

METROPOLITAN AIRPORTS COMMISSION

ORDINANCE No. 107

RELIEVER AIRPORTS RATES AND CHARGES ORDINANCE

Adopted by Commission: October 15, 2007
Effective Date: January 1, 2008

METROPOLITAN AIRPORTS COMMISSION

ORDINANCE NO. 107

(Ordinance No. 101 Amended and Restated)

An ordinance of the Metropolitan Airports Commission (“Commission”) amending the rental rates and other charges for property at the Commission’s minor and intermediate use airports (“Reliever Airports”) as provided by Minn. Stat. § 473.651; by amending and restating Ordinance No. 101, which amended and restated Ordinance No. 87; to modify the reverse sliding scale and the formula for calculating percentage rent, add a formula for calculating a ground rent surcharge or credit, incorporate other fees, and amend various other provisions and prescribe the penalty for violation thereof.

WHEREAS, some of the amendments are being made in accordance with the recommendations contained in the “Recommendations Regarding The Future Operation and Development Of The Reliever Airport System”, which was prepared by the Reliever Airports Task Force and accepted by the Commission in January, 2006; and

WHEREAS, consistent with federal policy, the rental rates and fees are intended to assist the Commission in attaining its long-term goal of making the Reliever Airports as financially self-sustaining as possible; and

WHEREAS, having received and considered extensive public input and having fully considered the state and federal legal requirements concerning the rates that may be charged to users of these Reliever Airports; and

WHEREAS, this Ordinance No. 107 (“Ordinance”) will interchangeably be referred to as “Ordinance No. 107,” as “Ordinance No. 101 as amended,” and as “Ordinance No. 87 as amended”;

NOW THEREFORE, the Commission does ordain:

SECTION 1 – DEFINITIONS

- 1.1 Based Tenant. A Storage Tenant or Commercial Tenant at St. Paul Downtown Airport. This does not include subtenants.
- 1.2 Commercial Tenant. A Tenant that has entered into a commercial lease with the Commission at a Reliever Airport and that is authorized to do one or more of the following: sale, repair or storage of aircraft; sale of parts and accessories; sale of flight or ground instruction; flying for charter or hire; providing fueling and lubrication services; aircraft rental; or other activities deemed commercial and approved by the Commission.
- 1.3 Commission. The Metropolitan Airports Commission, a public corporation organized and operating pursuant to Chapter 500, Laws of Minnesota 1943 and amendments thereto.

- 1.4 CPI. The consumer price index for the Minneapolis-St. Paul area.
- 1.5 Executive Director. The Commission's chief executive officer or a designated representative.
- 1.6 Flying Club. An entity defined by Minnesota Statutes § 360.013, subd. 18 or Minnesota Rules § 8800.4100, subd. 2, or as either are amended.
- 1.7 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.
- 1.8 Full Service Commercial Operation or Fixed Base Operator ("FBO"). An aeronautical commercial operation which offers, at a minimum, repair of aircraft, storage of aircraft, fueling and lubrication of aircraft, line service and parking for transient aircraft. In addition, the following services may be offered if approved by the Commission: the sale of aircraft, sale of parts and accessories incidental to aircraft, sale of flight and ground instruction, flying for charter or for hire, aircraft rental, and others.
- 1.9 Gross Sales Thresholds. Those amounts of annual Reportable Year Net Gross Revenue set forth in Section 2.2.a. that establish when the rates in Chart B apply to a Commercial Tenant.
- 1.10 Immediate Family Member. A spouse, parent, child, brother or sister (including half-relations and step-relations, but excluding in-law relations) of the Tenant.
- 1.11 Jet-A Fuel. A kerosene based fuel designed for use in turbine engine aircraft, regulated by the American Society for Testing and Materials ("ASTM"). For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org.
- 1.12 Leased Area. That area defined in the description of Premises section in the Tenant's lease.
- 1.13 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 a Reliever Airport.
- 1.14 Net Gross Revenue. Gross Receipts or Gross Sales, as defined in Tenant's lease, less exclusions, as allowed by Tenant's lease.
- 1.15 Non-Aviation/Complementary Business License Agreement. A license agreement granted by the Commission for the purpose of conducting a business on the airport that is non-aviation, yet provides a complementary product or service to airport users. Examples of complementary products/services include aviation insurance companies, restaurants, aviation legal services, auto rental and limousine services, travel agencies, delivery/courier services, flight physicals, and aviation museums.
- 1.16 Related Entity. An entity within which a Storage Tenant can prove, via written documentation, that he or she holds an equity interest.

