

AN ORDINANCE TO AMEND THE SCHEDULE OF RATES AND CHARGES AND USE CONTROL POLICY FOR COUNTY OF SAN DIEGO AIRPORTS TO DELEGATE AUTHORITY TO AWARD LOW-VALUE, SHORT-TERM LEASES, ESTABLISH FEES, REMOVE RESTRICTIONS ON WAIVERS, AND MAKE OTHER CHANGES TO CLAIRFY EXISTING PROVISIONS

The Board of Supervisors of the County of San Diego ordain as follows:

Section 1. Purpose. The Board may consistent with Government Code section 25537 delegate authority to County staff to issue short-term, airport leases. This authority was granted nearly 5 years ago and must be reauthorized to continue. This action delegates authority to the Director of Airports to issue leases or licenses of up to 10-years with a monthly rent of \$25,000 or less. This action also removes the current 30-day limit and fund-raising requirements on the waiver of fees. The removal of these restrictions is intended to allow waivers of fees by the Director of Airports to better facilitate emergency response, charitable events, and other activities for which a waiver may be granted. This action also codifies turn fees which are currently collected from carriers by rent provision so that all carriers, whether they have a lease or not, would be required to pay the fee. The action includes further edits to clarify terms and make other non-substantive changes.

Section 2. Waiver of Fees. Part I, Section 4, of the Schedule of Rates and Charges and Use Control Policy is hereby amended to remove restrictions to the waiver of fees as follows:

Section 4. Authority to Waive Rates and Charges: The Director of Airports may, at his/her discretion, waive these rates and charges during emergencies, special public events and charitable fundraising events, or to temporarily assist in promoting the development of airport services ~~for a period not to exceed 30 days for each event~~. To qualify for a waiver, special public events and charitable fund-raising events must promote aviation or airport related activities, be open to the general public, and be operated on a cost recovery basis only. In the case of emergencies, the Director of Airports may waive these rates and charges when in the Director of Airport's judgment, the waiver will facilitate a response to the emergency. Waivers for the development of airport services may be provided when there is a need for the services to support aviation activities at an airport and the waiver would help to overcome barriers to entry for the provision of the services.

Section 3. Landing Fees. Part III, Sections 1 and 3, of the Schedule of Rates and Charges and Use Control Policy are hereby amended to define the commercial activities subject to landing fees and delete Section 3 to remove duplicate language as follows:

Section 1. Application and Definition of Commercial Activities: Landing fees shall apply to

all commercial activities for each landing made at an Airport. Commercial activities subject to the payment of landing fees shall include: (i) Part 121 ~~operations-certified air carrier, Part 135-380 public charter, and Part 129 foreign air carrier~~ regardless of aircraft weight or base location of the aircraft; and (ii) any transient aircraft with a MTOW of 12,500lbs or more, used in a commercial or money making venture whether such activity ultimately generates a profit or not (e.g. air taxi, hauling passengers or freight). Notwithstanding the foregoing, separate landing fees shall not be required for commercial activities where the fee is collected as part of a monthly charge pursuant to a license, lease, ~~sub-lease~~, permit or other agreement with the County.

Section 3. ~~Reserved. Commercial Activities. Aircraft operators holding an FAA Part 121 or Part 135 certificate are considered to be engaged in a commercial activity. Aircraft with a MTOW of 12,500lbs or more, used in a commercial or money making venture whether such activity ultimately generates a profit or not (e.g., air taxi, hauling passengers or freight) are considered to be engaged in a commercial activity. No other activities are to be considered commercial activities for purposes of this Part.~~

Section 4. Commercial Airline Operations. Part IV of the Schedule of Rates and Charges and Use Control Policy is hereby amended to clarify the definition of commercial airlines in Section 1, amend Section 3 to use the defined term "commercial airlines", and to add a new Section 4 to codify Turn Fees that were previously collected as rent in leases as follows:

Section 1: ~~Scheduled Operations~~ Commercial Airline Operations: All commercial airlines using the landing facilities of any Airport on a regular basis shall hold a valid license, lease, sublease, or permit. Commercial airlines for the purpose of this Part means Part 121 certified air carrier, Part 135-380 public charter, and Part 129 foreign air carrier. A commercial airline shall be deemed to be using County Airports on a regular basis if it has scheduled service to any County Airport or makes unscheduled landings at any Airport more than three times in a single month period.

