

MUNICIPAL AIRPORTS CODE

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DURBAN TRANSITIONAL METROPOLITAN COUNCIL

MUNICIPAL AIRPORTS CODE

The Durban Transitional Metropolitan Council, acting under the authority of section 160 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), hereby publishes the following Municipal Airports Code made by the said Council at its meeting held on 3 August 1998 and repeals the existing By-laws for the Durban Municipal Aerodrome of the Administrative Entity of the City of Durban, which Code shall be deemed to have come into effect on 10 September 1998.

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A. General

1.0. Glossary.—In this **Municipal Airports Code**, the following words and phrases shall have the following meanings ascribed to them—

Aircraft: Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface and includes any fixed-wing **aircraft**, dirigible or helicopter.

Aircraft operator: Any **person** engaged in or offering to engage in the operation of any **aircraft**, the **owner** of any **aircraft** or any **person** who is or has been acting as agent in the Republic for any **owner** not domiciled or resident in the Republic.

Airport: The **Virginia Airport** and any other defined area of land or water intended to be used either wholly or in part for the arrival, departure or surface movement of **aircraft** and includes any buildings, installations and equipment in any such area used in connection with the airport or its administration which is or may be established or maintained by the **Metropolitan Council** or an **operator** as a **municipal airport**.

Airport fire orders: Orders prescribing actions and procedures to be taken in the event of an **aircraft** accident or incident.

Airport Manager: The **person** appointed as “Airport Manager” by the **operator** to operate the **Airport** and approved by the **Directorate**.

Airport Station Officer: The senior shift officer designated by the **Metropolitan Chief Fire Officer** responsible to see that **persons** and equipment are properly deployed in response to an incident or accident.

Air Traffic Control: The **air traffic control service** providing **air traffic services** for the control of **Airport** traffic.

Air traffic control service: A service for—

- (a) preventing collisions—
 - (i) between **aircraft**; and
 - (ii) on the **manoeuvring area** between **aircraft** and obstructions; and
- (b) expediting and maintaining a safe and orderly flow of air traffic.

Air traffic control signs: Signs to facilitate the safe and efficient manoeuvring and segregation of **aircraft, vehicles** and equipment consistent with regulations made under Articles 28 and 37 of the Chicago Convention of 7 December 1944.

Air traffic services: Any aerodrome control service, an approach control service, a flight information service, an air traffic advising service, an alerting service or any other service designated by the **Commissioner**;

Air traffic surface markings: Markings to facilitate the safe and efficient manoeuvring and segregation of **aircraft, vehicles** and equipment consistent with regulations made under Article 37 of the Chicago Convention of 7 December 1944.

Authorised parking area: An area designated by the **Airport Manager** by **air traffic surface markings** where **aircraft** are to be parked.

Building includes—

- (a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with—
 - (i) the accommodation or convenience of human beings or animals;

- (ii) the manufacture, processing, storage, display or sale of goods;
- (b) any wall, swimming-bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or (c);
- (e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building.

Charge: Property rates, levies, fees, taxes and tariffs in respect of any **function** or service of the **Metropolitan Council**.

Code: When used without qualification, the “Municipal Airports Code” set out in this instrument.

Commissioner: The Commissioner of Civil Aviation appointed in terms of section 5 (1) of the Aviation Act, 1962 (Act No. 74 of 1972).

Constitution: The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

Dependence-producing substance: A dependence-producing substance as defined in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992).

Directorate: The Directorate of Civil Aviation of the Department of Transport, Republic of South Africa.

Flammable liquids or substances: Any liquid or other substance having a flashpoint lower than 121° Celsius.

Full cost: Includes such sum as the **Metropolitan Council** shall certify as being the full cost of carrying out the work, including any supervision, administration **charge** and the use of tools and plant, as well as any expenditure or labour involved.

Function: Any function or part of a function of the **Metropolitan Council** as devolved on the **Metropolitan Council** in terms of the **Constitution**, the Local Government Transition Act, 1993 (Act No. 209 of 1993) or any other law.

