

METROPOLITAN AIRPORTS COMMISSION

ORDINANCE No. 115

AIRFIELD USE AND TERMINAL 2-HUMPHREY ORDINANCE

Adopted by Commission: August 27, 2012
Effective Date: January 1, 2013

Metropolitan Airports Commission

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AIRFIELD USE AND TERMINAL 2-HUMPHREY ORDINANCE

An Ordinance to promote and conserve public safety, health, peace, convenience and welfare, to provide regulation on use of the Minneapolis-St. Paul International Airport – Wold – Chamberlain Field and to control the loading and unloading of passengers and freight thereat; to provide for payment of landing fees by aircraft other than signatory airlines and military aircraft; to provide for payment of Facility Use Fees, Aircraft Parking Fees, and Federal Inspections Services Facility Use Fees at Terminal 2-Humphrey; prescribing the penalty for violation thereof; and to repeal Commission Ordinance No. 96.

The Metropolitan Airports Commission does ordain:

SECTION 1 – DEFINITIONS.

- 1.1 Aircraft Parking Fees. The fees, established by the Commission or as from time to time amended, to be charged to the operator of aircraft parking at the Airport ramps adjacent to the Terminal 2-Humphrey, copy of the applicable fee schedule to be on file at all times within the Terminal 2-Humphrey and to be furnished on request by the Terminal 2-Humphrey Agent to the operator of aircraft incident to use of said facilities.
- 1.2 Airport. Minneapolis-St. Paul International Airport, Wold-Chamberlain Field, a public airport under the supervision, operation, direction and control of the Metropolitan Airports Commission, and located in the County of Hennepin and State of Minnesota.
- 1.3 Category I Aircraft. Aircraft with FAA approved maximum certificated gross landing weight less than or equal to 80,000 pounds.
- 1.4 Category II Aircraft. Aircraft with FAA approved maximum certificated gross landing weight greater than 80,000 pounds but less than or equal to 230,000 pounds.
- 1.5 Category III Aircraft. Aircraft with FAA approved maximum certificated gross landing weight greater than 230,000 pounds.
- 1.6 Commission. The Metropolitan Airports Commission (“MAC”), a public corporation organized and operating pursuant to Chapter 500, Laws of Minnesota 1943 and amendments thereto.
- 1.7 Common Ticket Counters. Ticket counters that are not leased.
- 1.8 Common Use Facilities. Common Use Gate holdrooms, ramp, jetbridges, Common Ticket Counters, and shared bag claim areas.
- 1.9 Common Use Gates. Aircraft gates that are not leased.
- 1.10 Facility Use Fee. The fees established by this Ordinance, or as from time to time amended by the Commission. A copy of the applicable schedule to be furnished on request to the operator of aircraft incident to use of said facilities. Facility Use Fees include, but are not limited to, fees charged per Operation for Common Use Gates, FIS

Fees, Aircraft Parking Fees and other fees under this Ordinance.

- 1.11 FIS. Federal Inspection Service.
- 1.12 Fixed Base Operator. A commercial operator at the Airport whose operations under agreement with the Commission at an assigned area under his/her control encompasses some or all of the following: the furnishing of services such as aircraft storage, aircraft repairs, air charter flights, and sale of aircraft, aircraft parts and equipment, aviation fuel and other petroleum products for use in aircraft.
- 1.13 Fuel. Aviation gasoline and any other gasoline, petroleum product, fuel, or other substance used in the propulsion of aircraft, automobiles, trucks and other ground vehicles.
- 1.14 Terminal 2-Humphrey. Terminal 2-Humphrey and aircraft ramp areas adjacent thereto, said area(s) being designated on a master plan of the Airport on file in the office of the Airport Director.
- 1.15 Terminal 2-Humphrey Agent. The operator designated by the Commission or the Commission itself, who, under agreement with the Commission, has the responsibility to manage, direct, supervise and to otherwise control all aircraft operations to, at or from the Terminal 2-Humphrey, and who shall conduct such operations from offices therein in accordance with the Commission's Terminal 2-Humphrey Operating Policies and Procedures as amended, and under the supervision and direction of the Commission.
- 1.16 Terminal 2-Humphrey Surcharge. The Terminal 2-Humphrey Surcharge generally covers the cost of items provided by the Commission at Terminal 2-Humphrey, which are not in the judgment of the Commission provided by the Commission at Terminal 1-Lindbergh. Such items include, but are not limited to, passenger loading bridges, ticket counter inserts, bag belt to make-up area, ticket counter signage, baggage make-up/sort device, gate podium and backwall, furniture and fixtures, FIDS, BIDS and EVIDS, curbside baggage check, gate lobby interior finishes, and CUTE systems.
- 1.17 Into-Plane Fuel Provider. Tenant or Licensee of the Airport that is authorized to deliver fuel to aircraft at MSP through the completion of a Limited Airside Services License Agreement with the Commission.
- 1.18 Terminal 1-Lindbergh. Terminal 1-Lindbergh and the aircraft ramp areas adjacent thereto, said area(s) being designated on a master plan of the Airport on file in the office of the Airport Director.
- 1.19 Military Aircraft. Aircraft owned and/or operated by components of the military forces of the United States of America or of the State of Minnesota, making use of the Airport and paying for use of the public runways, taxiways, aprons and air navigation facilities pursuant to Use Fee Agreements.
- 1.20 Non-Signatory Airline. Operator of aircraft that pays for use of the Airport pursuant to this Ordinance, and not under a Use Fee Agreement.
- 1.21 Operation. An aircraft arrival to or departure from Terminal 2-Humphrey incident to the carrying of passengers.

