
Title 5

Chapter 4. Municipal Airports

5-401 Bonner County Municipal Airports Described

The rules and regulations of this chapter shall be for:

(1) The Sandpoint Municipal Airport.

The public-use airport commonly known as “The Sandpoint Municipal Airport”. Which encompasses that parcel of land particularly described in the Bonner County Assessor’s records as Parcel # RPS00000153305A, and in Bonner County Instrument 207497 dated October 11, 1978, and which also includes the additional areas further described in the current versions of the Sandpoint Airport Master Plan and Airport Layout Plan approved by the Federal Aviation Administration in accordance with the Airport Compliance Manual, Order 5190.B.

(2) The Priest River Municipal Airport.

The public-use airport commonly known as “The Priest River Municipal Airport”. Which encompasses that parcel of land particularly described in the Bonner County Assessor’s records as Parcel # RPR00000242402A, and in Bonner County Instrument 225688 dated January 8, 1980, and which also includes the additional areas further described in the current versions of the Sandpoint Airport Master Plan and Airport Layout Plan approved by Federal Aviation Administration in accordance with the Airport Compliance Manual, Order 5190.B. (Ord. ____, _____)

5-402 Rules and Regulations of the Bonner County Municipal Airports

Bonner County Municipal Airports shall be subject to the Rules and Regulations adopted by the Bonner County Board of Commissioners as amended. (Ord. ____, _____)

5-403 Definitions

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

Access taxiway means an aircraft taxiway located on off-airport property that connects or feeds into a taxiway on the airport and that is constructed for or intended to be used for the principal purpose of allowing aircraft to taxi between the airport and one or more off-airport properties and is approved as an access taxiway by the County as evidenced by plat approval easement dedication, Through the Fence Agreement, or as reflected in the airport layout plan.

Airport means either the Sandpoint Municipal Airport or the Priest River Municipal Airport as applicable to the relevant Off-Airport property.

Airport public area expenses means an amount of money equal to the average of all known expenses and costs incurred or expended by the County to operate the airport public area for the benefit, use, and privilege of the general aviation public during the three most recently completed fiscal years as accounted for by the County, and being an amount equal to total airport expenses adjusted by (i) a reduction as a result of public revenue actually collected, and (ii) an allowance for the County's Airport’s capital improvements plan reserve.

Airport public area maintenance rate means a dollar amount calculated on a per square foot basis of the airport public area expenses by dividing the airport public area expenses by the total land area (in gross square feet) of all public airport facilities and properties.

Affiliate means a person or entity owning a majority interest in an off-airport property or a family member of an owner of an off-airport property.

Aircraft owner means anyone who owns or leases a specific aircraft and holds the exclusive right to fly or sell the aircraft (including but not limited to an individual, corporation, chief pilot, leasing company, or aircraft manager).

Airport means the areas known as the Sandpoint Municipal Airport and/or (depending on context) the Priest River Municipal Airport which are now or hereafter designated and set aside for the landing and taking off of aircraft, and accessory or appurtenant uses, facilities and improvements thereto, and used or to be used in the interest of the public for such purposes.

Airport Manager means the director or manager of the Airport (whether a County employee, or designated pursuant to a contract between the County and a third party, or otherwise).

Air navigation facility means:

- (a) a facility, other than one owned and operated by the United States, used in or available or designed for use in aid of air navigation, including a structure, mechanism, light, beacon, marker, communications system, or other instrumentality;
- (b) a device used or useful as an aid in the safe landing, navigation, or takeoff of aircraft or the safe and efficient operation or maintenance of an airport; or
- (c) a combination of those facilities or devices.

Airport public area means that portion of the airport, which is now or hereafter considered by the FAA, Idaho Transportation Department, the County, or any other regulatory agency with oversight of the airport to be the obligation and responsibility of the County to operate and maintain for the common use and benefit of the general aviation public. The airport public area includes, without limitation, any air navigation facility or structure designed and intended to serve the general public not specifically subject to a lease agreement; all runways, taxiways, and other common-use paved, graveled, or turfed areas and their respective protection zones, safety areas, and/or object free areas; any other facility or facilities at the Airport that are eligible for federal or state grants or subsidies awarded on the basis of their serving the benefit of the public (including runways, taxiways, vehicle streets and alleys, public aircraft aprons/tarmac, vehicle parking areas, and drainage structures); field lighting and associated beacon and lighted wind and landing direction indicators; security, fire, and emergency medical protection; protection of aerial approaches to the airport; directional signs; and perimeter or restricted access fences. Generally, the airport public area is the total area and facilities of the airport exclusive of all non-public airport facilities, and may vary from time to time depending on the total land comprising the airport and the change of land use at the airport. (The airport less non-public airport facilities equals the airport public area).