- 1.17 Reliever Airport. Any intermediate use or minor use Reliever Airport now or in the future owned and/or operated by the Commission, including: St. Paul Downtown, Flying Cloud, Anoka County-Blaine, Crystal, Airlake and Lake Elmo.
- 1.18 Reportable Year. The time period from October 1 through September 30, which is used to determine which Gross Sales Thresholds apply.
- 1.19 Reverse Sliding Scale Thresholds. Those amounts of Net Gross Revenue set forth in Section 2.2.b. that establish when certain percentage rates apply to different levels of Net Gross Revenue.
- 1.20 Signatory Airline. Operator of aircraft that pays for use of Minneapolis-St. Paul International Airport pursuant to a use fee agreement and, where applicable, a Commission ordinance.
- 1.21 Special Rent Assessment. Fees charged by the Commission and paid by Tenants to offset the costs of Reliever Airport projects or services which benefit the Tenant, including, but not limited to sewer, water, other utilities, pavement installation or rehabilitation.
- 1.22 Storage Tenant. A Reliever Airport Tenant that has entered into an aircraft storage lease with the Commission.
- 1.23 Tenant. Any person, partnership, corporation or other entity that leases property from the Commission at a Reliever Airport. This definition and the rents and fees in this Ordinance apply even if the lease has expired and the property continues to be occupied by a holdover Tenant. Tenant does not include any component or branch of the military that leases property or uses a Reliever Airport.

SECTION 2 – RENTS

2.1 Storage Tenant Per-Square-Foot Ground Rent

Storage Tenants shall pay the rate per square foot of Leased Area per year stated on the attached Chart A.

2.2 Commercial Tenant Rent

Commercial Tenants shall pay ground rent and percentage rents as specified below, by paying the applicable amount in Section 2.2.a. or 2.2.b., whichever is greater. However, if a Commercial Tenant has less than one hundred thousand dollars (\$100,000.00) of Net Gross Revenue in the preceding Reportable Year, then a Commercial Tenant shall pay ground rent as stated on the attached Chart A and zero percentage rent, or the amount in Section 2.2.b. (see also Chart C), whichever is greater, as determined on a monthly basis, during the calendar year following the Reportable Year.

a. Ground Rent and Gross Sales Thresholds

If a Commercial Tenant that is authorized to conduct a Full Service Commercial Operation has one hundred thousand dollars (\$100,000.00) or more but less than four hundred thousand dollars (\$400,000.00) of Net Gross Revenue in the preceding Reportable Year, or one hundred thousand dollars (\$100,000.00) or more but less than two hundred thousand (\$200,000.00) dollars if such Tenant is at Airlake or Lake Elmo, then the Commercial Tenant shall pay ground rent at the rate per square foot of Leased Area per year stated on the attached Chart B and no percentage rent, or the amount in Section 2.2.b. (see also Chart C), whichever is greater, as determined on a monthly basis, during the calendar year following the Reportable Year.

If a Commercial Tenant, at any Reliever Airport, that is authorized to conduct less than a Full Service Commercial Operation has one hundred thousand dollars (\$100,000.00) or more but less than two hundred fifty thousand dollars (\$250,000.00) of Net Gross Revenue in the preceding Reportable Year, then the Commercial Tenant shall pay ground rent at the rate per square foot of Leased Area per year stated on the attached Chart B and no percentage rent, or the amount in Section 2.2.b. (see also Chart C), whichever is greater as determined on a monthly basis, during the calendar year following the Reportable Year.