Landing field: The **runway**, the **manoeuvring area** and those parts of an **airport** for the embarkation and disembarkation of passengers and the loading and off-loading of goods from **aircraft** (excluding any **buildings**).

Law enforcement agency: An agency established in terms of Item 29 of Schedule 2A of the Local Government Transition Act, 1993 (Act No. 209 of 1993), in conformity with the provisions of the South African Police Services Act, 1995 (Act No. 68 of 1995).

Law enforcement officer: Any servant or officer of the **Metropolitan Council** charged with the administration or enforcement of any law, **By-laws** or regulation relating to the **Metropolitan Council**, whether a member of a **law enforcement agency** or of the kind referred to in section 72 (5) (a) of the South African Police Services Act, 1995 (Act No. 68 of 1995).

Manoeuvring Area: That part of an **airport** to be used for the take off, landing and taxiing of **aircraft**.

Metropolis: The area of jurisdiction of the **Metropolitan Council**.

Metropolitan Chief Fire Officer: The **person** in charge of the **Metropolitan Fire Service**.

Metropolitan Council: The Durban Transitional Metropolitan Council established under Proclamation LG123 of 1995 (KZN).

Metropolitan Fire Service: The fire brigade service of the **Metropolitan Council** designed to be employed for preventing the outbreak or spread of fire; fighting or extinguishing a fire; the protection of life or property against a fire or other threatening danger; subject to the provisions of the Health Act, 1977 (Act No. 63 of 1977), the rendering of an ambulance service as an integral part of the fire brigade service and the performance of any other **function** of the **Metropolitan Council** connected with any such matters.

Motor Vehicle: Any self-propelled **vehicle** and includes—

- (a) a trailer; and
- (b) a **vehicle** having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine, motor, or both such pedals and engine or motor, but does not include—
 - (i) any **vehicle** propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - (ii) any **vehicle** with a mass not exceeding 230 kilograms and specially designed and constructed and not merely adapted, for the use of any **person** suffering from some physical defect or disability and used solely by such **person**.

Municipal airport: A “**municipal airport**” as contemplated in Schedule 4B of the **Constitution**.

Municipal Civil Protection: The **persons** operating the system for civil protection in the **Metropolis** in terms of the plan established under paragraph 3 (18) of Proclamation 38 of 1996.

Municipality: A “municipality” within the meaning of the **Constitution**.

Normal Hours: 06:00 to 22:00.

Notice Board: A notice board or boards provided by the **Metropolitan Council** at such place as is prescribed for the display of particular information in this **Code**.

Operator: A **municipality** or any other **person** contracted by the **Metropolitan Council** to carry out any **function** or part of a **function** of the **Metropolitan Council** who is not an employee of the **Metropolitan Council** but includes any employee or agent of such **operator** appointed by such **operator** and, in default of the **Metropolitan Council** contracting with an **operator** in respect of any **municipal airport**, the **Metropolitan Council** shall be the **operator** for such **municipal airport**.

Parking: Keeping a **vehicle** or **aircraft**, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or off-loading of people or goods or the owning or possessing of any **vehicle** or **aircraft** by reason of a cause beyond the control of the **person** so keeping such **vehicle** or **aircraft** and “park” shall have a corresponding meaning.

Person: Includes, where appropriate, any corporate person.

Regulations: Regulations made under any convention or law for the control of civil aviation.

Regulator: The **Metropolitan Council** in its public legal capacity where any **person** has been appointed by contract with the **Metropolitan Council** to carry out any **function**.

Road traffic marking: Any surface marking conforming with the specifications in the regulations made under the Road Traffic Act, 1996 (Act No. 93 of 1996).

Road traffic sign: Any sign conforming with the specifications in the regulations made under the Road Traffic Act, 1996 (Act No. 93 of 1996).

Runway: The prepared surface of land used for the take-off and landing of **aircraft** on the **Airport** constructed or demarcated for the landing or take-off of **aircraft** along its length.

Signage: Any prohibitory signage displayed under the authority of the **Metropolitan Council** or the **Airport Manager**.