Bonner County Airports means the Sandpoint Municipal Airport and the Priest River Municipal Airport.

County means Bonner County, Idaho.

Commercial aviation use means the operation of a business enterprise providing aviation-related goods, services, or facilities for a commercial purpose (including, without limitation, any activity by the operator securing earnings, income, compensation (including exchange or barter of goods and services), and/or profit from said activities, whether or not such objectives are accomplished) to users of the airport.

FAA means the Federal Aviation Administration or its successor entity.

Non-public airport facilities means generally any land, building, or other facility or improvement on the airport that is subject to or otherwise intended to be subject to an arrangement that prohibits or restricts access or use by the general aviation public. By way of example, a portion of airport land leased to a third person, together with any improvements thereon constructed by the third person pursuant to the lease, would be non-public airport facilities.

Off-airport access means access to the Airport for aviation purposes from off-airport property in accordance with this Chapter, a Through the Fence Agreement, and applicable law, rule, or regulation. Off-airport access is frequently referred to as a "through the fence" operation, even though an airport's perimeter fence may be imaginary.

Off-airport property means the gross land area of a lot or tract of land which abuts the airport or an airport taxiway and may be used or intended to be used in whole or in part for aviation-related purposes.

Off-airport user means an owner of the fee simple title of an off-airport property who is issued and holds a Through the Fence Agreement to conduct off-airport access operations as either a recreational/incidental business user or as a commercial aeronautical user directly between the off-airport property and the airport in accordance with the Through the Fence Agreement issued by the County.

Public revenue means a sum of revenue collected (or a commercially reasonable allocation thereof) by the County available for the offset of the cost to operate and provide airport services and benefits used by the general aviation public. Examples of public revenue include, but are not necessarily limited to, an allocated portion of fuel flowage revenue, and on-airport leases.

Recreational/incidental business use means the use of an off-airport property for aviation operations which is either recreational in nature or is incidental to a non-aviation business conducted on the off-airport property (i.e., a business that uses an aircraft as an incidental use in support of the business, such as, for example, an architect, technology company, or an oil company using an aircraft to transport people, not product).

Through the Fence Agreement means a permit issued by Bonner County to an off-airport user permitting the off-airport user the unique privilege of using the airport public area directly from the off-airport property for either a recreational/incidental business use or commercial aviation use.

Through the Fence Agreement fee means the *airport maintenance* fee to be paid annually to the County for maintenance of the airport from an off-airport property as described in this Chapter.

Total airport expenses means an amount of money equal to all known expenses and costs incurred and expended by the County to operate the airport during the most recently completed fiscal year(s).

Total off-airport properties means the aggregate of all properties, each of which is or may become an off-airport property, as determined by the County. (Ord. ____, _____)

5-404 Findings

In enacting this Chapter, the County finds that:

- (1) Off-airport access is a unique class of aviation operation at the Bonner County Airports, which is neither itinerant in nature nor based from any aviation facility located within an Airport. Within this class there are two distinct subclasses:
 - a. the recreational/incidental business use; and
 - b. the commercial aviation use.
- (2) The airport public area constitutes the property and improvements on and within the airport that are maintained by the County for the public's common use and are available to and used by off-airport users.
- (3) The airport public area expenses constitute the expenses and costs of operation to the County of the Airport public area.
- (4) Where the aviation use of an off-airport property is a commercial aviation use, such use may compete directly with the operation of commercial aviation enterprises located within the Airport. Accordingly, it is fair, reasonable, and equitable, for the purpose of setting a fee for access to the airport from an off-airport property, to distinguish between those off-airport users who use their off-airport property primarily for a commercial aviation use, and those who use their off-airport property primarily for a recreational/incidental business use.
- (5) Off-airport commercial aviation users can be expected to use the airport in proportion to the gross land area or parcel size of their off-airport property. It is fair, reasonable and equitable to use the gross land area or parcel size of an off-airport commercial aviation user to allocate and charge each such user for airport public area expenses as set forth herein.
- (6) Off-airport recreational/incidental business users can be expected to use the airport significantly less than commercial aviation users. It is fair, reasonable and equitable to allocate and charge all such users for airport public area expenses through a flat fee.
- (7) Airport public area expenses can be expected to rise with inflation. It is fair, reasonable and equitable to redetermine the airport public area maintenance rate and to adjust Through the Fence Agreement fees for inflation as set forth herein. Other methods for estimating or measuring the changes in airport public area expenses over time would be impracticable and unreasonable under the circumstances.
- (8) Off-airport users provide indirect benefits to the Airport and enhance opportunities for future aeronautical growth and development for the benefit of the Airport, the public and on-airport operations. It is fair, reasonable and equitable to adjust the airport public area maintenance rate as set forth herein to recognize these indirect benefits and to promote the further economic development and use of the Airport and aeronautical properties adjacent to the Airport while ensuring fair and equitable competitive operation as between on-airport and off-airport operations.

