

★ Roll Call Number

Agenda Item Number

45

Date..... September 25, 2006

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by amending Sections 22-1, 22-242 and 22-244 thereof, relating to flying clubs",

presented.


WHEREAS, on September 6, 2006 by Resolution Number A06-162 the Des Moines International Airport Board recommended to City Council to amend City of Des Moines Municipal Code, Chapter 22 regarding flying clubs.

(Council Communication No. 06-612 )

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

  
 \_\_\_\_\_  
 David A. Ferree  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

\_\_\_\_\_ Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by amending Sections 22-1, 22-242 and 22-244 thereof, relating to flying clubs.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, is hereby amended by amending Sections 22-1, 22-242 and 22-244 relating to flying clubs, as follows:

**Sec. 22-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Air operations area (AOA)* means the area of the airport that is a restricted area and separated from general public access by buildings, fences, and gates, which includes runways, taxiways, aprons, the maneuvering areas, fields and any open grounds, and the roadways designated for the use of airfield servicing, aircraft support, airport maintenance and for construction vehicles.

*Air transportation company* means a company certificated by the Federal Aviation Administration to engage for hire in the transportation of persons, property, and/or mail by air.

*Aircraft* means any apparatus known or invented for flight.

*Aircraft operator* means any person exercising control of an aircraft upon the airport.

*Airfield use agreement* means a written agreement entered into between the city and an aircraft operator not based at the airport using the airport for commercial purposes which does not entail the lease of airport property or the conduct, based at the airport, of aeronautical services enumerated in the definition of commercial operator.

*Airport* means the Des Moines International Airport as it exists and as it may be expanded and all improvements thereon. Where sections in this chapter refer to real estate or to property or to activities not otherwise located or identified, they shall be

in reference to real estate, property, and activities on, located at, or taking place at the airport.

*Airport certification manual* means that document referred to in 14 CFR 139.

*Airport tenant* means any person who is authorized by lease or agreement with the city or the aviation director to occupy space on the airport.

*Authorized personnel* means any person who requires access, because of his or her employment or duties for the maintenance and operation of the airport, to the air operations area and any other restricted areas, and who displays on his or her person valid airport identification of the type and manner specified and authorized by the aviation director in compliance with the airport security plan promulgated under the provisions of Federal Aviation Regulation Part 107 and approved by the Federal Aviation Administration.

*Aviation director* means the director of the Des Moines International Airport or his or her duly authorized representative. He or she shall supervise the aviation department and be responsible for the operation, management, and maintenance of the municipal airport and all facilities and equipment in connection therewith for the enforcement of this chapter.

*Commercial aircraft* means an aircraft using the airport for air transport to or from the airport or to or from other locations and using the airport as an intermediate stop of persons, goods, or material, for hire or compensation with intent of profit, whether or not persons, goods or material are enplaned or deplaned at the airport.

*Commercial aircraft operator* means any person exercising control of a commercial aircraft upon the airport.

*Commercial operator* means any person engaged in commercial operation which shall be the business of providing, for compensation, any one or more of the following aeronautical services:

- (1) Flight line services, which may include dispensing aviation fuels and oil, aircraft tiedown and parking, and minor aircraft repairs not requiring a certified mechanic.
- (2) Sale of new or used aircraft, including servicing and repair during warranty periods.
- (3) Rental or leasing of aircraft to members of the public.
- (4) Flight training and related instructions.
- (5) Air taxi or commuter airline operations certificated under Federal Aviation Regulation Part 135.
- (6) Airframe or power plant repair service.

- (7) Avionics, instrument, or propeller repair service.
- (8) Specialized commercial aeronautical activities, including but not limited to agricultural application, banner towing and aerial advertising, aerial photography and survey, and nonstop sightseeing flights that begin and end at the airport.

*Escort* means any person accompanied, physically or visually, by an authorized personnel who knowingly maintains constant sight and sound observation of the escorted person until he or she leaves the air operations area or other restricted area.

*Fixed base operator* means a commercial operator engaged in the business of providing, for compensation, three or more of the aeronautical services identified in the definition of commercial operator.

*Flying club* means any group of persons joining together equally or proportionately in a nonprofit ~~corporation~~ entity operating under state laws for purposes set forth in subsection 22-242(a).

