

ORDINANCE G-6394

ORDINANCE AMENDING SECTION 4-172, SECTION 4-173, SECTION 4-174, SECTION 4-175, SECTION 4-176, SECTION 4-177, SECTION 4-178, SECTION 4-179, SECTION 4-180 AND SECTION 4-181 OF THE PHOENIX CITY CODE TO AMEND THE RATES AND CHARGES PROGRAM AT PHOENIX SKY HARBOR INTERNATIONAL AIRPORT, EFFECTIVE JULY 1, 2018; AND CONFORMING AND RENUMBERING CHAPTER 4, ARTICLE IX OF THE PHOENIX CITY CODE AS NECESSARY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as

follows:

SECTION 1. Subsection 4-172, Phoenix City Code, is amended to read:

4-172 Rates and charges.

A. Rates and charges for use of facilities at ~~Phoenix Sky Harbor International~~ THE Airport shall be assessed in accordance with the classifications of "private" or "commercial" aircraft, as defined in subsections B and C, AND AS ESTABLISHED IN THIS ARTICLE. Final determination of category designation of any aircraft shall be made by the Aviation Director.

B. *"Private aircraft"* means:

1. Privately owned aircraft operated noncommercially by its registered owner(s); or
2. Privately owned aircraft when used by persons other than the registered owner, provided no part of the cost of operation of the

aircraft is received in money or other consideration by the registered owner for such use; or

3. Privately owned aircraft when used in connection with the registered owner's business (comparable to an owner's use of his private automobile), provided the registered owner is not engaged in the business of air transportation; or

4. Company and corporation owned aircraft when operated for the free transportation of company personnel and/or products, provided no part of the cost of operation of the aircraft is received in money or other consideration by the company for such use; and

5. Flying club aircraft.

C. "*Commercial aircraft*" means:

1. Any aircraft for hire to carry passengers or cargo on flights; or

2. Any aircraft otherwise for rent, hire or charter; or

3. Aircraft used for student instruction and related occupations; or

4. Any aircraft used for commercial purposes and not otherwise covered in this section.

D. "*Commercial aircraft operator*" means any person who operates a commercial aircraft.

E. "AIRLINE RATES AND CHARGES" MEAN AERONAUTICAL RATES AND CHARGES PAID BY COMMERCIAL AIRCRAFT OPERATORS FOR USE OF THE AIRPORT AND ITS FACILITIES, INCLUDING TERMINALS, COMMON USE FACILITIES, CARGO, EXPLOSIVE DETECTION SYSTEM, BAGGAGE HANDLING SYSTEMS, AND AIRFIELD.

F. "COST PER ENPLANEMENT" OR "CPE" MEANS THE ANNUAL SUM OF THE AIRLINE RATES AND CHARGES, DIVIDED BY THE ANNUAL PASSENGER ENPLANEMENTS AS REPORTED BY THE FEDERAL AVIATION ADMINISTRATION (FAA) OPERATING AND FINANCIAL SUMMARY REPORT FAA-5100-127 (FAA FORM 5100-127), AS THAT FORM MAY BE AMENDED OR RENUMBERED. THIS CPE IS DETERMINED USING THE SUM AND ENPLANEMENTS REPORTED EACH YEAR.

G. "LARGE HUB AIRPORT CPE MEDIAN" MEANS THE ANNUAL MEDIAN CPE VALUE FOR LARGE HUB U.S. COMMERCIAL SERVICE

AIRPORTS, AS DEFINED BY THE FAA'S NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS. FOR CALCULATING THE MEDIAN, THE SOURCE FOR DETERMINING EACH RESPECTIVE AIRPORT'S CPE SHALL BE THE MOST RECENT YEAR OF PUBLISHED DATA USING FAA FORM 5100-127 LINE ITEM 16.5, PASSENGER AIRLINE COST PER ENPLANEMENT, AS THAT FORM MAY BE AMENDED OR RENUMBERED.

H. "AIRLINE RATES AND CHARGES SCHEDULE" MEANS THE SCHEDULE THAT IDENTIFIES THE AIRLINE RATES AND CHARGES IN EFFECT FOR A SPECIFIED PERIOD OF TIME AND MADE AVAILABLE TO COMMERCIAL AIRCRAFT OPERATORS AND POSTED PUBLICLY ON THE CITY OF PHOENIX WEBSITE FOR THE AIRPORT.