- 1.22 Signatory Airline. Operator of aircraft that pays for use of the Airport pursuant to a Use Fee Agreement and, where applicable, this Ordinance.
- 1.23 Use Fee Agreements. Agreements between the Commission and Signatory Airlines and the military by which the airlines and the military are charged fees for the use of public runways, taxiways, aprons and air navigation facilities to defray in part the cost of development, maintenance and operation thereof.

SECTION 2. USE OF THE AIRPORT BY AIRCRAFT CARRYING CARGO OR FREIGHT.

- 2.1 Prohibited Loading and Off-Loading Areas. No aircraft operator carrying cargo or freight not incidental to the carrying of passengers, except air taxi mail flights, shall use Terminal 2-Humphrey at the Airport for the parking of aircraft incident to the on-loading or off-loading of freight and cargo. A representative of the Commission may authorize such aircraft operators to use such area on a space available basis when unusual operational conditions exist.
- 2.2 Designated Loading or Unloading Areas. The loading or unloading of air freight, not incidental to the carrying of passengers, shall be carried on at a cargo freight handling area as designated on a master plan of the Airport. This provision shall not apply to airlines operating out of Terminal 1-Lindbergh and Military Aircraft, who may be loaded and unloaded at their respective assigned apron areas, and to air taxi mail carriers which may load or unload at Terminal 1-Lindbergh building.

SECTION 3. USE OF THE AIRPORT.

- 3.1 Aircraft Parking. Subject to the provisions of Section 2, the parking of aircraft incident to operations to, at or from the Airport shall be limited to Fixed Base Operator locations and other areas designated by the Commission for aircraft parking. Such parking shall be controlled by and subject to the direction of the operator in charge of the ramp area so used.

Aircraft parking at Common Use Gates at the Terminal 2-Humphrey is prohibited without prior approval by the Commission or its designated representative. If so approved, such parking shall be subject to applicable parking fees set forth on Schedules A-1 and additional fees for the use of facilities and other equipment provided by the Terminal 2-Humphrey Agent or others.

- 3.2 Loading and Unloading. The loading or unloading of passengers to or from aircraft using Common Use Facilities at the Terminal 2-Humphrey shall be through the passenger lobby area and jetbridges and in accordance with the Terminal 2-Humphrey Operating Procedures. All loading or unloading of passengers and their luggage to or from aircraft shall be conducted by and subject to the direction and control of the Commission or its designated representative in accordance with the Terminal 2-Humphrey Operating Procedures.
- 3.3 Terminal 2-Humphrey. Use of the Terminal 2-Humphrey shall be according to the Terminal 2-Humphrey Operating Policies and Procedures and any applicable policies adopted by the Commission.
- 3.4 International Waste. Aircraft operators are responsible for the proper disposal of all international waste as required by the United States Department of Agriculture ("USDA").

SECTION 4. PAYMENT OF FEES FOR AIRCRAFT USE OF THE AIRPORT.

4.1 Use Fee Agreements. The operators of Signatory Airlines and Military Aircraft making use of the Airport pay charges for use of the public runways, taxiways, aprons and air navigation facilities pursuant to Use Fee Agreements.