(9) The fees set forth in this Chapter for access to the Airport from an off-airport property are reasonable and uniform for the same class of privilege or service, and are established with due regard to the property and improvements used and the expenses of operation to the County.

(10) The terms of this Chapter satisfy and comply with both federal law, rules and regulations and state law, including, without limitation, FAA grants and assurances and, to the extent that it applies, Idaho Code. (Ord. _____, _____)

5-405 Access to Airport by off-airport user

(a) Any unauthorized access to the Airport property either by foot, vehicle or aircraft is expressly prohibited. Except for authorized access, including authorized access from an off-airport property as set forth in this Chapter, the Airport Manager is charged with the responsibility to safeguard the Airport by constructing and maintaining at all times a fence or other form of barrier sufficient to restrict unauthorized pedestrian, vehicle, or aircraft access to and from the Airport property. If access to the Airport from an off-airport property is not authorized by the County for any reason (including, without limitation, for breach by an off-airport user of a Through the Fence Agreement) and the County constructs or places a fence or other barrier to prevent access to the Airport from an off-airport property, the off-airport user shall, as a condition precedent to obtaining access to the airport, reimburse the County for all costs incurred by the County in constructing or placing and in removing the fence or other barrier.

(b) Use and access to the Airport from an off-airport property may be permitted to an off-airport user subject to the terms and conditions of a Through the Fence Agreement issued by the County as provided for in section 5-509 of this Chapter (the "Through the Fence Agreement"). The Through the Fence Agreement allows an off-airport user the unique privilege of accessing the Airport from an off-airport property for either recreational/incidental business use or a commercial aviation use. Such privilege is granted for the term specified in and is subject to all of the terms and conditions of this Chapter, the Through the Fence Agreement, and all other applicable laws, ordinances, rules, codes, standards, policies, regulations, grant assurances, and grant agreements, whether currently in effect, hereafter adopted, or as may be amended, modified, changed, or superseded, and subject to the use of the Airport for airport purposes and the off-airport user's compliance with and fulfillment of all of the terms, conditions, provisions and regulations of this Chapter, all other applicable laws, rules, and regulations, and the Through the Fence Agreement.

(c) Any Through the Fence Agreement, if issued in the County's sole discretion, is subject to the initial and ongoing approval and consent by the FAA and by the Idaho Transportation Department, and is subject to the terms, conditions and requirements of any existing or future grant agreement(s) or grant assurance(s) at or in connection with the Airport (and may be revoked, terminated, or canceled immediately if any such Through the Fence Agreement(s) is in violation of any such grant agreement(s) or grant assurance(s) or any FAA or Idaho Transportation Department policy, rule, permit, standard, or regulation, or any local, state, or federal law, policy, rule, permit, standard, or regulation, whether currently in effect, hereafter adopted, or as may be amended, modified, changed, or superseded).

(d)

(e) An off-airport user shall register and periodically affirm the appropriate contact information of the off-airport user as required by the Airport Manager. The off-airport user shall also register or periodically affirm with the Airport Manager all aircraft stored or based at the off-airport property by providing the Airport Manager each aircraft's registration number ("N" number), make, model, and the aircraft owner's name and contact information.

(f) Access gates placed by an off-airport user which restrict access from the off-airport property to the Airport shall include a sign stating no-trespassing, emergency contact information, and such other information as the County may require. The form and content of such sign shall be subject to the approval of the Airport Manager. (Ord. _____, _____)

5-406 Access to airport by off-airport user

(a) The Airport Manager may at any time require all pedestrian, vehicular, and aviation access between the off-airport property and the Airport to be controlled at all times using automated controlled-access devices, gate operators, closers with automatic locks, or other such reliable devices, or any other means of affirmative control acceptable to the Airport Manager, that serves to continually safeguard the Airport from unauthorized access from the off-airport property. The Airport Manager shall have the right to inspect the off-airport property from time to time for conformance with this Chapter and/or compliance with the Through the Fence Agreement.

