



Airport Lease Policy

Adopted: May 22, 2013

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Salem Municipal Airport Lease Policy

110-001-010 Introduction

The City of Salem (City), as the owner and operator of the Salem Municipal Airport, commonly known as “McNary Field,” (Airport) recognizes the importance of the Airport to the City, the community, the Oregon Department of Transportation Aviation System, the national aviation system, and the United States Department of Transportation Federal Aviation Administration (FAA). Consequently, the City has developed a policy for the leasing and connected use of Airport land and facilities that is designed to:

- **Provide a consistent and fair process for entering into Airport leases.**
- **Encourage and ensure stable, essential, and safe aviation services**
- **Foster the growth of aviation and non-aviation development on airport land**
- **Provide a fair market return to the Airport to ensure it is as financial self-sustaining as possible**
- **Comply with Airport Minimum Operating Standards & Rules and Regulations**
- **Comply with all Local, State and FAA Policies, Standards and Regulations**

The prime obligation of the City is to operate the Airport for the use and benefit of the public. Associated with this obligation is the requirement to make available suitable areas or space on reasonable terms to those who are willing and otherwise qualified to offer aeronautical services to the public or to support services to aircraft operators. Therefore, the City will:

- Operate the Airport for the use and benefit of the public, and to make it available for all types, kinds, and classes of aeronautical activity.
- Make available the opportunity to lease land (if needed) to engage in commercial aeronautical activities.
- Limit or prohibit any given type, kind, or class of aeronautical use of the Airport if such limitation or prohibition is necessary for the safe operation of the Airport or necessary to serve the civil aviation needs of the public.

- On a fair and reasonable basis, and without discrimination, impose terms and conditions on persons offering services and commodities to the public which are related to aeronautical activities.
- Make airport facilities available to the public on fair and reasonable terms without discrimination.
- Endeavor at all times to make the Airport financially self-sustaining, and ensure that revenue derived from leases will be at not less than fair market value.
- Operate the Airport and all facilities which are necessary to serve the aeronautical users of the Airport at all times in safe and serviceable condition and in accordance with the minimum standards as may be required by applicable local, state and federal agencies for maintenance and operation, and not permit any activity or action which would interfere with the operation of the Airport for aviation purposes.

110-001-020 Effective Date

This policy is effective May 22, 2013.

110-001-030 Definitions

As used in this Policy, the following mean:

- **Aeronautical Activity:** Any activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to, or is required for, the safety of such operations. Aeronautical activity includes all activities commonly conducted at airports such as air carrier operations, charter operations, military operations, pilot training, aircraft rental, sightseeing, aerial photography, aerial advertising, aircraft sales and service, sale of aircraft fuel and other related products, repair and maintenance of aircraft, sale of aircraft parts, accessories, radios, navigation equipment or other such products, flying clubs, experimental or ultra-light operations, or any other activity which, because of its direct relationship to the operation of aircraft, can appropriately be regarded as an “aeronautical activity.”
- **Airport:** The Salem Municipal Airport, operated by the City.
- **Airport Manager:** The person designated pursuant to SRC Chapter 9 who has responsibility and authority for the management and direction of the Airport.
- **Airport Property:** Any City property, whether inside or outside the airport fence, which is under the management of the Airport.