If a Commercial Tenant fails to submit a monthly report of Net Gross Revenue as required by Section 2.4.b.3. for the purpose of determining the applicable Gross Sales Thresholds, that Gross Sales Threshold will be determined based upon the lowest three (3) months of reported Net Gross Revenue during the current Reportable Year.

b. Percentage Rent and Reverse Sliding Scale Thresholds

1. A Commercial Tenant shall pay to the Commission a percentage rate on eighty percent (80%) of its annual calendar year Net Gross Revenue, as outlined in the following paragraph, plus the rate per square foot of Leased Area per year as stated on attached Chart C.
2. The Commercial Tenant shall pay the applicable percentage rate, as set forth below, on eighty percent (80%) of its annual calendar year Net Gross Revenue:
 - (a) The rate of one and a half percent (1.5%) applies to the first two and a half million dollars (\$2,500,000.00) of annual calendar year Net Gross Revenue.
 - (b) The rate of one and a quarter percent (1.25%) applies to the range of two and a half million dollars and one cent (\$2,500,000.01) to five million dollars (\$5,000,000.00) of annual calendar year Net Gross Revenue.

- (c) The rate of one percent (1%) applies to all additional annual calendar year Net Gross Revenue beyond five million dollars and one cent (\$5,000,000.01).

Beginning January 1, 2007, the Gross Sales Thresholds and Reverse Sliding Scale Thresholds will be adjusted annually according to the CPI.

2.3 Ground Rent Surcharge/Credit

a. Calculation and Implementation

At the completion of the certified annual financial report each year, Commission Staff shall calculate the Net Operating Profit/Deficit for the Reliever Airports. If there is a Net Operating Deficit, subject to the procedures contained in Section 13.3, the Commission shall implement a Ground Rent Surcharge sufficient to eliminate the Net Operating Deficit. A Ground Rent Surcharge shall apply on a per-square-foot basis and shall be paid by all Tenants who pay ground rent to the Commission under this Ordinance. If there is a Net Operating Profit, it will be carried forward as a credit in the calculation of the Net Operating Profit/Deficit in the following fiscal year. Commencing in 2010, if a Net Operating Profit is projected in each of the five (5) subsequent fiscal years, a Ground Rent Credit may be established by the Commission for the following fiscal year in an amount not greater than 75% of the estimated Net Operating Profit for that year.

b. Invoice or Offset

Upon calculation of a Ground Rent Surcharge, each Tenant shall be invoiced the appropriate amount, based on the Tenant's amount of square footage at the time of invoicing. All Tenants shall pay the Ground Rent Surcharge within thirty (30) days of the invoice due date. A Ground Rent Credit shall be based on the Tenant's amount of square footage at the time of invoicing and applied as an offset to rents, fees or other charges due from the Tenant to the Commission.

c. Definitions

1. Net Operating Profit/Deficit

The actual amount of profit or deficit in the Reliever Airports for any fiscal year, calculated by adding (a) the sum of all aeronautical and non-aeronautical revenues generated at the Reliever Airports, the Reliever Airports Benefit as defined below, and any credit from a Net Operating Profit carried forward from the previous fiscal year (plus interest at the Commission's then-current rate of return); and subtracting (b) all expenses, including operating & maintenance expenses, an Administrative Cost Allocation as defined below, and the then-existing depreciation, imputed interest, and land acquisition imputed interest.

2. Administrative Cost Allocation

The proportionate share of Commission administrative costs attributable to Reliever Airports.

3. Reliever Airports Benefit

The amount of non-aeronautical revenue generated at MSP that is contributed to the Reliever Airports System, representative of the value the Reliever Airports provide to MSP. This amount shall be the sum of (a) depreciation, imputed interest, and land acquisition imputed interest associated with projects closed prior to 12/31/2005 (as shown on the attached schedule), plus (b) three hundred thousand dollars (\$300,000) annually, beginning in 2006 and escalated at three percent (3%) per annum.