Vehicle: A device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a **motor vehicle** which is being salvaged other than such a device which moves solely on rails.

Vehicular traffic: The flow or movement of **vehicles**.

Virginia Airport: Lot Beachwood No. 13855 in the City of Durban, Administrative District of Natal held by the **Metropolitan Council** under Crown Grant No. 107 of 1952 measuring in extent approximately 16,99 hectares as more fully appears on Plan No. 572322 but restricted to the area depicted A to Y on the said plan, the enhancements of the said property and the goods, equipment, goodwill, system and staff necessary or incidental to running an airport in terms of any law on the property aforementioned under the licence 406 issued in respect of the **Airport** by the **Commissioner**.

2.0. Repeals.—The By-laws for the Durban Municipal Aerodrome, 1962 of the former City Council of the City of Durban published under Provincial Notice No. 118 of 1962 are hereby repealed.

B. Operational

1.0. Admission and control of the public

- 1.1 No **person**, other than a **person** embarking or disembarking from an **aircraft**, shall enter or leave the **Airport** otherwise than through a gate or entrance provided for that purpose.
- 1.2 No **person** shall enter any part of the **Airport** from which members of the public are excluded by **signage**, except with the permission of the **operator**.
- 1.3 The **Metropolitan Council** may determine a **charge** to be levied by the **operator** for entry by any **person** or **vehicle** to an **airport**.

2.0. Regulation and control of vehicular or pedestrian traffic

- 2.1 No **person** shall fail to obey and observe any **road traffic sign** or **road traffic marking** erected, placed or demarcated by or on behalf of the **Metropolitan Council** at an **airport** for the purpose or warning, guiding, regulating, controlling, restricting or prohibiting **vehicular traffic** or pedestrians or for controlling, restricting or prohibiting the **parking** of **vehicles** on the **Airport** or any part thereof.

- 2.2 The **Metropolitan Council** may determine a **charge** to be levied by the **operator** for the parking of any **vehicle** in an **airport**.

3.0. Regulation and control of ground air traffic

- 3.1 No **person** operating or in control of any **aircraft** shall fail to obey any **air traffic control sign** or **surface marking** erected or placed by or on behalf of the **Metropolitan Council** for the purpose of regulating, controlling or restricting the movement, parking or fuelling of **aircraft** at an **airport**.
- 3.2 No **person** shall **park** or leave unattended or cause, allow, permit or suffer to be parked or left unattended any **aircraft**—
- (1) anywhere on a **runway**;
 - (2) in such a position at an **airport** so as to endanger **aircraft** landing on or taking off from the **runway**.
- 3.3 No **person** shall, save in an emergency, use a portion of an **airport** other than a **runway** for landing or taking off of an **aircraft**.
- 3.4 No **person** shall cause, allow, permit or suffer any **aircraft** to be **parked** or berthed on an **airport**, except in an area which is demarcated by **air traffic control signs** or **surface markings** as being set aside for that purpose, without the permission of the **Airport Manager**.
- 3.5 No **person** operating any **aircraft** shall **park** or cause, allow, permit or suffer any **aircraft** to be **parked** in an **authorised parking area** at an **airport** and unattended unless properly moored or otherwise secured by the **person** operating or in control of that **aircraft**.
- 3.6 No **person** shall start or cause, allow, permit or suffer any engine of an **aircraft** to be started—
- (1) unless—
 - (a) there is a pilot or a competent **person** at the controls; and
 - (b) (i) where the **aircraft** is not fitted with brakes, effective and properly constructed chocks are placed in front of its wheels; or
 - (ii) where the **aircraft** is fitted with brakes, an effective braking system is in use; or
 - (2) in any hangar on the **Airport**,
- without the permission of the **Airport Manager**.
- 3.7 No **person** shall run or cause, allow, permit or suffer any engine of an **aircraft** to be run—
- (1) while the **aircraft** is stationary at an **airport** and is in a position where the airstream is likely to cause damage or injury to any building, **aircraft** or **person**; or
 - (2) while the **aircraft** is stationary at an **airport** unless—
 - (a) where the **aircraft** is not fitted with brakes, effective and properly constructed chocks are placed in front of its wheels, or
 - (b) where the **aircraft** is fitted with brakes, an effective braking system is in use; or
 - (c) the **aircraft** is engaged in taxiing or take-off.