- Airport Advisory Commission: A commission created by the City that advises the City Council, the City Manager, the Salem Planning Commission, the Airport Manager, and such other City bodies, groups or officials, as may be interested in aviation or aviation development, improvement, and use of the Airport regarding aviation and airports.
- Building: Any existing or planned structure, facility, hangar, or T-hangar, whether made of wood, concrete, block, brick, or substantial metal construction.
- City: The City of Salem, Oregon.
- City Council: The elected governing body of the City.
- Commercial Activity: Any aeronautical or non-aeronautical activity, conducted on or based at the Airport by any person, the purpose of which is to secure income or profit, regardless of whether such purpose is accomplished or not.
- Commercial Aircraft: Any aircraft used in the conduct of any commercial activity.
- Commercial Lease: A lease with a commercial operator for a non-exclusive right to conduct a specified commercial activity at the Airport.
- Commercial Operator: Any person who conducts a commercial activity on the Airport.
- FAA: The Federal Aviation Administration: The national aviation authority that is vested with all authority to regulate and oversee all aspects of civil aviation in the United States.
- Grant Assurances: The various continuing commitments airport owners make to the United States as a condition for the receipt of grants from the federal government or as a condition of the conveyance of federal property for airport purposes.
- Holdover Tenant: Any person who continues to occupy property or facilities at the Airport after the expiration of the person's lease.
- Lease: Any commercial or non-commercial lease between a Lessee and the City.
- Leased Area: Any Airport property leased to a tenant, as described in the lease. Leased area shall include, but not be limited to, the building footprint, any aprons or driveways reserved for the exclusive use of the tenant, any parking areas, or any other areas reserved for the exclusive use of the tenant, or any land area that causes other additional land to become undevelopable due to the elimination of access or any other cause.
- Lessee: Any person leasing property or facilities at the Airport under a valid lease agreement.
- Master Plan: The current Airport Master Plan as adopted by the City Council and approved by the FAA.

- **Minimum Standards:** The qualifications or criteria established by SRC Chapter 9 as minimum requirements that must be met as a condition for the right to conduct a commercial aeronautical activity at the Airport.
- **Non-Commercial Activity:** Any private aeronautical or non-aeronautical activity conducted on or based at the Airport by any person, with no purpose to secure income or profit.
- **Non-Commercial Lease:** A lease with a non-commercial tenant for the right to conduct a specified non-commercial activity at the Airport.
- **Person:** Any individual, partnership, corporation, limited liability company, or other entity in law or fact.
- **Renter:** A person that is allowed the use of airport property by payment of rent on an hourly, daily, weekly or monthly basis for an unspecified term. Renters shall not hold interest, ownership or maintenance responsibilities of the property and/or facilities.
- **Sub-lessee:** A person occupying airport property or a tenant-improvement under a sublease with a Lessee.
- **Transient Commercial Aircraft Operator:** A person that provides on-demand flying services, is based at another airport, and only pre-positions aircraft, or conducts operations with pre-positioned aircraft, at the Airport.

110-001-040 Authority of the City

As provided in SRC 9.010, the Airport Manager may adopt administrative rules and procedures necessary for the proper administration of the Airport, and to ensure compliance with the following:

- SRC Chapter 9;
- Existing leases, licenses, permits, and other written agreements between the City and persons at the Airport;
- This policy, and other established airport policies, rules or regulations which apply at the Airport;
- Any temporary restrictions established in accordance with a City-mandated activity or plan, or as may be required to safeguard people, aircraft, equipment or property at the Airport.

The City Council, pursuant to SRC 9.125, has established a standard form of lease, which shall be used and which requires no further approval by the City Council.

All users of the Airport shall submit to the Airport Manager any reports or information regarding their operations at the Airport when required by the Airport Manager.

110-001-050 Local, State and Federal Requirements

SRC Chapter 9 sets forth the policies and procedures related to the management and operation of the Airport. Additionally, SRC Chapter 9 establishes the Minimum Standards required by FAA grant assurances. Nothing in this Policy shall be deemed to take precedence over SRC Chapter 9. This Policy is intended to implement SRC Chapter 9 by providing specific procedures related to the leasing of airport land or buildings.

In accepting federal and state grants for the development of the Airport, the City has assumed numerous obligations pertaining to the operation, use and maintenance of the Airport. Most of the federal obligations are embodied in federal grant awards to the Airport as sponsor assurances and legally bind the City to comply with their provisions.

The City desires to maintain full compliance with all federal and state obligations, policies, and regulations. Many of these obligations relate directly to the leasing of Airport land and are contained in the FAA Order 5190.6B, Airport Compliance Manual (2009), as well as the FAA publication *Terms and Conditions of Accepting Airport Improvement Program (AIP) Grants*. Additional guidance to federal requirements can be found in the Airport Cooperative Research Program (ACRP) Report 47, *Guidebook for Developing and Leasing Airport Property (2011)*.