(b) The Airport Manager, or any other authority responsible for operation and safety of the Airport is authorized by this Chapter to take appropriate action to ensure the Airport is safeguarded at all times, including the temporary override of gates, closers, and locks of damaged or otherwise inoperable gates and/or doors, or the placement of blockades or other types of barriers or fencing material as needed. Such safeguards, when taken, shall be clearly posted and not removed except as authorized by the Airport Manager.

(c) All safety and operational rules and regulations established by the FAA or Idaho Transportation Department, by any County or city ordinance, rule, regulation, policy, standard, or permit, or by any other regulatory authority with jurisdiction over the Airport (whether currently in effect, hereafter adopted, or as may be amended, modified, changed, or superseded), shall be applicable to each off-airport property. (Ord. _____, _____)

5-407 Access taxiways.

(a) An off-airport user may, with the Airport Manager's approval and with any approval as may be required of the FAA, Idaho Transportation Department, or any other regulatory authority having jurisdiction over the Airport and subject to any and all laws, ordinances, rules, codes, regulations, policies, and standards of the County and city (whether currently in effect, hereafter adopted, or as may be amended, modified, changed, or superseded), construct, at the sole cost and expense of the off-airport user, an access taxiway to connect the off-airport property to a nearby taxiway located within the Airport public area. The number, exact location and design specification of an access taxiway requested or constructed by an off-airport user shall be subject to the prior review and approval of the Airport Manager (and the FAA, Idaho Transportation Department, and any other regulatory authority having jurisdiction over the airport if so required), taking into consideration, among other things, operational safety and efficiency considerations and compatibility with the Airport Master Plan as finally approved by the County from time to time. Plans,

schedules, and specifications for constructing access taxiways shall be approved by the Airport Manager prior to construction, and access taxiways shall be designed and constructed to meet or exceed the requirements of the projected use for said access taxiways. An off-airport user may be required by the County to plat an access taxiway within the off-airport property in accordance with law.

- (b) Once constructed, inspected, and accepted by the County, that portion of the access taxiway that lies within the airport shall become the sole property of the County and shall immediately become a part of the airport public area unless, at the sole discretion of the Airport Manager, public use and access is restricted for safety or operational reasons. Upon acceptance by the County, that portion of the access taxiway that lies within the airport shall thereafter be policed, maintained and repaired by the County at the County's sole cost and expense, save and except any abnormal wear and tear or abuse of the access taxiway on the Airport evidenced by one or more off-airport access taxiway users who may, under said circumstances, be assessed by the County for all or a reasonable portion of the County's actual cost of repair(s).
- (c) It shall be the responsibility of the off-airport user to maintain, repair, or replace any portion of the access taxiway situated within the legal boundary of the respective off-airport property including, but not limited to, the taxiway surface and subsurface, storm drainage, directional signs, lighting, or other navigational aids, fencing, gates, doors, and locking devices. If, in the opinion of the Airport Manager, the portion of the access taxiway situated on the off-airport property is unsafe or presents an operational or safety hazard to the airport or any user of the airport, the Airport Manager, at his/her sole discretion, may:
 - (1) Take whatever reasonable actions the Airport Manager deems necessary to remedy the unsafe condition, and any and all costs thereof shall be reimbursed to the County by the off-airport user; or
 - (2) After giving at least fifteen (15) days written notice to the off-airport user, the Airport Manager may suspend off-airport access from the off-airport property until the unsafe condition is corrected to the satisfaction of the County.
- (d) County shall determine, in its sole discretion, the number of available taxiway access points. Subject to enforceable Through the Fence Agreements and FAA regulations, the County may determine to eliminate all taxiway access points.
- (e) County shall only issue one Through the Fence Agreement per taxiway access point. Whenever two or more off-airport properties are determined by the Airport Manager to qualify for a Through the Fence Agreement for a single taxiway access point, they shall form an entity that at a minimum:
 - (1) is composed only of members that qualify for a Through the Fence Agreement for the shared taxiway access point;
 - (2) is empowered by its members to enter into a Through the Fence Agreement with the County;
 - (3) is charged with maintaining compliance with all the obligations imposed by the Through the Fence Agreement, FAA regulations, this Chapter, Airport Rules and Regulations, and County and City ordinances associated with access to the Airport through the taxiway access point;

(4) shall collect from the members all fees required by the Rules and Regulations and the applicable Through the Fence Agreement and furnish them to the appropriate authority. (Ord. _____, _____)

5-408 Prohibited Uses.