4.2 Landing Fee. The operators of all aircraft, other than Signatory Airlines or operators of Military Aircraft, including without limiting the foregoing aircraft based at all of the Commission's airports, shall pay a landing fee charge based on the weight of the aircraft for each landing of such aircraft at the Airport in an amount equal to one hundred twenty-five percent (125%) of the then current estimated compensatory field and runway use fee charged to Signatory Airlines; provided that the landing fee charged hereunder shall be no less than the established Minimum Landing Fee ("Minimum Landing Fee"). The Minimum Landing Fee will thereafter be indexed to the total budgeted airfield cost percentage change each year, as reflected in the Commission's operating budget. The Minimum Landing Fee will thus be adjusted annually by Commission action through the Commission's adoption of the operating budget, which is usually first presented to the Commission in September of each year. The adjusted amount will become effective on January 1, following the Commission's adoption of the operating budget. Following the Commission's adoption of the operating budget, the Commission shall provide written notice to interested parties of the adjustment to the Minimum Landing Fee, prior to its implementation.

4.3 Facility Use Fees.

(a) Establishment of Facility Use Fees. The Facility Use Fees are intended to reflect the Commission's operating and capital costs of the Terminal 2-Humphrey or a percentage thereof ("Recoverable Costs"). Recoverable Costs are the amount of the total Terminal 2-Humphrey costs that the Commission determines shall be recovered by Terminal 2-Humphrey users each year, which may include but are not limited to costs of Common Use Gates, Common Use Ticket Counters, ramp lineal footage, Terminal 2-Humphrey Surcharge, and depreciation and interest.

1. Common Use Facilities Fee. The operator of aircraft using Common Use Gates, Common Use Ticket Counters and other Common Use Facilities at the Terminal 2-Humphrey shall pay Common Use Facilities Fee for use of that terminal building and ramp as set forth by this Ordinance. The rates established on the effective date of this Ordinance are set forth in Schedule A-1. This fee may be adjusted periodically by Commission action as set forth in Section 4.6.

The Commission shall also establish a Cap for the Common Use Facilities Fee for use of the Terminal 2-Humphrey ("Cap") in which an aircraft operator shall pay no more than the Cap rate for each Common Use Gate. For any calendar year, the Cap shall only apply to Common Use Facilities Fee for the aircraft operator's Operations on a single Common Use Gate and does not include FIS Charges, Landing Fees, Fuel Flowage Fees, Aircraft Parking Fees, rent for leased premises paid to MAC or any other fees payable to MAC. The Cap may be adjusted into rates for Category I, II and III Aircraft and may be adjusted periodically as set forth in Section 4.6.

An aircraft operator assigned an FIS accessible gate as its priority gate may be reassigned to another gate to accommodate an international arrival and corresponding departure. In that event, the fees incurred at the gate the aircraft operator is reassigned to will apply against the Cap at the aircraft operator's normally assigned priority gate. If an aircraft operator has reached the Cap on the effective date of this Ordinance, the aircraft operator shall incur no more Common Use Gate fees for a single gate for the calendar year.

2. Federal Inspection Services ("FIS") Facility Use Fee. In addition to Common Use Facilities Fee and all other fees due under this Ordinance, the operator of aircraft using the Terminal 2-Humphrey FIS facility shall pay an FIS Facility Use Fee per Operation. This fee may be adjusted periodically by Commission action as set forth in Section 4.6. The rates established on the effective date of this Ordinance are set forth in Schedule A-1.

3. Aircraft Parking Fees. All aircraft parked in designated areas as directed by the Commission or its designated representative, including but not limited to remote ramp areas and parking and overnighting aircraft on Common Use Gates, shall pay Aircraft Parking Fees as set forth on Schedules A-1. Parking shall mean any time period an aircraft is authorized to occupy a Common Use Gate for a time period longer than provided for in the Terminal 2-Humphrey Operating Policies and Procedures for an Operation. No parking fees shall apply to parking on an aircraft operator's priority use gate as defined in the Terminal 2-Humphrey Operating Policies and Procedures. This fee may be adjusted periodically by Commission action as set forth in Section 4.6.

(b) Delay Fee. If the operator of aircraft exceeds the approved occupancy times for Common Use Gates as established by the Terminal 2-Humphrey Operating Policies and Procedures by more than 15 minutes and that delay affects the next flight using that gate, the aircraft operator shall pay additional Facility Use Fees, unless the delay is caused by circumstances beyond the operator's control, including but not limited to weather, air traffic control, FIS delays, or delays of earlier flights on the gate other than flights by that aircraft operator. The delay fee is applicable to delays caused by mechanical problems where the aircraft operator has the ability to tow the aircraft off the gate. The Commission will make the final decision as to the cause of the delay.