110-001-060 Leases for Commercial Activities

Any person wishing the exclusive use of land for commercial activities on Airport property, or of any City-owned or operated facility at the Airport, must enter into a lease with the Airport specifying the terms and conditions of such use.

All commercial operators, other than transient commercial aircraft operators, prior to conducting commercial activity on the Airport, basing an aircraft at the Airport, or occupying land at the Airport, shall obtain a commercial activity license from the Airport Manager, and enter into an airport lease (if required).

Commercial operators without a valid license to conduct the specific commercial activity, other than transient commercial aircraft operators or those otherwise permitted by SRC Chapter 9, are prohibited from conducting a commercial activity, or otherwise offering any commercial service to the public at the Airport.

A commercial activity license shall be limited to conduct only those commercial activities stated in the license and lease (if required). An extension or renewal to an existing lease will not authorize new commercial activities that the tenant may engage unless specifically provided for in the extension or renewal.

110-001-070 Leases for Non-Commercial Aeronautical Activities

A. Aircraft Storage

Any person desiring to base an aircraft at the Airport for non-commercial purposes shall enter into a lease with the City, or enter into a sublease with an existing tenant, appropriate to the type of storage facility utilized; pay all applicable rates, fees and charges; and be bound to all Airport rules, regulations and policies.

Any person desiring to construct an aircraft hangar on the Airport property shall enter into a ground lease with the City for a site approved by the Airport Manager. The aircraft hangar must have a useful life of not less than 30 years. The lease shall contain requirements that the lessee maintain the building to standards sufficient to ensure that at the end of the lease period the building will be in commercially reasonable condition, normal wear and tear excepted. The lessee shall be limited to uses of the building for only those purposes specifically set forth in the lease.

B. Non-profit Clubs and Organizations

Non-profit clubs and organizations shall enter into a lease with the City prior to basing offices, facilities, personnel or aircraft at the Airport. Only clubs or organizations possessing a 501(c)(3) tax exempt status from the Internal Revenue Service, or which are registered in Oregon as a nonprofit corporation, are eligible for consideration as non-profit clubs and organizations and authorized to lease land at the Airport. The lease shall include the terms and conditions under which the club or organization may operate. Clubs or organizations shall not offer any goods or services whatsoever to any person other than another member of the same club, and shall comply with SRC Chapter 9 and the Airport rules, regulations and policies.

110-001-080 Ground Lease Rates and Other Charges

The City will establish rates, fees and charges, and those terms and conditions it deems appropriate and applicable to Leases.

In establishing rental rates and other fees at the Airport, the City's primary objectives are:

- Ensure the provision of, at least, essential aviation services to the community and, at least, offset the cost of maintaining, operating and developing the Airport.

- Obtain fair market revenues from all uses of Airport land, and to ensure the Airport is as financially self-sustaining as possible through these revenues.

A. Rental Rates.

The rental rate for ground leases will be set by the City Council, based on formal appraisals as described in SRC Chapter 9, of leasable land at the Airport. Leasable land at the Airport is identified in Exhibit A. Leasable land for individual ground leases will be based on the determination of the leased area in each individual lease.

- Existing Unexpired Leases – For Leases executed prior to the Effective Date of this Policy, the rental rate for ground leases, rate adjustment periods, and methods shall be as defined in the lease.
- New Leases – For leases executed subsequent to the Effective Date of this Policy, the rental rate will be set at the rate established in the most recent fee resolution adopted by the City Council. Each new lease shall provide that the minimum annual base rent will automatically increase two and one half percent (2.5%) annually, except that every year ending in a five (5) or zero (0), commencing on the first such year occurring after the commencement of the lease, the rental rate shall be adjusted, based on the change, if any, between the rent under the rental agreement, and the fair market rent established pursuant to an appraisal conducted by the Airport, determining the fair market rental rate for Airport land sharing similar characteristics and amenities.