Section 3. Landing Fees: ~~All air-carriers~~ Commercial airlines using the landing facilities of any County Airport for any reason, including without limit, scheduled flights, charter flights or as a result of adverse weather or other ~~alternate circumstance~~, shall pay landing fees as established in Part III in addition to any facilities rent or other charges established by ordinance or lease, license, or permit, unless the fees are pre-paid pursuant to a credit or other arrangement in a lease, license, or permit, in which case they shall be pre-paid pursuant to ~~a credit arrangement the terms of the agreement.~~

Section 4. Turn Fees: All commercial airlines using the County-owned facilities described in

this section for scheduled or unscheduled operations at a County Airport, including without limit, scheduled flights, charter flights or because of adverse weather or other circumstances, shall pay a turn fee. The turn fee is an incremental charge for use of the County-owned apron, the general circulation areas of the terminal, and other County-owned facilities or services made available to support commercial service and not otherwise funded by Passenger Facilities Charges or other charges or fees paid by carriers, where a "turn" is defined as the combination of an actual arrival and departure. The carrier shall pay turn fees for the previous calendar month in the amount per turn as established below within seven (7) days following the month in which the turn occurred in addition to any facilities rent or other charges established by ordinance or lease, license, or permit, unless the charges are paid pursuant to a credit or other arrangement in a lease, license, or permit, in which case the charges must be paid pursuant to the terms of the agreement.

Turn fees will be paid pursuant to the following schedule:

Fee Per Turn Charge

<u>Rate/Turn</u>	<u>Applicable Flights for Stated Rate</u>
<u>\$300</u>	<u>First 30 flights, or < 31 per month</u>
<u>\$250</u>	<u>Next 10 flights or turns 31 - 40 per month</u>
<u>\$200</u>	<u>Next 10 flights or turns 41 – 50 per month</u>
<u>\$175</u>	<u>Next 7 flights or turns 51 – 57 per month</u>
<u>\$150</u>	<u>Next 9 flights or turns 58 – 66 per month</u>
<u>\$125</u>	<u>Next 15 flights or turns 67 – 80 per month</u>
<u>\$100</u>	<u>Next 20 flights or turns 81-100 per month</u>
<u>\$75</u>	<u>Next 33 flights or turns 101 – 133 per month</u>
<u>\$50</u>	<u>Any additional flights or turns > 133 per month</u>

For example, a carrier with 53 turns in a given month would pay \$14,025 (30 turns x \$300 plus 10 turns x \$250 plus 10 turns x \$200 plus 3 turns x \$175 = \$14,025)

Notwithstanding the above requirements, in the event that a lease, license, or permit for a commercial airline executed prior to the effective date of this ordinance allows for a lower per turn rate than is required to be paid by this ordinance, the turn fees charged pursuant to this ordinance shall be adjusted to match the existing lower turn fee. In no event shall a commercial airline be required to pay a turn fee greater than what is required to be paid by this ordinance.

Section 5. Leasing or Licensing of County Airport Property. Part VI, Section 2.b) of the Schedule of Rates and Charges and Use Control Policy is hereby amended to reauthorize and increase delegated low-value, short term leasing authority to the Director of Airports and to clarify that the standard processing fee is applicable to all leases and licenses in Section 5 as follows:

Section 2.b) Low-Value Leases and Licenses Excluded from Bidding Procedure: The Director of Airports may, without any advertised call for bids, negotiate and execute any lease or license or amendment thereto of a total duration not exceeding 10 years and having an estimated monthly rental not exceeding ~~\$10,000–\$25,000~~; provided, however, that if a lease or license is so excluded from the bidding procedure, the actual monthly rental in the executed lease or license shall not exceed ~~\$10,000–\$25,000~~, the term of the executed lease or license shall not exceed ten years, and the lease or license shall not be renewed. Notice of any such proposed lease or license shall be given as required by Government Code section 25537.