4.4 Fuel Flowage Fees. Fixed Base Operators who are authorized to dispense Fuel at the Airport shall pay the Fuel Flowage Fees stated in Schedule A-2 for every gallon of Fuel sold or delivered by the Fixed Based Operator at the Airport, including Fuel sold or delivered to customers, subsidiaries, licensees, or subtenants of the Fixed Base Operator at the Airport, and customers, subsidiaries, licensees, or subtenants of a subtenant of the Fixed Base Operator at the Airport. Additionally, Into-Plane Fuel Providers operating at the Airport shall pay the Fuel flowage fees stated in Schedule A-2 for every gallon of Fuel sold or delivered by the Into-Plane Fuel Provider at the Airport, including Fuel sold or delivered to customers, subsidiaries, licensees, or subtenants of the Into-Plane Fuel Providers.

Notwithstanding the foregoing, Fuel Flowage Fees shall not apply to fuel supplied to Military Aircraft, aircraft operated by Signatory Airlines, or aircraft which are fueled while using gates at either the Terminal 1-Lindbergh or Terminal 2-Humphrey.

Fuel Flowage Fees will be adjusted periodically as set forth in Section 4.6(b).

- 4.5 Payment of Fees. Operators of aircraft will be charged for each approved use of a Common Use Gate or Common Ticket Counter, whether or not they are actually used, unless cancelled in writing at least 10 days in advance. All use of Common Use Facilities must be approved in advance by the Commission or its designated representative.

Payment of the use fee charges shall be made prior to release and clearance of such aircraft for departure from the Airport to the Fixed Base Operator having under its control the apron area at the Airport used by the landing aircraft, including, in the case of aircraft landing and making use of the Terminal 2-Humphrey, the Terminal 2-Humphrey Agent in charge of such facility.

Aircraft Parking Fees, landing fees, Common Use Gate fees, and FIS use fees for Operation to, at or from the Terminal 2-Humphrey shall be paid to the Terminal 2-Humphrey Agent for Non-Signatory Airlines prior to release and clearance of such aircraft for departure from the Airport. Such fees shall be paid directly to the Commission for Signatory Airlines pursuant to payment provisions of the Use Fee Agreement.

Fixed Base Operators and Into-Plane Fuel Providers shall pay Fuel flowage fees (and provide reports to the Commission as described in Section 5.1) within twenty (20) days after the end of each calendar month for Fuel sold or delivered (as described in Section 4.4 above) during the previous calendar month, unless otherwise notified by the Commission in writing of different payment dates.

- 4.6 Adjustment of Fees.

- (a) Landing Fee and Facility Use Fees. The Commission intends to establish rates in approximately September through December timeframe of each year for the upcoming calendar year. In addition, the Commission may periodically adjust these fees for reasons that include, but are not limited to, change in expected Operations, carrier(s) new to the Terminal 2-Humphrey, unanticipated expenses, and budget adjustments. Fees remain in effect until such time as changed by the Commission. The Commission shall provide notice of any changes in the Facility Use Fee structure prior to its implementation.
- (b) Fuel Flowage Fees. Fuel Flowage Fees will be adjusted on January 1 of each year, according to the attached Schedule A-2. The Commission may, however, reevaluate and adjust the rates and fees in the attached Schedule A-2 by Commission action. If the Fuel Flowage Fees on the attached Schedule A-2 are not modified by the Commission before December 31, 2018, the rents and fees shall be increased in the same manner and at the same percentage rates per year until the Commission determines other rates and fees. This means that the Fuel Flowage Fees shall be increased at four percent (4%) per year. If the Commission plans deviate from Schedule A-2 through Commission action, it will send out notice 15 days in advance of the public meeting to affected parties.

- 4.7 Late Fees. Any payment not received by the Commission or the Terminal 2-Humphrey Agent within thirty (30) days of the due date shall accrue interest at the rate of one and one-half percent (1 ½ %) per month measured from the due date until paid in full.

SECTION 5. REPORTS AND PAYMENTS TO THE COMMISSION.

- 5.1 Reports. Fixed Base Operators, and the Terminal 2-Humphrey Agent, shall within twenty (20) days after the end of each calendar month, report to the Commission covering the previous calendar month as to the aircraft which have landed and parked at the apron area(s) assigned to and under the control of such operator. Reports shall include the type of aircraft by Federal Aviation Administration approved gross certificated maximum landing weights, the number of landings and take-offs made by such aircraft during the month of reporting, and the landing fee charge due and owing in respect to such aircraft. In the case of the Terminal 2-Humphrey Agent, the report shall in addition include Aircraft Parking Fees, Facility Use Fees, FIS use fees and the number of aircraft Operations by category using the Terminal 2-Humphrey.

