

d. The airport manager and borough staff shall follow the relevant procedures in existing leases to apply any lease rate adjustments consistent with this section, and to utilize these rates in connection with any new leases.

(10) [*Terminal lease rates.*] Terminal lease rates shall be as set by individually negotiated leases.

(11) *Security fees.* Security fee shall be two (2) dollars per each enplaning passenger requiring screening to board.

(e) *Payment of fees and charges.*

(1) Airport facility users and tenants shall pay to the borough the airport fees and charges due under this section, other than those required to be prepaid, not later than thirty (30) days after billing by the borough.

(2) Every person or entity that dispenses aviation fuel into aircraft at the airport shall on or before the last day of the month pay the borough revenue collector the total fuel flowage fees due for the net gallons dispensed into aircraft during the previous month.

(3) Any person or entity that has not timely paid all landing fees due to the borough shall not land aircraft at the airport until such time as all their delinquent landing fees have been paid.

(f) *Examination and audit of required records.*

(1) Every seller and dispenser of aviation fuel into aircraft at the airport shall keep and preserve records of all such sales or deliveries and such other books or accounts as may be necessary for the borough revenue collector to determine the fees payable under this section.

(2) All such records, accounts, and books, including but not limited to invoices and delivery receipts, shall be kept in the offices of the seller and dispenser at places within the borough, and shall be kept and preserved for a period of two (2) years.

(3) All such records, books, accounts, invoices, delivery receipts, and any other records pertaining thereto may be examined and audited by the borough revenue collector, or his or her designee, at any reasonable time.

(Ord. No. 894, §1, 12-7-92; Ord. No. 1200, §1, 12-3-01; Ord. No. 1317, §2, 8-16-04; Ord. No. 1350, §1, 5-2-05; Ord. No. 1370A, §1, 10-3-05; Ord. No. 1480, §1, 5-5-08; Ord. 1501, §4, 12-1-08)

#### **15.11.070 Parking violations hearing officer.**

(a) The function of parking violations hearing officer (“hearing officer”) is hereby created. The parking violations hearing officer shall be the borough manager or such person as the borough manager may designate. The hearing officer shall have authority and jurisdiction to dispose of cases arising out of parking violations of this title.

(b) The hearing officer shall hear appeals under section 15.11.080 of this chapter.

(Ord. No. 1236, §3, 10-21-02)

#### **15.11.080 Administrative appeal.**

(a) *Right to appeal notice of violation.* Any person to whom a notice of violation as described in section 15.11.050(e) has been issued and any person who is the registered owner of a vehicle to which a notice of violation was affixed may appeal the notice of violation in the manner set forth below:

(b) *Time for appeal.* Within twenty (20) days of the date the notice of violation was issued any person appealing a notice of violation shall file with the hearing officer a written appeal. A written appeal may also be filed with the hearing officer within ten days of the date the notice described in section 15.11.050(e) above was mailed provided, however, that the appeal will be considered untimely unless the appellant proves to the hearing officer by satisfactory evidence that the person did not receive the notice of violation and that the failure to receive the notice was not the result of any act or omission of the person, of any other registered owner or of any other person who operated the vehicle with the consent of any registered owner. If the person appealing provides such satisfactory evidence, the person shall not be charged a late payment fee for the period prior to the date of the hearing officer's decision. Failure to file a written appeal within the time limits set forth above shall waive any right to appeal or contest the notice of violation or the penalties, fees and costs imposed for the violation.

(c) *Contents of written appeal.* The written appeal shall state:

- (1) The name and mailing address of the appellant;
- (2) The number or other sufficient identification of the notice of violation;
- (3) A description of the vehicle;
- (4) Any facts, documents, photographs, witness statements or other evidence supporting the appeal;
- (5) A statement of the reasons for the appeal;
- (6) A statement as to whether the appellant requests a hearing before a hearing officer or desires to have the hearing officer decide the matter without a hearing. Unless a hearing is requested, the appellant's rights to a hearing, to be represented by counsel at appellant's cost, and the opportunity to present evidence and to examine and cross-examine witnesses will be waived. If the appellant waives the hearing, the hearing officer may determine the case based upon the written statements of the appellant, the issuing officer and any witnesses and upon the hearing officer's own observations;
- (7) The signature of the appellant and the date of signing; and
- (8) Such other information as the borough manager may require.