- (a) The sale of fuel for aviation or other purposes and activities in connection therewith on, from or in connection with the use of an off-airport property is strictly prohibited unless permitted by a valid and current written agreement with the County.
- (b) The use of an off-airport property is subject to applicable zoning regulations and all other applicable laws, ordinances, codes, rules, regulations, and standards of the County and city and any other governmental entity having jurisdiction over the off-airport property. (Ord. _____, _____)

5-409 Through the Fence Agreements.

- (a) *Application.* The owner of the fee simple title of an off-airport property who desires access to the airport from an off-airport property shall make application (the "application") to the Airport Manager. In connection with the application, an applicant shall provide to the Airport Manager all such information regarding the off-airport property as may be required by the Airport Manager including, without limitation:
 - (1) A legal description of the off-airport property and the total area of the off-airport property calculated in square feet;
 - (2) A description of the desired or intended use of the off-airport property (being either recreational/incidental business use or commercial aviation use);
 - (3) If for commercial aviation use, the applicant shall provide a description of the business services to be offered and details of any FAA certifications it will be operating under;
 - (4) A schedule of all aircraft to be stored or based at the off-airport property by providing the Airport Manager each aircraft's registration number ("N" number), make, model and the aircraft owner's name and contact information (or any other information required by the Airport Manager at the time of application or thereafter);
 - (5) The names of all affiliates and other individuals to be authorized under the Through the Fence Agreement;
 - (6) Evidence of financial responsibility as required under the Through the Fence Agreement; and
 - (7) Evidence of a vested property interest to access the Airport.
- (b) *Application review and approval.* The Airport Manager shall review each application for off-airport access for its sufficiency under this Chapter. If the application is complete (as determined by the Airport Manager) and is consistent with this Chapter, the Airport Manager shall deliver to the County:
 - (1) A copy of the application;
 - (2) A Through the Fence Agreement signed by the proposed off-airport user;
 - (3) Acknowledgement of receipt of any fees due to the County in accordance with this Chapter or the Through the Fence Agreement; and

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- (4) The Airport Manager's written recommendation for the County's consideration. In making such recommendation, the Airport Manager shall consider, among other things, the Airport Master Plan (as applicable) and all applicable laws, ordinances, rules, codes, standards, guidelines, policies, regulations, grant assurances, and grant agreements. The County shall either approve or disapprove the application.
- (c) *Conditions for issuing; issuance.* Following receipt of the application and all accompanying information and materials, the County will review the same and may, within forty-five (45) days after such receipt, request that the Airport Manager provide to the County other information in connection with the application as the County deems necessary. Following receipt of such other information, if any, the County will, in considering approval or disapproval of the application, review and consider the application and all materials and information pertaining to the application, including, among other things, the Airport Master Plan (as applicable) and all applicable laws, ordinances, rules, codes, standards, guidelines, policies, regulations, grant assurances, and grant agreements. If the application for a Through the Fence Agreement is complete and if the applicant has provided all information or materials as may be required by a Through the Fence Agreement, and if the applicant is current on any and all County taxes, fees, charges, assessments, or fines, and the issuance of the permit will be consistent and in conformity with the Airport Master Plan (as applicable), the Minimum Standards for the Conduct of Commercial Aeronautical Activities (applicable to commercial aviation use), and all applicable laws, ordinances, codes, rules, standards, guidelines, policies, and regulations, grant assurances, and grant agreements of the County, then the County may execute a Through the Fence Agreement.. Written notice of the County's determination shall be provided to the applicant.
- (d) *Contents of Through the Fence Agreement; periodic recertification; amendment.* The Through the Fence Agreement shall identify the use and/or intended use of the off-airport property (i.e., either a recreational/incidental business use or a commercial aeronautical use), specify the size of the off-airport property (for a commercial aviation use only) and the fee to be paid in connection with any off-airport access, identify and specify all aircraft to be stored or based at the off-airport property by stating each aircraft's registration number ("N" number), make, model and the aircraft owner's name and contact information, require compliance with the Minimum Standards for the Conduct of Commercial Aeronautical Activities (in the case of a commercial aviation use), and shall contain such other terms, conditions, and requirements as the Airport Manager may deem appropriate (including, without limitation, insurance and indemnity requirements, no assignment or other transfer without the County's prior consent (not to be unreasonably withheld), default, termination and remedies therefor, standards regarding environmental matters, authorized uses, late charges and interest, and compliance with the terms and conditions of this Chapter). A Through the Fence Agreement may not be sold, assigned, sublet, pledged, conveyed, or otherwise transferred without the prior written consent of the County, at the sole discretion of the County. Periodically, the Airport Manager may request an off-airport user to recertify the off-airport user's Through the Fence Agreement by affirming the authorized users, registered aircraft, contact information, updated emergency and security plan, size of off-airport property (for a commercial aviation use only), permitted use or other terms and conditions of this Chapter.
- (e) *Revocation; access prevented; reinstatement.*