B. Other Fees.

In addition to the rental rate for a ground Lease, tenants may be responsible for payment of other fees. These fees will be set by the City Council, and include, but are not limited to:

- Landing Fees (commercial operations only)
- Fuel flowage fees
- Site Development Fees
- Parking Fees

110-001-090 Ground Lease Term

The City must retain the flexibility to enter into leases that appropriately balance the needs of the tenant and the City; this may be accomplished through a standard term only, or a standard term plus option periods.

The term of a lease is determined, in part, by current property use, planned development of Airport property, as well as the prospective lessee's proposed use. Consideration may also be given to a lessee's substantial initial capital investment in facilities and other significant benefits to the Airport, City, or the community.

The term for any ground lease at the Airport should be of sufficient length to give the tenant sufficient time to amortize the initial capital expenditure while preserving the City's future development plans at the Airport.

A. Standard Term

Standard lease terms, not including option periods, for a ground lease executed after the Effective Date of this Policy are:

- Aircraft Hangars: 30 years
- Commercial Buildings 40 years

B. Exceptions to Standard Term

On a case-by-case basis, the Airport Manager may consider a longer lease term. Longer terms will not be considered except by specific request of the prospective tenant. The Airport Manager will consider the following factors in formulating a recommendation to the City Council to authorize a ground lease with a term longer than the standard term:

- The prospective lessee has demonstrated a need for a longer lease term;
- Lessee will undertake significant initial capital investment;
- Lessee will undertake significant additional capital investment in the expansion of current leasehold improvements;
- Lessee's activity will result in significant job creation;
- Extension of public infrastructure by Lessee (i.e., roads, water, sewer, power) that will benefit other Airport property;
- Lessee's activity has the potential to attract other new aviation or non-aviation businesses or development.

C. Option Periods

In addition to the standard term, when necessary, option periods may be included in a lease. In no circumstance will a standard term plus option periods result in a total leased term that exceeds 50 years. Each lease that contains an option shall make the option conditioned upon the following:

- The lease must not be in default at the time the option is exercised;
- Any improvements on the leased area must be structurally sound and capable of safe and legal occupancy for the entire term of the option period.
- Prior to exercising an option, lessee may be required to obtain an inspection by a certified structural engineer, approved in advance by the City, who shall determine whether the improvements are structurally sound and capable of safe and legal occupancy for the entire term of the option period.
- At least 180 days prior to expiration of the lease, lessee shall provide written request to exercise the option to the City. Lessee shall include in the request a statement certifying that lessee is in compliance with the provisions in this subsection.
- The lessee will continue to meet all requirements set forth in the lease, SRC Chapter 9, and Airport rules and regulations.

The City may refuse to grant the option if any of the required conditions are not met, or if the Airport Manager makes a determination that the leased premises are, or may be, required for additional Airport development or redevelopment. In the event of Airport development, and providing that other suitable land is available, the City may, but is not obligated to, submit an alternative site to lessee for consideration.

The City maintains the right to adjust any and all rates, fees and charges at the time the option is exercised.

D. End of Term

In accordance with SRC Chapter 9, improvements constructed or installed on the leased premises by the Lessee shall remain the property of the Lessee until the expiration of the Lease, or termination, whichever is earlier. Upon expiration or termination, Lessee shall either:

1. Remove, at Lessee's sole expense, all improvements and structures within ninety (90) days after termination.
2. With the City's consent, abandon one or more structures or improvements on the leased premises. If the City does not agree to allow structures or improvements to remain, Lessee shall remove all improvements and restore the leased premises to good and satisfactory condition. If the City agrees to allow structures or improvements to remain, then such structures or improvements shall become the property of the City without compensation to the Tenant.
3. At the expiration of any lease, upon request of the Lessee, the City may offer a new lease to the existing Lessee. A new lease will only be offered if the City determines, in its sole discretion that a new lease is in the City's best interests. The length of term

of any new lease will be determined at the time of the lease expiration, based primarily on the Airport's current and future development and business plans.

110-001-100 Lease Term for City-Owned Buildings

The standard lease term for occupancy of a City-owned building, not including short-term renters, shall not exceed 5 years, except in cases of substantial investment in the facility, business equipment, machinery, appliances, etc., or other benefit to the City. Exceptions will be made on a case-by-case basis, but in no case shall a lease term of an Airport-owned building exceed 10 years.