4.0. Flight Control

4.1.0 Take off:

4.1.1 Boarding of aircraft:

No **person** shall on an **airport**, board an **aircraft** without the permission of the **person** in lawful charge of such **aircraft**.

4.1.2 Runway control:

No **person** operating any **aircraft** shall taxi or place any **aircraft** on any **runway** without the permission of **Air Traffic Control** during **normal hours**.

4.1.3 Barring of take off:

The **operator** or his representative may prevent an **aircraft**, pilot or passenger from leaving the **Airport** on instructions from—

- (a) the **Directorate**;
- (b) the Department of Defence;
- (c) the Department of the Interior;
- (d) the Department of Customs and Excise;
- (e) the South African Police Services; or
- (f) any other authority having the legal right to issue such instruction.

4.1.4 Take-off clearance:

No **person** operating any **aircraft** at an **airport** shall cause such **aircraft** to become airborne without the permission of **Air Traffic Control** during **normal hours**.

4.2.0 Landing:

4.2.1.0 Night landing:

4.2.1.1 No **person** shall operate, cause, allow, permit or suffer to be landed, or participate in any way in any landing of, any **aircraft** at an **airport** outside of **normal hours** other than in an emergency or with the permission of the **Airport Manager**.

4.2.1.2 Other than in an emergency, no permission for the use of night-landing facilities after **normal hours** shall be granted unless received by the **Airport Manager** during **normal hours**.

4.2.2 Landing Clearance:

No **person** operating any **aircraft** shall cause such **aircraft** to land at an **airport** except with the permission of **Air Traffic Control** or in an emergency during **normal hours**.

4.2.3 Embarkation and disembarkation:

No **person** shall be embarked or disembarked or cargo loaded on or unloaded from **aircraft** arriving on an **airport** from any point outside the Republic of South Africa other than in accordance with the international and national law governing the procedures and practices for international entry into or exit from the Republic.

5.0. General Behaviour.—No person shall at an airport—

- (a) obstruct or interfere with the proper use of an **airport**;

- (b) obstruct any **person** employed by the **operator** or the **Metropolitan Council** acting in the execution of his duty in relation to an **airport**;
- (c) remove any **notice board** erected by or on behalf of the **operator** or **Metropolitan Council** or remove or deface any writing or document displayed on such **notice board**;
- (d) commit—
 - (i) any nuisance;
 - (ii) any disorderly or indecent act;
- (e) be in a state of intoxication or under the influence of a **dependence-producing substance**;
- (f) behave in a violent or offensive manner to the offence or annoyance of other **persons** at the **Airport**; or
- (g) make use of abusive, indecent or offensive language.

C. Conditions of use of Airport facility by Aircraft operators and pilots:

1.0. Limitation of liability

1.1 The **Metropolitan Council**, the **operator** or their respective employees shall not be responsible for—

- (1) any theft from or damage to an **aircraft** or a **vehicle** while it is at an **airport**;
- (2) any death, injury, loss or damage of any kind arising from or out of any take-off, ascent, landing or descent of any **aircraft** made in connection with an **airport**,

and the **aircraft operator** and the pilot of every **aircraft** concerned is deemed jointly and severally to indemnify and hold harmless the **Metropolitan Council**, the **operator** and their respective employees and to have undertaken to have kept indemnified and held harmless the **Metropolitan Council**, the **operator** and their respective employees against any claim, suit, demand or action for all damages and costs on an attorney and client scale by any **person** arising from or out of—

- (a) any theft from or damage to such **aircraft** while it is at the **Airport** concerned;
- (b) any death, injury, loss or damage of any kind arising from or out of any take off, ascent, landing or descent of such **aircraft** made in connection with the **Airport** concerned.