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- (1) The Airport Manager may revoke, cancel, or terminate a Through the Fence Agreement and access from an off-airport property of any off-airport user:
 - a. Who fails to pay the applicable fee, or fails to comply with any provision of the Through the Fence Agreement, this Chapter, or any applicable laws, rules, codes, standards, regulations, policies, or permits, and including, without limitation, fails to comply with the Minimum Standards for the Conduct of Commercial Aeronautical Activities (applicable to commercial aviation use); or
 - b. Who fails to pay, prior to delinquency, the lawfully assessed and levied County ad valorem taxes on the applicable off-airport property; or
 - c. Who fails to use or discontinues for a period of 24 months the use of the off-airport property that is the subject of the Through the Fence Agreement for a recreational/incidental business use or commercial aviation use as described in the Through the Fence Agreement; or
 - d. As otherwise set forth in the Through the Fence Agreement.
 - (2) If access from an off-airport property to the airport is revoked, canceled, or terminated, the County shall secure the Airport by erecting a fence or other barrier to prevent access to the airport from the off-airport property. If a fence or other barrier is erected, the affected off-airport owner shall, prior to and as a condition of reinstatement of access from the off-airport property to the Airport, reimburse the County for all costs (including, without limitation, attorney's fees) incurred by or on behalf of the County to collect any amounts due for access, to erect and/or remove a fence or other barrier, and other applicable costs.
 - (3) Any revoked, canceled, or terminated Through the Fence Agreement and/or access to the airport from an off-airport property may be reinstated only after the Airport Manager has determined, in its sole discretion, that sufficient extenuating circumstances exist to merit consideration for reinstatement, and upon payment of any outstanding fees or costs plus interest as may be required, the correction of any noncompliance, and/or the payment of any such taxes plus all penalties and interest, as applicable. Access to the Airport shall be reinstated within 72 hours following the Airport Manager's determination of the same or as soon as possible.
 - (f) *Term.* Subject to the provisions, terms and conditions of this Chapter and the Through the Fence Agreement and except as provided below in this subsection (f), a Through the Fence Agreement shall be issued for a term of 20 years (the "initial term"). At the end of the initial term, a Through the Fence Agreement shall be automatically renewed for an additional period of 15 years (the "renewal term"). Thereafter, a Through the Fence Agreement may be renewed in accordance with the Airport Master Plan (as applicable) and applicable laws, ordinances, rules, standards, codes, guidelines, policies, regulations, grant assurances, and grant agreements.
 - (g) *Renewals/extensions of Through the Fence Agreement.* A renewal and/or extension of a Through the Fence Agreement may be considered (but not necessarily authorized or granted, which shall be in the County's sole discretion) by the County as long as:
 - (1) The County will still own and control the Airport during the modified term;

- (2) The continuation of the off-airport access is, in the County's sole discretion, desirable for the County or the Airport;
 - (3) Is consistent with the County's and/or Airport purposes and objectives;
 - (4) No more than 15 years remain under the prevailing term and such renewal or extension does not exceed any duration of term authorized by law;
 - (5) Is in compliance and accordance with the terms, conditions, and standards set forth in this Chapter. All renewals and/or extensions shall be subject to the same conditions provided herein for issuance of a Through the Fence Agreement as the same may be amended or modified in whole or in part from time to time.
- (h) *Prohibition against unpermitted access; penalty.* It shall be unlawful for any person to access the Airport property from an off-airport property unless such person is a party to a valid Through the Fence Agreement or is accessing the Airport or the off-airport property for a purpose which is authorized by the Through the Fence Agreement for the said off-airport property. A violation of this provision or any other provision of this Chapter constitutes a misdemeanor punishable by fine or state or federal law, and/or may result in revocation, cancellation, or termination of the Through the Fence Agreement. (Ord. _____, _____)

5-410. Fee calculation; time of payment; penalty for late payment.