110-001-110 Assignment and Subleasing

A. Assignments

Assignments and subleases must be approved in advance by the Airport Manager, and shall comply with SRC 9.155. Lessees requesting approval to assign or sublease shall provide the Airport Manager;

- Name of the proposed assignee or sublessee (if the assignee or sublessee is a legal entity, the names of the owners, members or others holding a controlling interest must be supplied);
- Contact information of the proposed assignee or sublessee;
- Payment of assignment fees or other fees effective upon the date of assignment.

The Airport Manager shall not approve an assignment or sublease until all structures have been inspected and found in commercially reasonable condition, normal wear and tear excepted. The Airport Manager will not allow an assignment or sublease that would cause the City to violate its grant assurances.

Upon determining that the structure is in commercially reasonable condition, normal wear and tear excepted, the Airport Manager shall execute a consent to assignment, sublease, or other documentation reasonably necessary to demonstrate the City has approved the assignment or sublease.

An assignee assumes the existing lease, and shall be subject to all terms and conditions therein. The Airport is not obligated to offer a new lease to an assignee that has purchased the tenant's improvements.

B. Subleases

(1) Private Hangar Subleasing

Lessees may sublease a portion of their private hangar for the storage and use of aircraft, only upon the condition that the hangar is used for the storage of aircraft, and that the sublease is subject to all terms and conditions of lessee's lease, SRC Chapter 9 and the Airport rules and regulations. Lessees providing hangar space for the storage of a sublessee's aircraft shall not require City approval; however, the Lessee shall be required to provide the Airport Manager prior notice of the proposed sublease, a copy of the proposed and the executed sublease, the aircraft tail number, and appropriate proof of insurance coverage on the sublessee's aircraft.

(2) Commercial Subleasing

A commercial operator may request to sublease a portion of its leased premises to allow a sublessee to provide additional commercial services on Airport property. The lessee shall notify the Airport Manager of its intent to sublease, and provide any requested information to allow the Airport Manager time to review the request. No request for a sublease shall be granted unless:

- The proposed use is appropriate and consistent with zoning and land use regulations;
- That proposed use will not violate the Grant Assurances;
- The proposed use will comply with Airport minimum standards for commercial operations.

Commercial sublease requests shall be presented to the Airport Manager for prior review and approval. The Airport Manager shall issue a written decision on a request for a commercial sublease within 30 days from the date all information requested by the Airport Manager has been provided by the lessee.

110-001-120 Lease Application Process & Proposal Requirements

Any person desiring to lease land or facilities at the Airport shall submit a written application containing the items and information specified in this section. The Airport Manager shall review, evaluate and act upon the application within 90 days from receipt of the completed application.

A. Lease Proposal Requirements

The Airport Manager will not accept or take action on any request for a ground lease or facility lease, or a request for an assignment, or in any other way permit a commercial activity until the potential lessee submits a written proposal that clearly sets forth the scope and type of operation being proposed, including the following:

- A description of the proposed commercial activity and a detailed business plan.
- Any information required to establish that the proposed activity will comply with the Minimum Requirements of SRC Chapter 9.
- The names of all parties owning an interest in the business and those that will be directly responsible for the day-to-day management of the business.
- In the case of a ground lease, square footage of land lessee desires to lease.
- The facilities proposed to be constructed or leased.

- The services to be offered, hours of proposed operation, number of persons estimated to be employed, and the number of aircraft to be based at the Airport (if applicable).
- A certificate of insurance for required insurance, or other satisfactory evidence indicating the capability to obtain required insurance.
- Evidence of financial capability, including current financial statements or other required documents that provide evidence of the ability to provide the services and facilities proposed.
- Historical evidence of satisfactory performance of providing similar commercial activity at other locations, including the dates and location.
- Record of any insolvency or bankruptcy proceedings in any of lessee's past or present business relationships.
- Aeronautical qualifications (or other industry qualifications, if not an aeronautical business), including years of experience in other related activities, and at least three professional references.
- Other information that the Airport Manager may specifically request that is relevant to the proposal.
- Payment of any application fee in effect at the time of request.