2.4 Rent Payments

a. Storage Tenant Per-Square-Foot Ground Rent

Storage Tenants shall pay Per-Square-Foot Ground Rent, pursuant to Section 2.1, annually in advance on or before the effective date of their lease, unless otherwise notified by the Commission in writing of different payment dates. Rent is calculated as the total of the rate stated in Chart A multiplied by the square footage of Leased Area, rounded to the nearest penny.

b. Commercial Tenants

1. Ground Rent

Commercial Tenants shall pay ground rent in advance by the last day of the calendar month for the upcoming calendar month, unless otherwise notified by the Commission in writing of different payment dates. Monthly rent is one-twelfth of the annual rent, which is calculated as the total of the appropriate rate stated in the attached Rent and Fee Schedule multiplied by the Tenant's square footage of Leased Area, rounded to the nearest penny.

2. Percentage Rent

Commercial Tenants shall simultaneously pay percentage rent and submit percentage reports by the last day of the calendar month for the previous calendar month, unless otherwise notified by the Commission in writing of different payment dates.

3. Monthly Report

Each Commercial Tenant shall submit a report of Net Gross Revenue by the last day of each calendar month for the previous calendar

month, unless otherwise notified by the Commission in writing of different reporting dates. Commercial Tenants shall submit this report no matter which rate chart is applicable or how much, if any, Net Gross Revenue occurred.

4. Year End Reconciliation

As soon as practical after the end of each calendar year, the Commission shall reconcile the total rent paid against the total rent due. The total rent due shall be the sum of payments due under the applicable provisions of Section 2.2 on an annualized basis, whichever is greater. If insufficient rent was paid, Tenant shall pay the amount due within thirty (30) days of invoice.

2.5 Applicability of Rates

Unless otherwise specified by the terms of Tenant's lease, the rental rates in this Ordinance replace the rent provisions in the Tenant's lease with the Commission.

If the lease is expired or terminated or if the Tenant abandons the property prior to expiration or termination of the lease, the Tenant is not released from responsibility for ground rents, percentage rents and corresponding reports, or any other payments due to the Commission.

SECTION 3 – FUEL FLOWAGE FEES

3.1 Fueling

a. Authorization

Tenants shall not dispense Fuel unless fueling is specifically authorized by the Commission in writing.

b. Compliance

Fueling shall be conducted in compliance with all applicable codes and regulations. Fueling is prohibited in areas that pose a hazard to public safety as determined by the Commission.

3.2 Fuel Flowage Fees

Tenants who are authorized to dispense Fuel shall pay the Fuel flowage fees stated in Chart D for every gallon of Fuel purchased from all suppliers that is delivered to the Reliever Airport, including Fuel purchased by subtenants, licensees or subsidiaries of Tenant or subsidiaries, licensees or subtenants of a subtenant, and dispensed under the Tenant's authority to dispense Fuel. Beginning February 1, 2005, tenants who are authorized to dispense Fuel at St. Paul Downtown Airport shall not pay Fuel flowage fees applicable to Fuel purchased by customers who are required to pay a landing fee, pursuant to Section 4.1 below.

3.3 Payments and Reports

Tenants who are authorized to dispense Fuel shall simultaneously pay Fuel flowage fees and provide reports to the Commission by the last day of each calendar month for Fuel supplied to the Tenant, subtenants, licensees or subsidiaries of Tenant or subsidiaries, licensees or subtenants of a subtenant, during the previous calendar month, unless otherwise notified by the Commission in writing of different payment dates. The reports shall state fueling activity for the calendar month, including the number of gallons of Fuel supplied to the Tenant, subtenants, licensees or subsidiaries of Tenant or subsidiaries, licensees or subtenants of a subtenant, 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. Tenants who are authorized to dispense Fuel at St. Paul Downtown Airport shall report all fueling activity, whether or not a landing fee was due.