- (a) *Adjustment to the Airport public area maintenance rate.* In order to, among other things, promote the economic development and use of the Airport and the development of aeronautical properties adjacent to the Airport and for other proper and beneficial purposes, in the discretion of the County the then applicable airport public area maintenance rate may be adjusted in an amount determined appropriate by the County (the "adjusted airport public area maintenance rate"). The adjusted airport public area maintenance rate shall become effective on January 1 of the year next following such determination, and shall be used to establish the Through the Fence Agreement airport maintenance fee for any new or extended Through the Fence Agreement issued while it is in effect.
- (b) *Through the Fence Agreement Airport Maintenance fee.*
 - (1) *Commercial aviation use.* For each off-airport property where the stated aviation use is a commercial aviation use, the Through the Fence Agreement fee shall be calculated as follows (the "commercial aviation Through the Fence Agreement fee formula"):

$$\begin{array}{r}
 \text{Adjusted Airport Public Area Maintenance Rate (then applicable)} \\
 \times (\text{times}) \\
 \text{Off-Airport Property (gross land area in square feet)} \\
 = \\
 \text{Through the Fence Agreement Fee for Commercial Aviation Use}
 \end{array}$$

- (2) *Recreational/incidental business use.* For each off-airport property where the stated use is a recreational/incidental business use, giving due regard and consideration to the airport public area and the airport public area expenses, the Through the Fence

Agreement fee shall be calculated at a rate and/or set in an amount which is equal or smaller than the rate and/or amount of the fee for a commercial aviation use.

Example (Commercial Aviation Use):

| | |
|---|--|
| Total Airport Expenses (Airport Enterprise Fund) | \$ |
| | |
| Less Public Revenue Offset | (\$) |
| Plus Five-Year CIP Reserve Allowance | \$ |
| <i>Airport Public Area Expenses</i> | \$ |
| | |
| Airport Public Area Maintenance Rate (Airport Public Area Expenses / square footage of all Public Airport Facilities) | \$/Sq. Ft. |
| Adjusted Airport Public Area Maintenance Rate | \$/Sq. Ft. |
| Square Footage of Specific Off-Airport Property (Stated Aviation Use is a Commercial Aviation Use) | 20,000 square feet |
| Through the Fence Agreement Airport Maintenance Fee for Off-Airport Property (Paid Annually, Subject to Adjustment) | 20,000 square feet × \$Airport public area maintenance rate = \$ |

- (c) *Payment.* The initial Through the Fence Agreement airport maintenance fee shall be due and payable in accordance with the terms of the Through the Fence Agreement, (but in any event, not later than the time of issuance of the Through the Fence Agreement); Airport access shall not be permitted prior to the issuance of the Through the Fence Agreement and until said Through the Fence Agreement fee is paid. Thereafter, the Through the Fence Agreement fee shall be paid in advance on or before October 1 of each year.
- (e) *Modification of size of off-airport property.* If the total square footage of an off-airport property (having as its stated aviation use a commercial aviation use) is legally modified (including any platting or re-platting as may be required) (i.e., the legal description has been changed or altered), the off-airport user owning the off-airport property shall promptly report in writing such modification to the Airport Manager. Upon such notice, the Through the Fence Agreement shall be amended to reflect the modified land area and applicable Through the Fence Agreement airport maintenance fee, and a pro-rata adjustment to the Through the Fence Agreement airport maintenance fee shall be made as appropriate.
- (f) *Modification of off-airport use.* If a Through the Fence Agreement is issued for an off-airport property having a commercial aviation use as its stated aviation use, and the stated aviation use is subsequently changed to a recreational/incidental business use, the off-airport user owning the off-airport property shall report the same in writing to the Airport Manager, and the Airport Manager shall investigate the report and if the Airport Manager concludes that such use has in fact changed, the Through the Fence Agreement shall be amended to reflect the change in use and the modification of the Through the Fence Agreement airport maintenance fee, if any, and a pro-rata adjustment to the Through the Fence Agreement airport maintenance fee shall be made as appropriate.

If an off-airport user desires to change its recreational/incidental business use Through the Fence Agreement to a commercial aviation use, the off-airport user shall submit a written

request to the airport Manager, which request shall be considered and processed in accordance with and as provided for in section 5-509. If the County approves the requested change, the Through the Fence Agreement shall be amended to reflect the change in use and an adjustment to the Through the Fence Agreement airport maintenance fee, and a pro-rata adjustment to the Through the Fence Agreement airport maintenance fee shall be made as appropriate.