B. Airport Review and Action

Following receipt of a complete application for a lease of Airport land or facilities, the Airport Manager will evaluate the application using the information provided pursuant to the “Lease Proposal Requirements” in this Policy. If the Airport Manager determines the proposal appears consistent with the Airport’s operation and development goals, the Airport Manager will then undertake such investigations that the Airport Manager deems necessary to approve the proposal.

All applications will be acted upon by the Airport Manager within 90 days from the date the completed application is received. Applications may be denied for one or more of the following reasons:

- The applicant has not demonstrated that the applicant has financial capability to provide the services and facilities proposed.
- The applicant has a history of unsatisfactory performance of providing similar commercial activity at other locations.
- The applicant does not meet the qualifications, standards and requirements established by the Minimum Standards set forth in SRC Chapter 9.

- The applicant’s proposed operations or construction will create a safety or security hazard.
- Granting the application will require expenditure of City funds, labor or materials on the facilities described in, or related to, the application.
- There is no appropriate or adequate available land or facility space on the Airport to accommodate the proposed activity.
- The development or use of the area requested will result in congestion of aircraft or structures, or will result in excessive interference with the operations of any existing lessee on the Airport, such as preventing free access and egress, or will result in depriving an existing lessee of portions of its leased area in which it is operating.
- The applicant or any other person having an interest in the business, has supplied false or misleading information, or has misrepresented a material fact in the application or in supporting documents, or has failed to make full disclosure on the application.
- The applicant, or any other person having an interest in the business, has a record of violating rules, regulations, policies or ordinances of any other airport, Civil Air Regulations, Federal Aviation Regulations, or any other rules and/or regulations applicable to this or any other airport.
- The applicant, or any other person having an interest in the business, has defaulted in the performance of any lease or other agreement with the Airport, the City of Salem, or any lease or other agreement at any other airport.
- The applicant, or any other person having an interest in the business, is not, in the judgment of the Airport Manager, sufficiently credit-worthy and responsible to provide and maintain the business to which the application relates, and to promptly pay amounts due under the lease.
- The applicant, or any other person having an interest in the business, has committed a crime, or violated a local ordinance, rule or regulation which adversely reflects on its ability to conduct the operation applied for, or otherwise renders the applicant unsuitable.
- The applicant proposes non-standard terms.
- The applicant proposes a “through-the-fence” operation.

- Any other reason that would result in an activity deemed inconsistent with Airport or City policy, or not be in the best interest of the Airport, the City, or the State of Oregon or National aviation systems.

110-001-130 Holdover Tenants and Existing Lessees

There currently exists a wide variety of different lease forms, terms, conditions and appraisal periods, and the City desires to have uniform leases for the ease of administration and fairness to tenants. This section applies to holdover tenants and to lessees with unexpired airport ground leases executed prior to the effective date of this Policy. The purpose of this section is to offer certainty and stability to lessees who have leases that are unexpired on the effective date of this Policy, retain valued lessees for a significantly longer term, and provide fair and equitable treatment for both current and holdover tenants.

A. Holdover Tenants

- If the improvement on the property is 40 years old or more, then the holdover tenant will be offered a new lease with one 10-year term.
- If the improvement on the property is less than 40 years old but more than 30 years old, then the holdover tenant will be offered a new lease with one 10-year term.
- If the improvement on the property is less than 30 years old, then the holdover tenant will be offered a new lease with a term that is equal to the number of years between the actual age of the improvement and 40 forty years. (Example: Improvement is 23 years old. 40 years minus 23 years equals 17 year term.)