I. THE AVIATION DIRECTOR IS AUTHORIZED TO ESTABLISH RATES AND CHARGES IN A MANNER THAT COMPLIES WITH FEDERAL LAW AND THAT RESULTS IN AN ANNUAL CPE FOR THE AIRPORT THAT DOES NOT EXCEED THE ANNUAL LARGE HUB AIRPORT CPE MEDIAN. THE AVIATION DIRECTOR WILL SEEK COUNCIL AUTHORIZATION TO ESTABLISH RATES AND CHARGES IF THE ANNUAL CPE FOR THE AIRPORT WILL EXCEED THE ANNUAL LARGE HUB AIRPORT CPE MEDIAN.

SECTION 2. Subsection 4-173, Phoenix City Code, is amended to read:

4-173 Terminal building space.

A. Commercial aircraft operators who occupy terminal space shall pay the terminal rates and charges at Phoenix Sky Harbor International Airport as provided in subsection B of this section.

B. ~~Effective July 1, 2017, the terminal rental rates per square foot per year shall be:~~ AIRLINE RATES AND CHARGES TO BE PAID FOR THE USE OF THE TERMINALS, CARGO AREAS, AND GROUND SERVICE EQUIPMENT ARE SET FORTH IN THE AIRLINE RATES AND CHARGES SCHEDULE.

All Terminals	\$120.00
West Air Cargo	15.48
West Air Cargo ground service equipment	1.80
South Air Cargo	17.52

C. Jointly occupied terminal space costs shall be prorated on the basis of 20 percent distributed equally among the joint users and 80 percent

distributed in proportion to each joint user's enplaned passenger count. Effective January 1, 2012, in lieu of the above described proration of costs, and applicable only to airlines enplaning less than one percent of total enplanements at Phoenix Sky Harbor International Airport, jointly occupied terminal space costs shall be distributed in proportion to each joint user's enplaned passenger count.

D. All rents and fees assessed in accordance with this section are due and payable prorated monthly in advance on the first day of each month, and are delinquent if not received in the office of the Aviation Director by the tenth day of the month. Rents and fees shall be deemed delinquent and assessed a delinquent account fee in accordance with Section 4-7 of the Phoenix City Code.

E. Each commercial aircraft operator shall pay monthly in advance for its exclusive and jointly occupied terminal building space, at the rates per square foot per year as provided in subsection B of this section, and in accordance with the procedure of subsection D of this section.

F. Each commercial aircraft operator shall pay its proportionate share of any deficiency the City incurs when terminal space costs exceed revenues received from said operators under this section in any fiscal year of the City; conversely, when such revenues exceed the City's cost to provide the facilities each commercial aircraft operator shall be credited with its proportionate share of the excess.

SECTION 3. Subsection 4-174, Phoenix City Code, is amended to read:

4-174 Airline common use facility fees.

~~A. Effective July 1, 2017, common use facility fees for scheduled or non-scheduled air service shall be:~~

	Domiciled Airlines
1. Fee per each aircraft operation:	
a. Ticket area (two ticket agent positions per hour)	\$5.00
b. Gate area (including hold room area and loading bridge per operation)	\$176.00
c. Full service (including ticket area, loading bridges and related joint use space per operation)	\$743.00
2. Fee per deplaned passenger using Federal inspection services:	
	\$4.00

~~3. Operational fee surcharges:~~

a. Exceeding time allotted for occupying a gate	\$300.00
b. Using a gate without permission	\$300.00
c. Failure to use allotted time slot for a gate without due notice	\$300.00

A. AIRLINE RATES AND CHARGES FOR THE COMMON USE FACILITIES (INCLUDING INTERNATIONAL FEDERAL INSPECTION SERVICES) ARE SET FORTH IN THE AIRLINE RATES AND CHARGES SCHEDULE.

B. All fees and surcharges not timely paid shall be deemed delinquent and assessed a delinquent account fee in accordance with Section 4-7.

C. The Aviation Director is authorized to promulgate by separate administrative rule such reasonable and appropriate definitions as are deemed necessary to implement the provisions of this section.

SECTION 4. Subsection 4-175, Phoenix City Code, is amended to read:

4-175 Explosive detection baggage handling system.