1.2 Any parking of an **aircraft** at the **Airport** and any take-off, ascent, landing or descent of any **aircraft** made in connection with an **airport** shall be entirely at the risk of the **aircraft operator** of that **aircraft**.

1.3 In the event of the **Airport** being closed due to any emergency or through military exigencies or the taking over of the **Airport** by the Department of Defence or by the **Municipal Civil Protection**, no compensation shall become payable to any **person** by the **Metropolitan Council**, the **operator** or their respective employees arising from such closure.

2.0. Civil liability of aircraft operator and pilot.—It shall be a condition of the use of the **Airport** by any **aircraft** that the owners, **aircraft operators** and pilots thereof shall be jointly and severally responsible for any damage resulting to the **Airport** or any **building** or other property therein from the failure of a pilot or of any member of the

crew of the **aircraft** to comply with this **Code** or the **regulations** or through the negligent act of any such **person**.

3.0. Landing and other charges

- 3.1 The **Metropolitan Council** may determine landing and other **charges** to be levied by the **operator** in connection with any **aircraft** landing at, parking or operating from an **airport**.
- 3.2 The owners, **aircraft operators** and pilots of **aircraft** shall be jointly and severally responsible for any **charges** to be levied under section C/3.1.

D. Environment

1.0. Executive Powers

- 1.1 The **aircraft operator** or other **person** in lawful charge of any **aircraft** or **vehicle** which is—
 - (1) **parked** in contravention of this **Code**; or
 - (2) which is abandoned or left unattended in a position which interferes with the use of the **Airport**,shall, on being directed to do so by the **Airport Manager**, move such **aircraft** or **vehicle** to another place indicated by the **Airport Manager** or from the **Airport**.
- 1.2 If such **person** fails or refuses or is not present to comply forthwith with any direction given in terms of section D/1.1, the **Airport Manager** or a **law enforcement officer** may have such **aircraft** or **vehicle** moved to such other place or from the **Airport** and the **operator** may recover the **full costs** from the **aircraft operator** or other **person** in lawful charge of the **aircraft** or **vehicle** concerned.
- 1.3 The **aircraft operator** of any damaged or disabled **aircraft** shall, if directed to do so by the **Airport Manager**, move such **aircraft** or any part thereof or any cargo or thing carried therein to another place on the **Airport** indicated by the **Airport Manager** or from the **Airport**.
- 1.4 If the **aircraft operator** of a damaged or disabled **aircraft** refuses or fails or is not present to comply forthwith with any direction given by the **aircraft operator** in terms of section D/1.3, the **Airport Manager** may take all steps necessary to ensure that such **aircraft** or any part thereof or any cargo or thing carried therein is moved expeditiously and safely in compliance with the said direction and may recover from the **aircraft operator** of that **aircraft** the **full cost** incurred therein.
- 1.5 The **Airport Station Officer** and the **Metropolitan Chief Fire Officer** may issue such orders as may be necessary or expedient to prevent the outbreak of fire and to counter any fire and all **persons** using or employed at the **Airport** shall make themselves acquainted with and comply with **airport fire orders** issued by the **Airport Station Officer** or the **Metropolitan Chief Fire Officer** from time to time.
- 1.6 The **Airport Manager** may impound any animal found straying on any part of the **Airport**.
- 1.7 Any executive or civil action by the **Airport Manager**, a **law enforcement officer** or the **operator** shall not exempt such **person** from a prosecution in respect of such refusal or failure.

2.0. Offences.

2.1.0 Fire Safety:

2.1.1 No **person** shall on the **Airport**—

- (1) smoke in or bring an open flame into—
 - (a) any place where such act is prohibited by **signage** displayed on the direction or with the permission of the **Metropolitan Council**; or
 - (b) any place within 15 m of any **aircraft** or of any **vehicle** used for the supply of fuel to an **aircraft** or a store or dump of liquid fuel;
- (2) by any act or omission cause or render likely an outbreak of fire;
- (3) tamper or interfere with any fire-hose reel, hydrant or any other item of equipment provided solely for fire-fighting purposes;
- (4) keep, store, discard or discharge any **flammable liquids or substances** except in an **aircraft** in the receptacle appropriate for the purpose or in a place on the **Airport** specifically approved by the **Airport Station Officer** for the purpose;
- (5) store or stack any material or equipment in a manner which in the opinion of the **Metropolitan Chief Fire Officer** or **Airport Station Officer** constitutes or will constitute a fire hazard; or
- (6) supply fuel to any **aircraft** except at a place and in a manner approved by the **Airport Station Officer**.