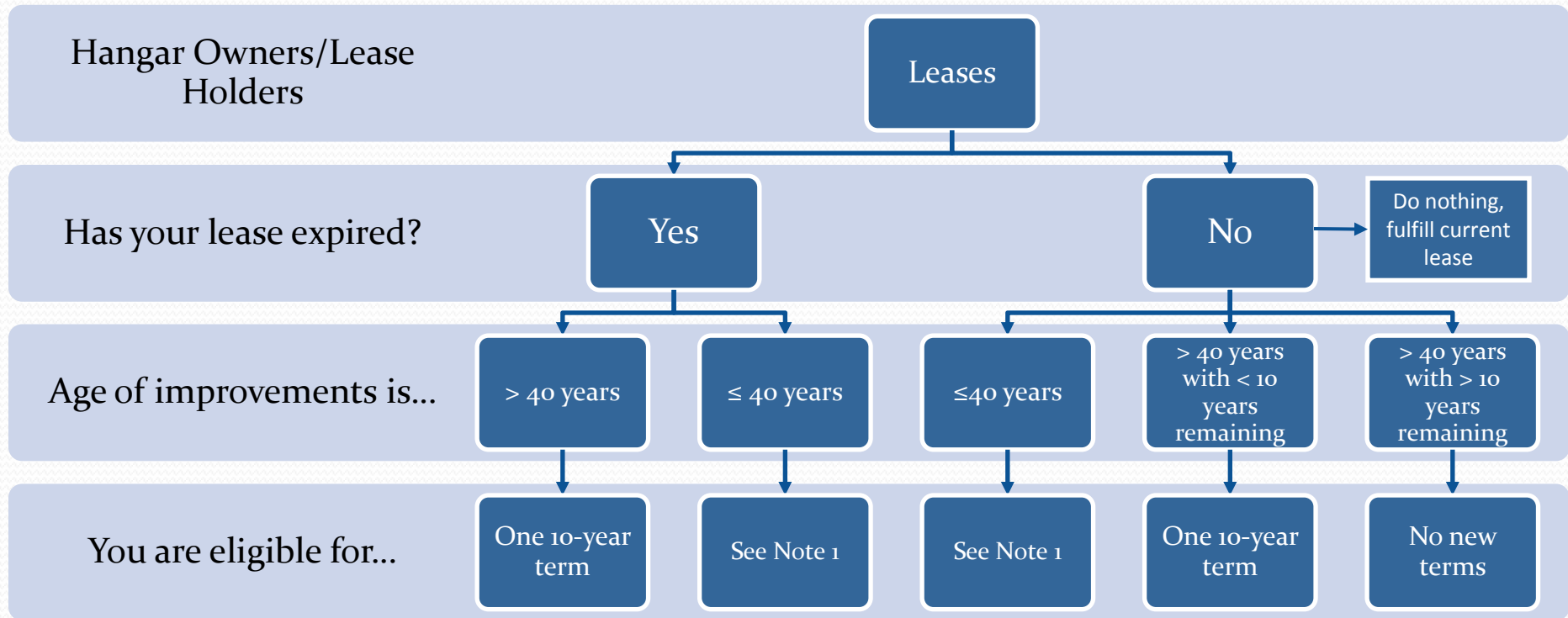
B. Lessees

Lessees with an unexpired lease may continue under that lease. The City is not obligated to offer, and the lessee is not required to accept, a new lease with different terms. However, a lessee may request to rescind the lessee's current lease and to enter into a new lease under the terms and conditions outlined in this Policy. The last date to request rescission shall be December 31, 2013. New leases made pursuant to a rescission are subject to the following:

- Lessees with unexpired leases with an improvement that is less than 40 years old but more than 30 years old will be offered a new lease with one 10-year term.
- Lessees with an unexpired lease with an improvement that is less than 30 years old will be offered a new lease with a term that is equal to the number of years between the actual age of the improvement and 40 years. (Example: Improvement is 23 years old. 40 years minus 23 years equals 17 year term.)

- Lessees with unexpired leases with an improvement that is 40 years old or greater, but who have less than 10 years remaining on the lease, will be offered a new lease with one 10-year term.
- Lessees with unexpired leases for an improvement that is 40 years old or greater, but who have more than 10 years remaining on the lease, will be not be offered a new lease.

Existing Tenants



NOTE: (1) Term that brings the total age of the improvement to 40 years, or a ten year term, whichever is greater