

Chapter 10. Reasonable Commercial Minimum Standards

10.1. Introduction. This chapter describes the sponsor's prerogative to establish minimum standards for commercial service providers and to establish self-service rules and regulations for all other airport activities. Flying clubs are not-for-profit commercial operations and are not normally covered by commercial minimum standards. However, flying clubs are covered within this chapter since a majority of federally obligated airports where flying clubs exist have historically addressed the issue in their minimum standards.

It is the responsibility of the airports district offices (ADOs) and regional airports divisions to advise sponsors on the appropriateness of proposed standards and to ensure that the standards do not protect or convey an exclusive right. (For samples, see Appendix O of this Order, *Sample Minimum Standards for Commercial Aeronautical Activities*, and Appendix P of this Order, *Sample Airport Rules and Regulations*.)

10.2. FAA Recognition of Minimum Standards. A sponsor's establishment of minimum standards and self-service rules and regulations contributes to nondiscriminatory treatment of airport tenants and users. It also helps the sponsor avoid granting an exclusive right. (See chapter 8 of this Order, *Exclusive Rights*, and chapter 9 of this Order, *Unjust Discrimination between Aeronautical Users*.) When the sponsor imposes reasonable and not unjustly discriminatory minimum standards for airport operations, and the sponsor then denies access or services based on those standards, the FAA will not find the sponsor in violation of the assurances regarding exclusive rights and unjust discrimination, provided those standards:

- a. Apply to all providers of aeronautical services, from full service fixed-base operators (FBOs)²⁹ to single service providers.
- b. Impose conditions that ensure safe and efficient operation of the airport in accordance with FAA guidance when available.
- c. Are reasonable, not unjustly discriminatory, attainable, uniformly applied and reasonably protect providers of aeronautical services from unreasonable competition.
- d. Are relevant to the activity for which they apply.
- e. Provide the opportunity for others who meet the standards to offer aeronautical services.

²⁹ A fixed-base operator (FBO) is a commercial entity providing aeronautical services such as fueling, maintenance, storage, ground and flight instruction, etc., to the public.

Note: There is no requirement to include nonaeronautical activities (such as restaurant or car rental) in minimum standards since those activities are not covered under the grant assurances.

10.3. Use of Minimum Standards to Protect an Exclusive Right. When the sponsor implements minimum standards for the apparent purpose of protecting an exclusive right, the FAA will find the sponsor in violation of the exclusive rights prohibition. Evidence of intent to grant an exclusive right might be, for example, the adoption of a standard that only one particular operator can reasonably or practically meet.

10.4. Benefits of Minimum Standards. The FAA strongly recommends developing minimum standards because these standards typically:

- a. Promote safety in all airport activities and maintain a higher quality of service for airport users,
- b. Protect airport users from unlicensed and unauthorized products and services,
- c. Enhance the availability of adequate services for all airport users,
- d. Promote the orderly development of airport land, and
- e. Provide a clear and objective distinction between service providers that will provide a satisfactory level of service and those that will not.
- f. Prevent disputes between aeronautical providers and reduce potential complaints.

10.5. Developing and Applying Minimum Standards.

a. Advisory Circular (AC) on Minimum Standards. When developing minimum standards, the most critical consideration is the particular nature of the activity and the operating environment at the airport. Airport sponsors should tailor their minimum standards to their individual airports. For example, consider the requirements for an FBO located at a small, rural airport that serves only small general aviation (GA) aircraft. A minimum standard requiring the FBO to make jet fuel available if there were few jet operations at the airport would likely be unreasonable.



STAFFORD REGIONAL AIRPORT
 MINIMUM STANDARDS
 FOR
 PROVIDING AERONAUTICAL SERVICES
 TO THE PUBLIC

Adopted by the Stafford Regional Airport Authority February 8, 2000

Airport sponsors should strive to develop minimum standards that are fair and reasonable to all operators and relevant to the activity that the minimum standards concern.

