall be a separate violation of this Ordinance and shall be grounds for an additional penalty.

9.4 Additional Remedy. The remedies in this Ordinance are intended to be in addition to, and not to supersede, applicable provisions in state or federal law or administrative rules. Nothing in this Ordinance shall be interpreted to preclude the Port from exercising its right to remedy a violation of this Ordinance by any other means permitted by law.

## **10. SEVERABILITY**

In the event any phrase, clause, sentence, paragraph, or paragraphs of this Ordinance is declared invalid for any reason, the remainder of the Ordinance shall not be thereby invalidated, but shall remain in full force and effect, all parts being declared separable and independent of all others.

## **11. CONFORMANCE OF STATE & FEDERAL LAW**

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the federal government, FAA, State of Oregon, or its agencies, or any ordinance, rule, or regulation of the Port of Astoria

## **12. INCONSISTENT PROVISIONS**

This ordinance shall supersede, control and repeal any inconsistent provision of any Port ordinance as amended or any other regulations made by the Port of Astoria.

3. Effect Of Adoption. Upon its adoption, this Ordinance shall supersede and revoke in full Ordinance 97-01.
4. Publication. The Board shall cause this Ordinance to be published for the period and in the manner required by ORS 198.530 to 198.560 and a certified copy of the signed Ordinance shall be filed in the records of the Port and with the Clatsop County Clerk.
5. Effective Date. This Ordinance shall be effective thirty (30) days after its adoption.

FIRST READING: April 4, 2023

SECOND READING: April 18, 2023

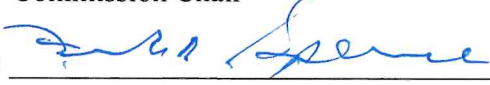
ADOPTED THIS 18<sup>th</sup> day of April, 2023, by the following vote:

AYES: 5

NAYS: 0

ABSENT: 0

Signed:   
Commission Chair

Attest: 

Secretary