*Ground support services operator* means any person engaged in the ground support services operation, to all locations on the airport except leased premises, of air cargo or passengers, which shall be the business of providing, for compensation, any four or more of the following services:

- (1) Loading and unloading of air cargo.
- (2) Loading and unloading of passengers and baggage.
- (3) Loading and unloading of U.S. mail.
- (4) Aircraft deicing and/or washing.
- (5) Aircraft parking and towing.
- (6) Aircraft lavatory and potable water servicing.
- (7) Other ground support services as approved by the aviation director.

*Lessee* means a person who has entered a fully executed and approved lease of airport property with the city.

*Maximum certificated gross landing weight* means the maximum permissible gross weight which the aircraft is permitted to have as set forth in Federal Aviation Administration specifications.

*Person* means any individual; firm; partnership; copartnership; limited partnership; limited liability company; corporation; trust; association; company, including any assignee, receiver, trustee, or similar representatives thereof; any group; the United States of America or any state or political subdivision thereof; or any foreign government of the United Nations.

*Rental aircraft* means an aircraft available for lease on the airport to the public operating to another airport, or operating through an intermediate stop and return to the airport, or

returning to the airport without an intermediate stop.

*Restricted area* means any area posted as restricted for security or safety reasons, including the air operations area (AOA).

*Runway protection zone* means an area, at ground level beyond the runway end (formerly the clear zone), used to enhance the safety of aircraft operations. These areas are so designated in article X of this chapter.

*Scheduled service* means the arrival of at least one aircraft per day, five days a week by an air transportation service.

*Signatory agreement* means an airport operating and lease agreement signed by the city and an air transportation company similar to the airline operating agreement and terminal lease or the cargo airline operating agreement, and as a condition of which the air transportation company agrees to lease exclusive space and assign an employee of the air transportation company to utilize such space at the airport during air transportation company's normal business hours.

*Sublessee* means a person who has executed a sublease with a lessee of airport property, which sublease has been approved by the city.

*Tenant* means a person who has a lease agreement, operating agreement or airport use agreement with the city or who has been assigned or allocated the use of space by the aviation director.

*Tower* means the airport traffic control tower operated by the Federal Aviation Administration.

*Training aircraft* means an aircraft involved in a training program for instruction to aircrew operating to or from the airport, or to or from other locations and using the airport as an intermediate stop, for hire or compensation with intent of profit.

## **Sec. 22-242. Organization and membership.**

- (a) To be considered a flying club, the group must be organized as a nonprofit corporationentity under state laws for the purpose of fostering flying for pleasure, for the purpose of providing its members with an aircraft, or aircraft, for their personal use and enjoyment only, for the purpose of fostering flying for pleasure, for the development of skills and aeronautics including pilotage and navigation, or for the development of an awareness and appreciation of requirements and techniques by the general public in the field of aviation and aeronautics. No part of the net earnings of the club will inure to the benefit of any member in any form (salaries, bonuses, etc.). The club may not derive greater revenue from

the use of its aircraft than the most necessary for the operations, maintenance and replacement of its aircraft.


- (b) ~~No~~A flying club shall ~~fail to~~ furnish the aviation director with copies of its charter and bylaws, articles of incorporation, articles of organization, partnership agreement, operating rules and other applicable membership agreements. The aviation director shall also be furnished with a roster of all officers and directors, which shall be kept current.
- (c) Every flying club shall keep a membership record containing the full names and addresses of all members, past and present, together with the date when each person's membership commenced and terminated. Such records shall be ~~available for review at any reasonable time by~~ updated and provided to the aviation director semi-annually.

**Sec. 22-244. Insurance.**

- (a) A flying club shall carry ~~a minimum~~airport liability insurance of ~~\$100,000.00 for each person injured and \$500,000.00 for each accident for personal injury or death and \$100,000.00 for property damage~~not less than \$1,000,000 per occurrence and/or aggregate combined single limit for bodily injury, including death, and property damage and with sub-limits of not less than \$100,000 per seat per passenger.
- (b) The city ~~shall be named as an additional insured on any such policy and~~ shall receive written notice of cancellation, termination or change of such insurance at least ~~tenthirty~~thirty days before the effective date of such event.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

  
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David A. Ferree  
Assistant City Attorney