(g) *Adjustment to Through the Fence Agreement airport maintenance fee.*

(1) Commencing on October 1 of the second year next following the year of the effective date of a Through the Fence Agreement and every two years thereafter (hereinafter referred to as the "adjustment date"), the Through the Fence Agreement airport maintenance fee shall be adjusted as follows (a "CPI adjustment"):

- a. The Through the Fence Agreement airport maintenance fee shall be adjusted to reflect changes in the Consumers' Price Index - All Items urban consumers, US City Average (hereinafter referred to as the "Consumer Price Index"), as quoted in the publication Consumer Price Index for all Urban Consumers (CPI-U) which is issued by the U.S. Department of Labor, Bureau of Labor Statistics. The basic index ("basic index") is the consumer price index existing on January 1 of the year in which a Through the Fence Agreement is effective. The current index ("current index") is the consumer price index on the first day of the calendar month preceding the then applicable adjustment date.
- b. Beginning with the calendar year of the then applicable adjustment date, the Through the Fence Agreement airport maintenance fee shall be adjusted so that it equals the product of the Through the Fence Agreement airport maintenance fee multiplied by a fraction, the numerator of which is the current index and the denominator of which is the basic index, but in no event shall such amount ever be decreased below the initial amount of the Through the Fence Agreement airport maintenance fee.
- c. In the event that the price index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the price index as closely as feasible (as reasonably determined by the County) shall be substituted therefor.

(2) A Through the Fence Agreement airport maintenance fee shall be further adjusted as follows: At or about the beginning of the automatic renewal term or the modified renewal term, as applicable (as defined in subsection 5-509(f), above) and at or about the beginning of any additional renewals thereafter as may be approved by the County, the Through the Fence Agreement airport maintenance fee shall be determined by recalculating the same in accordance with the provisions of this Chapter (e.g., for a commercial aviation use, the Through the Fence Agreement airport maintenance fee shall be recalculated pursuant to the commercial aviation use Through the Fence Agreement airport maintenance fee formula). Such Through the Fence Agreement airport maintenance fee shall then be subject thereafter to the CPI adjustment as set forth in and in accordance with subsection (g)(1) of this section.

(h) *Initial Through the Fence Agreement airport maintenance fees.* Initial Through the Fence Agreement airport maintenance fees are as follows:

i) Sandpoint Municipal Airport

- (1) For December 1, 2021, the airport director has determined the airport public area maintenance rate to be ~~\$0.29~~ \$0.20 per square foot. The adjusted airport public area maintenance rate for the first two-year period, commencing January 1, 2022 is hereby set at \$0.08 per square foot. Through the Fence Agreement airport maintenance fees for commercial aviation uses for such period shall be determined in accordance with the commercial aviation use Through the Fence Agreement airport maintenance fee formula.
- (2) For each off-airport property where the aviation use is a recreational/incidental business use, the Through the Fence Agreement airport maintenance fee shall be \$750.00.

ii) Priest River Municipal Airport

- (1) For December 1, 2021, the airport manager has determined the airport public area maintenance rate to be ~~\$0.29~~ \$0.20 per square foot. The adjusted airport public area maintenance rate for the first two-year period, commencing January 1, 2022 is hereby set at \$0.08 per square foot. Through the Fence Agreement airport maintenance fees for commercial aviation uses for such period shall be determined in accordance with the commercial aviation use Through the Fence Agreement airport maintenance fee formula.
 - (2) For each off-airport property where the aviation use is a recreational/incidental business use, the Through the Fence Agreement airport maintenance fee shall be \$750.00. (Ord. _____, _____)
- (j) *Penalty for late payment of fees.* Any fee not paid within 30 days of the due date as established in section 5-410(c) shall be deemed late. In addition to the fee due, the off-airport user must pay (i) a late charge equal to 10% of the fee then due, and (ii) interest on the fee at the rate of 10% per annum until paid in full. Any fee which is due and unpaid at the expiration, termination or cancellation of a Through the Fence Agreement shall continue to be an obligation of the off-airport user notwithstanding such termination or cancellation.

5-411 Violations and penalties

Any violation of this Chapter and the regulations herein is declared to be a misdemeanor and punishable by a fine of not more than three hundred dollars (\$300.00) or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment. (Ord. _____, _____)