Section 5. Processing Fees: When County is requested to draft a new lease or license or an amendment to an existing lease or license, County may require a ~~non-refundable~~ processing fee be paid, by the lessee or licensee, ~~in a reasonable amount set forth below~~ to recover the actual cost of providing airports services to the lessee or licensee. If an applicant requests to stop work on a project prior to its completion ~~and before a Request for Proposals and Request for Bids is issued~~, a portion of the fees may be refunded, ~~with County retaining an amount proportionate to the amount of staff work completed.~~ When County issues a Request for Proposals or Request for Bids, ~~County may charge a reasonable non-refundable the application submittal fee to recover the anticipated cost of review by County of applications submitted shall be nonrefundable.~~ In addition, deposits for environmental review completed pursuant to federal and state environmental laws in amounts and subject to handling in accordance with Administrative Code section 362, et seq. may be required in the discretion of the Director of Airports. The following are the processing fees applicable to licenses and leases:

Staff Prepared Written Proposal for new Lease, License or Amendment to Lease or License	\$300.00
Application Fee for Airline Lease or License Agreement	\$750.00
Application Fee for Request for Proposal or Request for Bids (low value $\leq$ \$15,000 annual revenue)	\$150.00
Application Fee for Request for Proposal or Request for Bids ($\geq$ \$15,000 annual revenue)	\$500.00

Standard Processing Fee for Lease, License or Amendment Processing Fee (low value approved by Director of Airports)	\$1,500.00
Standard Processing Fee for Lease, License or Amendment Processing Fee (low value approved by the Board of Supervisors)	\$3,000.00

Section 6. Customs User Fees. Part VIII of the Schedule of Rates and Charges and Use Control Policy is hereby amended to update the current Customs User Fee table in Section 3 and update the definition of Cost of Living Adjustment in Section 5 as follows:

Section 3. Fee Schedule: Customs User Fees shall be based on aircraft weight, rounded off to the nearest 1,000lb figure. All charges shall be based on the MTOW, including increases in permitted takeoff weight by reason of certain modifications to the aircraft. Effective beginning January 1, 2013, the fees by weight are:

Aircraft Weight/Category	Regular Rate	Non-Regular Rate
Up to 7,500 lbs	\$75	\$150
7,501 lbs to 14,000 lbs	\$300	\$600
14,001 lbs to 20,000 lbs	\$400	\$800
20,001 lbs to 27,500 lbs	\$500	\$1,000
27,501 lbs to 35,000 lbs	\$625	\$1,250
35,001 lbs to 75,000 lbs	\$750	\$1,500
Over 75,000 lbs	\$1,500	\$3,000
Any Aircraft with Capacity for 15 Passengers or More*	\$2,000	\$4,000
*For aircraft with a capacity of 15 or more passengers, the fee based on passenger capacity rather than weight shall apply.		

Section 5: Cost of Living Adjustment: ~~At the discretion of the Director of Airports, the fee set forth in the~~ Fee Schedule provided for in this Section 3, above, may be adjusted on January 1, 2013, and thereafter every year on such date unless otherwise amended (each such period is referred to herein as a "COLA Period"), to reflect any increase or decrease in the purchasing power of the dollar. The fee adjustment to be effective during each COLA Period shall be determined by use of the following formula; ~~provided, however that the fees determined by the following formula shall be~~ with the resulting dollar amount rounded to the nearest five dollars (\$5.00):

$$F=A (B/C)$$

Wherein:

"F" equals the fees as adjusted for the COLA Period;

"A" equals the Fee Schedule set forth in Section 3 (Fee Schedule);

"B" equals the monthly Consumer Price Index, as hereinafter defined, for the month of September immediately preceding the commencement of the COLA Period for which the fee is being adjusted;

"C" equals the monthly Consumer Price Index, as hereinafter defined, for the month of September 2012.

Consumer Price Index: The consumer price index which shall be used as the source for the Consumer Price Index numbers shall be that published by the United States Department of Labor, entitled United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for the Los Angeles Riverside-Orange County area, all items of the index entitled "Consumer Price Index for All Urban Consumers" for the Los Angeles Riverside-Orange County area (1982-84 = 100). In the event that such index is not published for the Los Angeles Riverside-Orange County area, then another comparable index or source of such information generally recognized as authoritative shall be substituted by the Director of Airports.