Fixed Base Operators and Into-Plane Fuel Providers shall provide reports to the Commission within twenty (20) days after the end of each calendar month for Fuel sold or delivered (as described in Section 4.5 above) during the previous calendar month, unless otherwise notified by the Commission in writing of different reporting dates. The reports shall state fueling activity for the calendar month, including the number of gallons of Fuel sold or delivered broken down by Fuel type, the dates on which the Fuel was supplied, the number of gallons dispensed, broken down by Fuel type; the meter readings on the pumps for the beginning and end of the calendar month, and any other information relating to the fueling activity requested in writing by the Commission.

- 5.2 Fixed Base Operator and Terminal 2-Humphrey Agent Payments. Together with such report, the Fixed Base Operator and Terminal 2-Humphrey Agent shall remit to the Commission payment of all fees reported and to be paid pursuant to this Ordinance, whether or not collected from the aircraft operator.
- 5.3 Records. The Commission, through its representatives, shall have the right at any time during the business day to inspect the records of the Fixed Base Operators, Into-Plane Fuel Providers, and Terminal 2-Humphrey Agent as to Operations from the apron area assigned to and under the control of each such operator, to ascertain the veracity of the operator's reports hereunder. If, as a result of such inspection and upon audit a deficiency in payments made to the Commission hereunder of more than five percent (5%) is disclosed, the cost of audit shall be borne by the operator. Otherwise the cost of inspection and audit shall be borne by the Commission. The Terminal 2-Humphrey Agent's dispatch log shall be the official document for activity subject to fees under this Ordinance.

SECTION 6. IMPOUNDING AIRCRAFT.

The Airport Director shall have the right to impound, tow away and cause to be stored with any Fixed Base Operator at the Airport, any aircraft, vehicle or other equipment parked or left unattended in violation hereof, of whose operator fails to pay aircraft landing fee charges and/or any other fee due under this Ordinance from aircraft Operation at or from the Terminal 2-Humphrey. The operator of the aircraft so impounded, in addition to payment of the fees due and owing, shall, prior to release of the same, pay all costs incident to such impounding, including charges for towing and storage of such aircraft.

SECTION 7. PENALTY.

Any person violating any of the provisions of this Ordinance shall upon conviction be punished by sentence within the parameters of the maximum penalty for misdemeanors set forth in Minn. Stat. §609.03 or as amended

SECTION 8. PROVISIONS SEVERABLE.

If any part of this Ordinance shall be held unconstitutional or invalid, this does not affect the validity of the remaining parts of this Ordinance. The Commission declares it would have passed the remaining parts of this Ordinance without the unenforceable provisions.

SECTION 9. NOTICE.

- 9.1 Method of Providing Notice. Notice as required by Section 4.6 or any other notice required by this Ordinance, is sufficient if delivered in person, sent by U.S. mail to the last address on file with the Commission, or transmitted by fax or email. Notice is effective when it is hand delivered, placed in the mail, faxed, or emailed.
- 9.2 Time Periods. The time periods set forth in this Ordinance shall be based on calendar days unless otherwise specified.

SECTION 10. REPEALER.

As of the effective date of this Ordinance, the Commission's Ordinance No. 96 is hereby revoked.

SECTION 11. EFFECTIVE DATE.

This Ordinance is effective January 1, 2013.

**SCHEDULE A - 1
 Rates for 2012**

LANDING FEES

Non-Signatory Landing Fee Rate: \$3.03/1,000 lbs.
Non-Signatory Minimum Landing Fee: \$59.42

FACILITY USE FEES

Common Use Facilities Fee - Gate Charge Per Operation

Category I Aircraft	\$ 112.00
Category II Aircraft	\$582.00
Category III Aircraft	\$1,383.00

Cap for Calendar Year 2012: \$738,101.00

F.I.S. Facilities Use Fee - Charge Per International Arrival Operation

Category I Aircraft	\$112.00
Category II Aircraft	\$1,108.00
Category III Aircraft	\$2,411.00

Aircraft Parking Fees

	Per Hour
Category I Aircraft	\$ 5.00
Category II Aircraft	\$ 15.00
Category III Aircraft	\$ 20.00

Fees have been rounded to the nearest dollar.

Fees may be adjusted periodically by the Commission according to Section 4.6. Check with the Commission or the Terminal 2-Humphrey Agent for Current Amounts.

Schedule A-2

Fuel Flowage Fees (rate per gallon)

	2013	2014	2015	2016	2017	2018
MSP	\$0.100	\$0.104	\$0.108	\$0.112	\$0.117	\$0.122

Fees may be adjusted periodically by the Commission according to Section 4.6. Check with the Commission for Current Amounts.