The manager shall prepare appeal forms which appellant may use.

(d) *Hearing procedures.*

- (1) *Date.* Unless otherwise agreed by the appellant and the hearing officer any hearing requested pursuant to this section shall take place no later than fifteen days from the date the written notice of appeal is filed with the borough.

- (2) *Procedure.* The hearing shall be conducted informally and may be governed by such rules and procedures as the hearing officer may choose to establish, except that:
- a. Parties may appear in person or through counsel;
  - b. Parties may present witnesses and evidence on their own behalf;
  - c. Parties or their counsel may cross-examine opposing witnesses on matters relevant to the issues, impeach witnesses regardless of which party first called the witness to testify, and rebut evidence against them;
  - d. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which make improper the admission of the evidence over objection in a civil action. Hearsay evidence may be considered provided there are guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence the proponent can procure by reasonable efforts;
  - e. All proceedings shall be open to the public;
  - f. All parties shall have the right to subpoena witnesses and documents using a form provided by the borough clerk and submitted to the clerk for issuance at least five working days before the date of the hearing;
  - g. The hearing shall be memorialized by an electronic recording or a stenographic record.
  - h. Failure of an appellant to appear at a hearing when such hearing has been requested by appellant shall waive all right to a hearing and shall render the amount of the fines, penalties and costs due and owing.

(e) *Scope of review.* The hearing officer's decisions shall be based solely upon the law and the facts applicable to the case. If a violation is legally determined to have occurred, the hearing officer shall not substitute his/her judgment for that of the enforcement officer or parking enforcement officer as to whether a notice of violation should have been issued. If a violation is legally determined to have occurred, the hearing officer shall furthermore not substitute his/her judgment for the assembly, manager or other parking authority which enacted the regulation or ordinance and shall not reduce the penalty below that provided for under Section 15.11.090.

(f) *Decision.* No later than fifteen days following the hearing the hearing officer shall issue a written decision based on findings and conclusions adopted by the hearing officer. Such findings must be in writing and must be reasonably specific so as to provide interested persons and where appropriate, reviewing authorities, a clear and precise understanding of the reasons for the decision entered. The decision, findings of fact and conclusions of law shall be forwarded to all parties to the appeal.

(g) *Payment.* If the hearing officer upholds the notice of violation the appellant shall pay the penalty, any applicable late fees and costs of collection.

(h) *Reconsideration and appeal.* The decision of the hearing officer reached at the conclusion of a quasi-judicial proceeding or administrative hearing may be reconsidered or reheard only if:

- (1) There was substantial procedural error in the original proceedings;
- (2) The hearing officer acted without jurisdiction; or
- (3) The original decision was based on fraud or misrepresentation.

Any person seeking reconsideration or rehearing must file a request with the borough clerk together with the materials supporting one or more of the grounds stated above within fifteen days of the decision for which reconsideration or rehearing is requested. A rehearing shall be conducted in the same manner as the original proceeding. The decision of the hearing officer may be appealed to the superior court pursuant to the Alaska rules of court, appellate rules.

(Ord. No. 1236, §4, 10-21-02; Ord. No. 1465; §2, 2-4-08)

**15.11.090 Parking violations—Schedule of fines and penalties.**

(a) The following fine and civil penalty schedule shall apply to the violations listed below:

<i>Type of Violation</i>	<i>Fine/Penalty</i>
(1) Illegal and overtime parking In violation of any section of Section 15.11.005(b), (d)(1), (d)(3), d(6), or d(8)	\$10/violation
(2) Violations by persons operating vehicles without special permit or special license plate Section 15.11.005(d)(2)a., c., or d.	\$125 first conviction \$250 subsequent convictions
(3) Violations by persons operating vehicles with special permit or special license plate Section 15.11.005(d)(2)b.	\$250 first conviction \$500 subsequent convictions
(4) No overnight camping Section 15.11.005(d)(4)	\$100/violation
(5) Failure to display registration Section 15.11.005(d)(5)	\$50/violation
(6) Vehicles carrying trash or waste Section 15.11.005(d)(7)	\$50/violation
(7) Illegal and overtime parking Section 15.11.005(d)(9)	\$50/violation

For purposes of this subsection the term “conviction” means any violation of section 15.11.005(d)(2), AS 28.35.235, or any ordinance of any municipality in the state of Alaska which substantially conforms to AS 28.35.235.