

ORDINANCE NO. 1604

**AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING THE CITY CODE OF ORDINANCES, CHAPTER 18 (TITLED "AVIATION") BY AMENDING VARIOUS SECTIONS TO REQUIRE A PERMIT FOR AGRICULTURE AIRCRAFT OPERATIONS (CROP DUSTING); PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND DIRECTING THE CITY SECRETARY TO PUBLISH THE CAPTION IN ACCORDANCE WITH THE CITY CHARTER.**

**WHEREAS**, Section 2.02 of the City of Bay City (City) City Charter permits the City to enact and enforce ordinances, not inconsistent with the Charter and State law, upon any subject expedient for the life; general welfare; health, morals; comfort; safety; amusement; quiet; prosperity; and convenience of the City, its inhabitants, and property; and permits the assessment of penalties for the violations of any ordinance;

**WHEREAS**, Chapter 18 of the City's Municipal Code of Ordinances regulates aviation within the City and the City's Regional Airport (Airport); and

**WHEREAS**, Agriculture aircraft operations (crop dusting) have been taking place at the Bay City Regional Airport without permission, supervision, or regulations; and

**WHEREAS**, Agriculture aircraft operations should take place at the Bay City Regional Airport only upon the issuance of a permit and in compliance with all federal, state, and local laws; and

**WHEREAS**, the City Council finds that the amendments to Chapter 18 promotes the health, safety, and welfare of the City and its residents and is in the best interests of the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS:**

**Section one.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section two.** Various sections of the City Code of Ordinances, Chapter 18 (titled "Aviation"), are hereby amended by adding language that is underlined (underlined) and deleting language that is stricken (~~stricken~~) as follows:

**Sec. 18-100. - Definitions.**

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

*Accident* means an unintentional happening which results in property damage, personal injury or death.

Agriculture aircraft operations means the operation of an aircraft for the purpose of (1) dispensing any economic poison; (2) dispensing any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control; or (3) engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation, but not including the dispensing of live insects.

*Airport* means all lands within the legal boundaries of the Bay City Regional Airport and under the control of the city.

*Airport manager* means the official employed by the city to manage, control, maintain and protect the airport.

Economic poison is any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, viruses, other forms of plant or animal life, and anything declared by the Secretary of Agriculture to be a pest. Viruses on or in living man or other animals are excepted. Also, an economic poison is any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

*Federal Aviation Administration (FAA)* means the federal agency established by the Federal Aviation Act of 1958 and reestablished in 1967 under the department of transportation.

*Fixed base operator (FBO)* means any person, partnership, or corporation engaged in business of an aviation nature under provisions, contracts or lease with the city and in accordance with applicable Federal Air Regulations.

*Flying club* means a nonprofit flying organization with a charter, bylaws and elected officials.

*Motor vehicle* means any self-propelled ground conveyance other than an aircraft.

*Person* means any individual, firm, partnership, corporation, joint stock association, or body politic, and includes any trustee, receiver, assignees or other similar representative.

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#### **Sec. 18-136 – Permits for Agriculture Aerial Operations (Crop Dusting).**

- A. No person shall conduct an agriculture aircraft operation from the Airport, except upon a permit issued by the Airport Manager.
- B. City Council shall approve, by resolution, the form of an aerial applicator operation permit for agriculture aerial operations at the Airport.
- C. The fee for an aerial applicator operating permit shall be \$500.00 for two aircraft for a thirty day period. Any additional aircraft is an additional fee of \$250.00 per aircraft, per thirty-day period.

**Sec. 18-137 – Appeals.**

An appeal the Airport Manager's denial or revocation of an aerial applicator operation permit shall be made to City Council. A decision made by City Council is not subject to appeal.

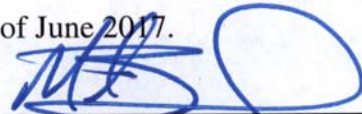
**Section three. Cumulative and Conflicts.** This Ordinance shall be cumulative of all provisions of ordinances of the City of Bay City, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

**Section four. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**Section five. Directive to City Secretary.** The City Secretary is hereby authorized and directed to provide all documents and notices required by state law to effect this Ordinance.

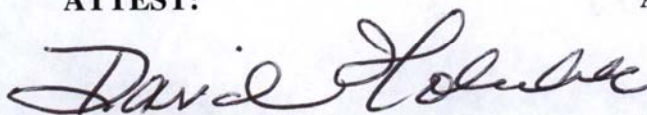
**Section six. Effective Date.** This Ordinance shall become effective upon its adoption by the City Council and publication of the caption hereof in accordance with Section 5.01(i) of the City Charter.

**PASSED AND APPROVED** on this 22nd day of June 2017.



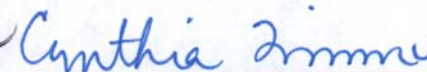
Mark A. Bricker, Mayor  
City of Bay City, Texas

**ATTEST:**



David Holubec, City Secretary  
City of Bay City, Texas

**APPROVED AS TO FORM:**



Cynthia Trevino, Asst. City Attorney  
DENTON NAVARRO ROCHA BERNAL HYDE & ZECH,  
PC