A. The Aviation Director may enter into agreements with the United States Government and commercial aircraft operators to delineate responsibilities for the use, operation, and maintenance of the explosive detection baggage handling system under such terms and conditions deemed to be necessary or convenient by the Aviation Director.

B. Costs attributable to the explosive detection baggage handling system shall be apportioned for aircraft operators on a prorated usage basis in a manner deemed to be necessary by the Aviation Director, PROVIDED THE RESULTING ANNUAL CPE FOR THE AIRPORT REMAINS AT OR BELOW THE ANNUAL LARGE HUB AIRPORT CPE MEDIAN.

C. EFFECTIVE RATES ARE SET FORTH IN THE AIRLINE RATES AND CHARGES SCHEDULE.

SECTION 5 Subsection 4-176, Phoenix City Code, is amended to read:

4-176 Early bag check services. RESERVED

~~A. Costs attributable to the early bag check service shall be prorated on the basis of 20 percent distributed equally among the commercial operators and 80 percent distributed in proportion to each operator's~~

~~screened bag count. Fees are assessed to participating commercial aircraft operators.~~

~~B. All fees assessed in accordance with this section are due and payable monthly in advance on the first day of each month and are delinquent if not received in the office of the Aviation Director by the tenth day of the month. Fees shall be deemed delinquent and assessed a delinquent account fee in accordance with Section 4-7.~~

~~C. Each participating commercial aircraft operator shall pay its proportionate share of any deficiency the City incurs when costs exceed revenues received from said operators under this section in any fiscal year of the City. Conversely, when such revenues exceed the City's costs, each participating commercial aircraft operator shall be credited with its proportionate share of the excess.~~

SECTION 6. Subsection 4-177, Phoenix City Code, is amended to read:

4-177 Monthly landing reports of companies.

A. As a condition precedent to the privilege to conduct business and aircraft operations at Phoenix Sky Harbor International Airport, each commercial aircraft operator shall furnish to the Aviation Director by the twentieth day of each month a report of the number of its flights that landed at the airport during the preceding month, together with the name of each plane's manufacturer, type and maximum allowable gross landed weight, and such other information that the Aviation Director may from time to time require.

B. The report required by subsection A shall be duly certified as true and correct by the person designated by each commercial aircraft operator as its official representative having custody of its records.

C. For purposes of this section, "*maximum allowable gross landed weight*" means a weight not less than the maximum allowable gross landed weight computed at Mean Sea Level for an aircraft type and model by the Federal Aviation Administration.

D. Each certificated commercial aircraft operator using Phoenix Sky Harbor International Airport shall, in addition to the monthly report required by Subsection A at the same time report to the Aviation Director the quantity of cargo, mail, and express handled upon its flights; and the number of passengers enplaned and deplaned at the airport; and the number of passengers on its flights who passed through the airport. The Aviation Director may, but is not obligated to, prescribe and furnish forms for the making of all such reports.

SECTION 7. Subsection 4-178, Phoenix City Code, is amended to read:

4-178 Financial security required.

A. Commercial aircraft operators, who are new entrants at Phoenix Sky Harbor International Airport shall, prior to commencement of its services, post financial security with the City of Phoenix Aviation Department in an amount equal to The City of Phoenix Aviation Department's estimate of three months of operating fees or a minimum of ten thousand dollars. The financial security shall be in the form specified by the City of Phoenix Aviation Department. This financial security may be returned at the discretion of the Aviation Director to the new entrant commercial aircraft operator after it has established a record of payment satisfactory to the Aviation Director for a period of twelve successive months.

B. Commercial aircraft operators, who are incumbents at Phoenix Sky Harbor International Airport and have at any time within the period of twelve successive months most recently ended, failed to establish a record of payment satisfactory to the Aviation Director, shall post financial security with the City of Phoenix Aviation Department in an amount equal to the City of Phoenix Aviation Department's estimate of three months of operating fees or a minimum of ten thousand dollars, thirty days after receiving written notice from the Aviation Director. The financial security shall be in the form specified by the City of Phoenix Aviation Department. This financial security may be returned at the discretion of the Aviation Director to the incumbent commercial aircraft operator after it has established a record of payment satisfactory to the Aviation Director for a period of twelve successive months.

