

# Rules establishing civil penalties for Vehicle and Pedestrian Deviations at the Aurora State Airport

## Need and Justification

- This rule is needed to immediately address recurring Vehicle and Pedestrian Deviations which pose an imminent threat to aircraft operations and public safety at the Aurora State Airport.
  - Such violations occur within Movement and Safety Areas where unsafe conduct presents a substantial risk of serious injury, loss of life, or damage to aircraft and airport infrastructure.
  - The absence of established civil penalties has materially limited the Department of Aviation's ability to deter and promptly correct these hazardous conditions.
- The airport has experienced a sudden and recent spike in Vehicle and Pedestrian Deviations in 2025.
- While the Department has made considerable effort through outreach and education to mitigate these hazards, this Temporary Filing will allow the Department to take additional and immediate action to enforce its controlled Movement Area at UAO while permanent rule making is completed.
- Permanent rule will include additional opportunities for public comment and input from a Rulemaking Advisory Committee

# V/PD Temporary Rulemaking

## OAR 738-050-0005, 738-140 0020

### Summary of Adoptions and Amendments to OAR Chapter 738

- Adopt – 738-050-0005: Vehicle/Pedestrian Deviations and Civil Penalties
  - Establishes rules for Vehicle/Pedestrian Deviations and Civil Penalties
  - Definitions
  - Conduct that is a vehicle/pedestrian deviation
  - Responsible parties and civil penalties that may be imposed
  - Contested cases
  - Cases for multiple responsible parties
  - Consideration for reducing or waiving civil penalties
  - Civil penalty formula
- Amend – 738-140-0020: Violations for Which Civil Penalties May be Imposed
  - Adds Vehicle/Pedestrian Deviations as a violation for which Civil Penalties may be imposed

# V/PD Temporary Rulemaking OAR 738-050-0005, 738-140 0020

## Adoptions to OAR Chapter 738-050-0005

### **ADOPT:**

#### **738-050-0005**

#### **Vehicle/Pedestrian Deviations and Civil Penalties**

(1) The Department and the Board find that the movement by any person, vehicle, or aircraft operated by a non-pilot within the Movement and Safety Area of the airport creates a potential for serious physical harm or death and that penalties for such movement may discourage this dangerous activity.

(2) The following definitions apply to this rule

(a) “Movement and Safety Areas” refers to all areas of the Aurora State Airport under the control of Air Traffic Control Tower used for taxiing, takeoff, and landing of aircraft, not including loading ramps and parking areas.

(b) “Air Traffic Control” means the person(s) responsible for the coordination and positive control over the movement of traffic within the controlled airspace and Movement and Safety Areas.

# V/PD Temporary Rulemaking OAR 738-050-0005, 738-140 0020

## Adoptions to OAR Chapter 738-050-0005

(3) The following conduct is a vehicle/pedestrian deviation:

(a) Any pedestrian or vehicle, including aircraft operated by non-pilots, that enters or moves within the Movement and Safety Areas without clearance from Air Traffic Control; or

(b) A person that provides, allows or otherwise causes another person to enter or move within the Movement and Safety Area without clearance from Air Traffic Control, not limited to sharing airport access information, failing to prevent piggybacking through a gate, failing to maintain positive control over guests inside the fence, or failing to prevent unauthorized access from private property.

# V/PD Temporary Rulemaking

## OAR 738-050-0005, 738-140 0020

### Adoptions to OAR Chapter 738-050-0005

(4) Any person that commits or causes a vehicle/pedestrian deviation is a responsible party against whom the Director may impose:

(a) a written warning for a single vehicle/pedestrian deviation in a six-month period.

(b) A civil penalty of \$500 for a second vehicle/pedestrian deviation committed within a one-year period.

(c) A civil penalty of \$1,000 for a third vehicle/pedestrian deviation within a two-year period.

(d) A civil penalty of \$1,500 for a fourth vehicle/pedestrian deviation committed within a two-year period.

(e) A civil penalty of \$2,500 for a fifth or subsequent vehicle/pedestrian deviation committed within a two-year period.

(f) A civil penalty of \$2,500 for any single violation where the responsible party has intentionally or with reckless disregard committed a vehicle/pedestrian deviation.

# V/PD Temporary Rulemaking OAR 738-050-0005, 738-140 0020

## Adoptions to OAR Chapter 738-050-0005

(5) If a prior vehicle/pedestrian deviation is contested and has not become a final order, the civil penalties assessed pursuant to this section will be rescinded if the prior vehicle/pedestrian deviation does not become final.

(6) For each vehicle/pedestrian deviation where there are multiple responsible parties, the Director will impose a civil penalty against each responsible party. For example, if a tenant allows a driver to enter the Movement and Safety Area and the driver does not have clearance from Air Traffic Control, and it is the tenant and driver's first vehicle/pedestrian violation within a six month period, the Director will issue a separate warning to each as responsible parties. If this is the tenant's second vehicle/pedestrian deviation in a single year and driver's third vehicle/pedestrian deviation in a single year, the Director will assess a \$500 civil penalty against the tenant and a \$1,000 civil penalty against the driver.

# V/PD Temporary Rulemaking OAR 738-050-0005, 738-140 0020

## Adoptions to OAR Chapter 738-050-0005

- (7) The Director may reduce or waive a civil penalty for a vehicle/pedestrian deviation after a consideration of each or any of the following:
- (a) Whether the person or responsible person is a repeat violator.
  - (b) The amount of time between each vehicle/pedestrian deviation.
  - (c) The egregiousness of the vehicle/pedestrian deviation.
  - (d) Cooperation and responsiveness of the violator with the Department of other persons in control of the airport.
  - (e) The responsible party's attempt to control the access.
  - (f) The facts and circumstances surrounding the vehicle/pedestrian deviation.
  - (g) Any basis for reducing a civil penalty as set forth in OAR 738-140-0005(4)



# V/PD Temporary Rulemaking OAR 738-050-0005, 738-140 0020

## Adoptions to OAR Chapter 738-050-0005

(8) The civil penalty formula in OAR 738-140-0030 does not apply to a vehicle/pedestrian deviation.

Authorities implemented: ORS 836.505(2) allowing for rules and regulations to be adopted for landing places designated by Aviation; ORS 836.025(1) authority to regulate, protect and police airports.

**Statutory/Other Authority:** ORS 184, 835 & 836

**Statutes/Other Implemented:** ORS 836.095 & 836.505



# V/PD Temporary Rulemaking OAR 738-050-0005, 738-140 0020

## Amendments to OAR Chapter 738-140-0020

### AMEND:

#### 738-140-0020

#### **Violations for Which a Civil Penalty May be Imposed**

The Department may impose a civil penalty for violations of any of the following statutes, administrative rules, or orders:

(9) A Vehicle/Pedestrian Deviation under OAR 738-050-0005

**Statutory/Other Authority:** ORS 153.022, 183.745, 835.035, 835.112 & 837.998

**Statutes/Other Implemented:** ORS 837.005 - 837.998

# Approval of Temporary Rulemaking OAR 738-050-0005, 738-140 0020

## Approve Temporary Rulemaking

*ODAV requests approval from the Aviation Board to file the proposed Temporary Rules establishing civil penalties for Vehicle and Pedestrian Deviations at the Aurora State Airport.*