The potential imposition of unreasonable requirements illustrates why “fill-in-the-blank” minimum standards and the blanket adoption of another airport’s standards are not effective. The FAA will not endorse “fill-in-the-blank” minimum standards because of the high probability that many airport sponsors would adopt the document without modifying it to the needs of their particular airports. This could result in the imposition of irrelevant and unreasonable standards. Instead, the FAA has provided guidance in the form of AC 150/5190-7, *Minimum Standards for Commercial Aeronautical Activities*, to illustrate an approach to developing and implementing minimum standards. AC 150/5190-7, *Minimum Standards for Commercial Aeronautical Activities* is available in Appendix C of this Order.

b. Safety and Efficiency Standards. Federal law and policies requiring airport sponsors to provide airport access to all types, kinds, and classes of aeronautical activity, as well as to the general public, include certain exceptions. Exceptions to the general rule may apply when airport safety or efficiency would be compromised.

If a type, kind, or class of activity would have an adverse effect on safety or efficiency for the airport, the sponsor may deny business applications to conduct that activity on the airport or limit or restrict the manner of operation. However, a restriction imposed for safety or efficiency purposes that is subsequently challenged by an aeronautical user will require concurrence from FAA Flight Standards (FS) and/or Air Traffic (AT) before the FAA headquarters Airport Compliance Division (ACO-100) or ADO or regional airports division can determine the restriction is reasonable and approve the restriction. This is because the federal government, through this exercise of its constitutional and statutory powers, has preempted the areas of airspace use and management, air traffic control, and aviation safety. (See chapter 14 of this Order, *Restrictions Based on Safety and Efficiency Procedures and Organization*.)

c. Aircraft Weight Restrictions. A sponsor may impose a restriction based on specified maximum gross weight or wheel loading. Before imposing a weight-based restriction, however, the FAA recommends the sponsor seek FAA review of the proposal to ensure compliance with other federal obligations. (See Appendix S of this Order, *FAA Weight-Based Restrictions at Airports*, for additional information.)

d. Public Access. The sponsor may also impose restrictions that apply to the general public. For example, the general public is generally subject to restrictions concerning vehicle and pedestrian access, security, and crowd control when using airport facilities.

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e. Availability of FAA Assistance. Airport sponsors can obtain assistance from ADOs and regional airports divisions in determining the reasonableness of restrictions imposed through minimum standards.

10.6. Flying Clubs.

a. Definition. FAA defines a flying club as a nonprofit or not-for-profit entity (e.g., corporation, association, or partnership) organized for the express purpose of providing its members with aircraft for their personal use and enjoyment only.

b. General. The ownership of the club aircraft must be vested in the name of the flying club or owned by all its members. The property rights of the members of the club shall be equal; no part of the net earnings of the club will inure to the benefit of any individual in any form, including salaries, bonuses, etc. The flying club may not derive greater revenue from the use of its aircraft than the amount needed for the operation, maintenance and replacement of its aircraft. For a sample of flying club rules and regulations, see the *Sample Flying Club Rules and Regulations* at the end of this chapter.

c. Policies. A flying club qualifies as an individual under the grant assurances and, as such, has the right to fuel and maintain the aircraft with its members. The airport owner has the right to require the flying club to furnish documents, such as insurance policies and a current list of members, as may be reasonably necessary to assure that the flying club is a nonprofit organization rather than an FBO or other commercial entity.

The FAA suggests several definitions and items as guidance for inclusion by airports in their minimum standards and airport rules and regulations. (See Appendix O of this Order, *Sample Minimum Standards for Commercial Aeronautical Activities*, and Appendix P, *Sample Airport Rules and Regulations*.) These items include:

(1). All flying clubs desiring to base their aircraft and operate at an airport must comply with the applicable provisions of airport specific standards or requirements. However, flying clubs will not be subject to commercial FBO requirements provided the flying club fulfills the conditions contained in the stated airport standards or requirements satisfactorily.

(2). Flying clubs may not offer or conduct charter, air taxi, or aircraft rental operations. They may conduct aircraft flight instruction for regular members only, and only members of



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the flying club may operate the aircraft.

(3). No flying club shall permit its aircraft to be used for flight instruction for any person, including members of the club owning the aircraft, when such person pays or becomes obligated to pay for such instruction. An exception applies when the instruction is given by a lessee based on the airport who provides flight training and the person receiving the training is a member of the flying club. Flight instructors who are also club members may not receive payment for instruction except that they may be compensated by credit against payment of dues or flight time.

(4). Any qualified mechanic who is a registered member and part owner of the aircraft owned and operated by a flying club may perform maintenance work on aircraft owned by the club. The flying club may not become obligated to pay for such maintenance work except that such mechanics may be compensated by credit against payment of dues or flight time.