C. "*New entrant*" means a commercial aircraft operator that has not conducted business at Phoenix Sky Harbor International Airport within the last twelve months.

D. "*Incumbent*" means a commercial aircraft operator that has conducted business at Phoenix Sky Harbor International Airport within the last twelve months.

SECTION 8. Subsection 4-179, Phoenix City Code, is amended to read:

4-179 Commercial aircraft operator landing AND PARKING fees.

A. The monthly report required by Section 4-177 shall provide the data for calculation of landing fees for each commercial aircraft operator.

B. ~~Effective July 1, 2017, the landing fee shall be \$1.99 per 1,000 pounds.~~ AIRLINE RATES AND CHARGES FOR AIRCRAFT OPERATOR LANDING AND PARKING ON THE AIRFIELD ARE SET FORTH IN THE AIRLINE RATES AND CHARGES SCHEDULE.

C. Each commercial aircraft operator shall by the twentieth day of each month pay all landing fees for the previous month. Fees not timely paid shall be deemed delinquent and assessed a delinquent account fee in accordance with Section 4-7 of the Phoenix City Code.

D. Each commercial aircraft operator of commercial aircraft in excess of twelve thousand five hundred pounds gross landed weight shall pay its proportionate share of any deficiency the City incurs as a result of landing facility costs that exceed revenues received from said operators under this section in any fiscal year of the City; conversely, when revenues received from landing facilities exceed the City's cost to provide the facilities, each such commercial aircraft operator shall be credited with its proportionate share of the excess.

SECTION 9. Subsection 4-180, Phoenix City Code, is amended to read:

4-180 Itinerant commercial operator landing/parking fees.

A. Itinerant commercial operators shall pay the landing and parking fees prescribed by this section for PSHIA, PDVA and PGA.

B. For aircraft exceeding 12,500 pounds maximum gross landed weight, the landing fee shall be IN THE AMOUNT SET FORTH as prescribed in Section 4-179(B).

C. For aircraft 12,500 pounds or less maximum gross landed weight, the landing fees shall be for:

- 1. Single engine \$5.00
- 2. Twin engine piston 7.00
- 3. Turbo prop and jet under 12,500 lbs. 12.00
- 4. Helicopters 7.00

D. Parking fees for aircraft overnight parking shall be for:

- 1. Single engine \$5.00
- 2. Twin engine piston 7.00
- 3. Turbo prop and jet under 12,500 lbs. 12.00

4. Large aircraft between 12,500 lbs. and 60,000 lbs. maximum gross landed weight	24.00 AMOUNT SET FORTH IN THE AIRLINE RATES AND CHARGES SCHEDULE
5. Transport category aircraft (except those which rent a gate holdroom in a terminal and utilize that parking position overnight)	80.00 AMOUNT SET FORTH IN THE AIRLINE RATES AND CHARGES SCHEDULE
6. Helicopters	7.00

E. All landing and parking fees assessed under this section are due and payable upon presentment of a bill therefor, and shall be deemed delinquent and assessed a delinquent account fee in accordance with Section 4-7 of the Phoenix City Code.

F. The landing and parking fees prescribed in this section are not applicable to airport tenants who occupy space as a primary tenant or as a fixed base operator pursuant to a written agreement in good standing, to the extent that an agreement provides for aircraft landing and parking fees, or that an exemption is otherwise created in this chapter.

G. The Aviation Director may establish and collect reasonable fees for related and additional services provided to itinerant commercial operators.

SECTION 10. Subsection 4-181, Phoenix City Code, is amended to read:

4-181 Exemptions.

~~This~~ EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THIS article shall not apply to (1) fixed base operators, or (2) private aircraft.

SECTION 11. The effective date of this Ordinance is July 1, 2018.

SECTION 12. That all other provisions of Chapter 4, Article IX, Phoenix City Code, not specifically amended hereby, or renumbered as necessary, shall remain in full force and effect.

PASSED by the Council of the City of Phoenix this 13th day of December,
2017.

Greg Stanton

M A Y O R

ATTEST:

Ben Lane Acting City Clerk

APPROVED AS TO FORM:

Daniel L. Brown Acting City Attorney

REVIEWED BY:

Ed Zuercher City Manager

CLP:jr: LF 17-5265; 12/13/17; 2007417v1