2.1.2 The **Airport Station Officer** may make any approval granted by him in terms of section D/2.1.1 (3) or (5) subject to compliance with such conditions as he may consider necessary to safeguard **persons** or property on the **Airport** and he may from time to time vary or add to any condition so imposed or withdraw his approval.

2.2.0 Other Safety:

2.2.1.0 Control of Animals:

- 2.2.1.1 No **person** shall cause or permit any animal to graze, feed or stray on an **airport**.
- 2.2.1.2. No **person** bringing an animal or receiving an animal into an **airport** shall fail to ensure that it is at all times under proper control while it remains on the **Airport**.
- 2.2.1.3 No **person** shall cause or permit any dog belonging to him or in his charge to enter or remain on an **airport** unless such dog is, and at all times while on an **airport**, continues to be, on a leash and is effectively restrained from causing annoyance or damage to any other **person** on such **airport**.

2.2.2.0 Control of equipment:

2.2.2.1 No **person** shall in any **airport**—

- (1) leave any chock, drum, loading step, trestle or other equipment capable of causing an obstruction on the **landing field** except when its

presence there is actually and immediately necessary; or

- (2) throw, leave or drop anything capable of causing injury to any **person** or animal or damage to any property.

2.2.2.2 No **person** shall in any **airport**—

- (1) damage, interfere or tamper without authority, with any part of the **airport** or any equipment associated with the operation of the **airport**; or
- (2) tamper or interfere in any way whatsoever with any **aircraft** or anything used in connection therewith, except with the permission of the **person** in lawful charge of an **aircraft**.

2.2.3 Prevention of flying hazards:

No **person** shall fly any kite or similar potential hazard to **aircraft** from an **airport** or within five kilometres of the perimeter fence of an **airport**.

2.2.4 Non-compliance with directives:

No **person** shall fail to obey any **fire order** or directive given under this **Code**.

2.3 Other Environment:

No **person** at an **airport** shall—

- (1) go on to or damage any lawn or flower-bed;
- (2) remove or pick any soil, grass, tree, shrub or flower without the express permission of the **Airport Manager**; or
- (3) dump or deposit any waste matter or refuse whatsoever elsewhere than in a receptacle or at a place provided or approved for the purpose by the **Airport Manager** or set aside for that purpose by **signage**.

E. Offences

1.0. Any **person** who—

- (a) contravenes any provision of sections B/1.1, 1.2, 2.1, 3.0, 4.1.1, 4.1.2, 4.1.4, 4.2.1.1, 4.2.2, 4.2.3, 5.0 or D/2.0 of this **Code**; or
- (b) contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of this **Code**; or
- (c) fails to comply with the terms of any **notice** served upon him in terms of this **Code**,

shall be guilty of an offence and liable, upon conviction, to a maximum penalty of six months imprisonment or to a fine as prescribed for the offence under the Adjustments of Fines Act, 1991 (Act No. 101 of 1991).

2.0. Failure to comply with the terms of any condition or **notice** referred to in section E.1.0 (b) or (c) above shall constitute a continuing offence and a **person** failing to comply with the terms of such condition or **notice** shall be guilty of a separate offence for each day during which he fails to comply with such terms.

3.0. Every **person** shall be irrebuttably presumed to know the provisions of this **Code** and, in relation to each **airport**, of every **airport fire order** published under the hand of the **Airport Station Officer** or the **Metropolitan Chief Fire Officer** on the **notice board** of that **airport**.

E.W.H. Morton
Chief Executive Officer

City Hall
DURBAN