(5). All flying clubs and their members are prohibited from leasing or selling any goods or services whatsoever to any person or firm other than a member of such club at the airport, except that said flying club may sell or exchange its capital equipment.

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(6). A flying club at any airport shall comply with all federal, state, and local laws, ordinances, regulations and the rules and regulations of the airport.

(7). The flying club should file periodic documents as required by the sponsor, including tax returns, insurance policies, membership lists, and other documents that the sponsor reasonably requires.

d. Violations. A flying club that violates the requirements for a flying club – or that permits one or more members to do so – may be required to terminate all operations as a flying club at all airports controlled by the airport sponsor.

10.7. through 10.10. reserved.

Article I - The Club

1.01 The Metro Flying Club operates aircraft owned, rented or leased by the Club. The Club is managed by officers elected by the Board of Directors. The Board of Directors is elected annually by the members.

Article II - Club Membership

2.01 Membership in the Metro Flying Club is contingent upon approval of the application for membership by the Board of Directors and such membership may be revoked by the Board of Directors.

2.02 The applicable initiation fee, security deposit and current dues must be paid in full before a membership application can be approved.

2.03 Fees: Initiation fee, \$200.00 (family \$230.00); security deposit, \$100.00; monthly dues, \$73.00; family dues, \$106; associate member dues \$4.00; active CFI, \$0 dues contingent on:

Giving annual Metro check rides free of charge.

Non CFI Board member(s) will be responsible to insure CFI is active.

2.04 A security deposit of \$100.00 must be paid with each application for membership. This will be refunded when membership is terminated if there are no amounts owed to the Club.

2.05 If a new member decides to terminate membership within 30 days after joining the Club and did not use any Club aircraft, the initiation fee shall be refunded less \$25.00 service charge.

2.06 If a member must terminate membership for reasons beyond his/her control during the first year of membership, one-half of his/her initiation fee will be refunded less any amounts owed to the Club.

2.07 Family Memberships -- The spouse of a member or any unmarried child living with member as part of his/her family group shall be entitled to join the Club upon payment of an additional \$30.00 initiation fee and \$33.00 monthly dues. A family membership reverts to an individual membership when the individual is no longer living at home, requiring payment of the regular security deposit and regular dues.

2.08 Minimum age for membership is 20 years, except that the Board of Directors may approve exemption to this rule in specific cases.

2.09 In the event that a member is unable to use Club aircraft for reasons beyond his/her control, he/she may retain his/her membership by paying nominal monthly dues, providing this request is submitted in writing and is approved by the Board of Directors.

2.10 When any member is in default in the payment of dues for three months, membership may be terminated by the Board of Directors.

2.11 A member is eligible to fly Club aircraft only if the membership is valid in all respects and his/her "block time" account contains sufficient funds to cover the planned flight.

Article III - Check-Out and Flight Rules

3.01 Use of Club aircraft shall be under such conditions as to ensure strict compliance with FAA regulations and local airport rules. Full cooperation with the airport owners or operators is required of all members at all times. Club aircraft will be operated according to standard operating procedures.

3.025 The pilot-in-command is responsible for having the operating manual for the aircraft being flown with them during flight since it is not necessarily provided on board by the Club.

3.02 The members will at all times perform as pilot-in-command of the aircraft and will fly from the pilot's seat (left) and will allow no other person to fly the aircraft unless the member is an instructor or is working for an instructor rating having been checked out by a Club-approved instructor for right seat operation.

3.03 Club aircraft may be used for the purpose of obtaining dual instruction provided the instructors are approved by the Board of Directors.

3.04 No member shall act as pilot-in-command in any Club aircraft unless he/she has demonstrated proficiency in that make and model of aircraft at or approaching gross weight and his/her log book has been signed to that effect by the safety director or his designee.

3.05 Each member must have flown a check ride with a qualified and approved instructor during the preceding 12 months, subject to the following:

(a) A pilots not having flown Metro Flying Club aircraft within a three (3) month period must take a check ride with a qualified and approved flight instructor.

(b) A pilot qualified to fly more than one type of aircraft in the club (as per section 3.04) will take the annual check ride in the heaviest/fastest such aircraft and such check ride will qualify the pilot to fly all other aircraft the pilot is previously approved to fly with the Club. The ranking of the Club's aircraft for this paragraph will be made by the Safety Director.