Section 7. Fuel Fees. Part IX, Section 2.d) of the Schedule of Rates and Charges and Use Control Policy is hereby amended to update the Cost of Living Adjustment definition in Section 2.d) as follows:

Section 2.d) Cost of Living Adjustment: At the discretion of the Airports Director of Airports ~~and only to the extent needed to ensure the continued recovery of County costs to construct, operate and maintain fueling facilities,~~ the fee set forth in the Fee Schedule provided for in this Section 2b, above, may be adjusted on January 1, 2015, and thereafter every year on such date unless otherwise amended (each such period is referred to herein as a "COLA Period"), to reflect any increase or decrease in the purchasing power of the dollar. The fee adjustment to be effective during each COLA Period shall be determined by use of the following formula:

$$F=A (B/C)$$

Wherein:

"F" equals the fees as adjusted for the COLA Period;

"A" equals the Fee Schedule set forth in Section 3 (Fee Schedule);

"B" equals the monthly Consumer Price Index, as hereinafter defined, for the month of September immediately preceding the commencement of the COLA Period for which the fee is being adjusted;

"C" equals the monthly Consumer Price Index, as hereinafter defined, for the month of September 2008.

Consumer Price Index: The consumer price index which shall be used as the source for the Consumer Price Index numbers shall be that published by the United States Department of Labor, entitled United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for the Los Angeles Riverside-Orange County area, all items of the index entitled "Consumer Price Index for All Urban Consumers" for the Los Angeles Riverside-Orange County area (1982-84 = 100). In the event that such index is not published for the Los Angeles Riverside-Orange County area, then another comparable index or source of such information generally recognized as authoritative shall be substituted by the Director of Airports.

Section 8. Vehicle Parking User Fees. Part X, Sections 3 and 6, of the Schedule of Rates and Charges and Use Control Policy are hereby amended to update the Fee Schedule Table in Section 3 and the Cost of Living Adjustment in Section 6 as follows:

Section 3. Fee Schedule: The first hour and 59 minutes of parking are free with the rate increasing incrementally up to eight hours when the full maximum daily parking rate is achieved. During the second and subsequent days the same rate structure applies, with the full rate being achieved at eight hours. Hourly rates are as follows:

First 1 hour 59 minutes	No charge
2 hours to 3 hours 59 minutes	\$1.00
4 hours to 4 hours 59 minutes	\$1.75
5 hours to 5 hours 59 minutes	\$2.50
6 hours to 6 hours 59 minutes	\$3.25
7 hours to 7 hours 59 minutes	\$4.00
8 hours to 24 hours	\$5.00

Section 6. Cost of Living Adjustment: At the discretion of the ~~Airports~~ Director of Airports, the fee set forth in the Fee Schedule provided for in this Section 3, above, may be adjusted on January 1, 2017, and thereafter every year on such date unless otherwise amended (each such period is referred to herein as a "COLA Period"), to reflect any increase or decrease in the purchasing power of the dollar. The fee

adjustment to be effective during each COLA Period shall be determined by use of the following formula, with the resulting dollar amount rounded to the nearest dollar:

$$F=A (B/C)$$

Wherein:

"F" equals the fees as adjusted for the COLA Period;

"A" equals the Fee Schedule set forth in Section 3 (Fee Schedule);

"B" equals the monthly Consumer Price Index, as hereinafter defined, for the month of September immediately preceding the commencement of the COLA Period for which the fee is being adjusted;

"C" equals the monthly Consumer Price Index, as hereinafter defined, for the month of September 2009.

Consumer Price Index: The consumer price index which shall be used as the source for the Consumer Price Index numbers shall be that published by the United States Department of Labor, entitled United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for the Los Angeles Riverside-Orange County area, all items of the index entitled "Consumer Price Index for All Urban Consumers" for the Los Angeles Riverside-Orange County area (1982-84 = 100). In the event that such index is not published for the Los Angeles Riverside-Orange County area, then another comparable index or source of such information generally recognized as authoritative shall be substituted by the Director of Airports.

Section 9. Operative Date. This Ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of the Board voting for and against it in a newspaper of general circulation published in the County of San Diego.