(c) The check ride will include maneuvers and procedures appropriate to the aircraft flown and the pilot certificate held.

(d) Other specialized aircraft may be subject to additional rules.

3.06 Members using Club aircraft for Instrument Flight Rules (IFR) flight must have had an instrument check ride during the past 12 months. Only those instructors approved as "Instrument Instructor Pilots" by the FAA may perform these check rides. Refer to paragraph 3.05 for the aircraft to be used in such check.

3.07 Checkout in a retractable aircraft will require the following:

(a) 250 hours total flight time.

(b) Fifteen hours in aircraft having retractable landing gear, including not less than five hours dual in-flight checkout to competency by a Club-approved flight instructor in that make and model.

(c) If a rated pilot has at least 700 hours total time including 300 hours complex and 25 hours experience as pilot-in-command (PIC) in the same make retractable as is operated by the Club, the checkout will be to proficiency in place of item (b) above.

3.08 Touch and go takeoff and landings are not to be made in complex aircraft.

3.09 Over water flight is not to be undertaken in any circumstances where the glide ratio would not permit a land landing. Under no circumstances shall a single engine Club aircraft fly across Lake Michigan.

3.10 Intentionally Left Blank.

3.11 Mountain Flying: Club members contemplating mountain flight must verbally demonstrate knowledge of mountain flying to a qualified and approved flight instructor.

Sample Flying Club Rules and Regulations - Page 2

3.13 Any infraction of FAA or Club rules will constitute automatic grounding and possible expulsion from Metro Flying Club until member is rechecked and reinstated by Safety Director or Board of Directors.

3.14 Club aircraft shall not be used to lift and drop parachute jumpers.

3.15 Club aircraft shall not be used for banner, sailplane, or towing of any kind.

3.16 Student pilots are required to take two check rides with a qualified and approved instructor. The first check ride is to be prior to solo cross-country and the second is to be prior to the private flight examination.

3.17 A student pilot shall be required to obtain his/her private pilot's license in no more than 75 total hours of flight time within a two-year time period from the date of his/her first instruction. In the event that the above is not attained, the Safety Director shall recommend to the Board for either approval of an additional amount of time and hours needed for the student to obtain his/her license or dismissal from the Club.

3.18 A pilot who has less than 125 total hours of flight time who wants to go on a cross-country flight of more than 250 nautical miles must receive prior permission from the Safety Director.

Article IV - Scheduling and Returning Aircraft

4.01 All rated pilots will be responsible for returning the aircraft to home base. Extenuating circumstances due to maintenance requirements will be reviewed by the Board for exemptions to this rule.

4.02 Student pilots have the privilege of leaving the aircraft at another airport if, for any reason, the student does not feel capable of returning it to home base. The Club will be responsible for returning the aircraft at no cost to the student.

4.03 On a flight, if a rated pilot must return without the plane and is unable to pick it up, the expense of returning it will be charged to the pilot.

4.04 It is the responsibility of the pilot to notify the aircraft scheduling system when he/she is unable to return the plane within his/her scheduled estimated time of arrival (ETA). This is a matter of common courtesy and is an absolute must so that the next member who has scheduled the aircraft can be notified. The Board of Directors, at its discretion, may impose a \$20 fine to members returning aircraft more than 20 minutes late without proper notice.

Article V - Aircraft Care and Maintenance

5.00 It shall be the responsibility of the Club to maintain the aircraft in a good state of repair in accordance with FAA regulations. It shall be the responsibility of the individual pilots to report known mechanical deficiency to the scheduler immediately upon termination of any flight.

5.01 At all times, it is the pilot's responsibility to see that the aircraft is hangared or tied down before leaving the field. In the event that a member neglects to tie down an aircraft, he/she will be responsible for any damage resulting from his/her negligence.

Article VI - Insurance

6.01 All aircraft are covered by public liability and passenger insurance only. The pilot is not covered by insurance for any injuries he/she may receive.

6.02 Any member involved in an accident with a Club aircraft will be liable for the first \$750.00 of any damage.

6.03 If a member flies a retractable gear aircraft and is not in accordance with Metro Flying club's Rules and Regulations and FAR's and causes damage to the aircraft, the pilot will be responsible for the entire amount of damage incurred.