The Tenant shall attach to the report copies of invoices from the Fuel supplier that are signed and dated by the person who supplied or delivered the Fuel to the Tenant.

If the lease is expired or terminated or if the Tenant abandons the property prior to the expiration or termination of the lease, the Tenant is not released from the responsibility for payments and reports of Fuel flowage fees due to the Commission.

SECTION 4 – ST. PAUL DOWNTOWN AIRPORT LANDING FEE

4.1 Landing Fee

a. Payment of Landing Fee

The operators of all fixed-wing aircraft that use Jet-A Fuel, other than operators of Military Aircraft, including all fixed-wing aircraft based at any of the Reliever Airports, shall pay a landing fee for each landing of such aircraft at St. Paul Downtown 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 at Minneapolis-St. Paul International Airport; provided that the landing fee shall be no less than the amount set forth in the attached Rent and Fee Schedule.

Operators of fixed wing aircraft that use Jet-A Fuel shall not be required to pay this landing fee when conducting pilot check flights or maintenance flights required by the federal government; other operations conducted as a requirement of the federal government; operations conducted by those providing medical services, such as transportation of organs or patients in the course of business; Lifeguard flights; or other similar operations approved by the Executive Director.

b. Collection

All landing fees shall be paid to an FBO at St. Paul Downtown Airport prior to release and clearance of such aircraft for departure from St. Paul Downtown Airport or paid on a monthly basis to such FBO if pre-arranged with the FBO, except a Based Tenant may pay the Commission directly if approved by the Executive Director.

c. Late Fees

Any landing fee payment not received from the FBO or Based Tenant within thirty (30) days of the due date shall accrue interest at the rate of one and a half percent (1.5%) per month, measured from the due date until paid in full.

4.2 Reports and Payments

a. Reports

FBOs at St. Paul Downtown Airport shall, by the last day of each calendar month, report to the Commission the number of all aircraft using Jet-A Fuel that have landed at St. Paul Downtown Airport the previous calendar month and that have parked at apron areas assigned to and under the control of such FBO or reported their landing to such FBO. Based Tenants approved by the Executive Director shall, by the last day of each calendar month, report to the Commission the number of all aircraft using Jet-A Fuel that have landed at St. Paul Downtown Airport the previous calendar month. 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.

b. Payments

Together with such report, the FBO and any Based Tenant approved by the Executive Director shall remit to the Commission payment of all landing fees reported and to be paid pursuant to this Ordinance, whether or not collected from the aircraft operator.

SECTION 5 – SUBLEASE FEE

5.1 Applicability

Storage Tenants who have entered into a sublease license agreement with the Commission and who sublease space within a hangar shall pay an applicable Sublease Fee, as set forth in Chart E of the attached Rent and Fee Schedule, for each aircraft for which the Tenant subleases space.

5.2 Exemptions

Storage Tenants are not required to pay a Sublease Fee for aircraft registered with the Federal Aviation Administration in the respective Storage Tenant's name, or in the name of a Related Entity or Immediate Family Member, and that are stored within the particular hangar. Storage Tenants shall provide written documentation, satisfactory to the Commission, to justify any such exemptions.

5.3 Payments

Storage Tenants shall pay the annual Sublease Fees on a quarterly basis, with payment for January, February, and March due by May 1 of that calendar year; April, May, and June due by August 1 of that calendar year; July, August, and September due by November 1 of that calendar year; and October, November, and December due by February 1 of the following calendar year.

The Storage Tenant will be required to pay a pro-rata portion of the annual Sublease Fee for each quarter during which any sublease activity occurs and for each aircraft for which the Tenant subleases space during that quarter, regardless of whether the sublease activity continues for the entire quarter.

SECTION 6 – NON-AVIATION/COMPLEMENTARY BUSINESS LICENSE FEE

Commercial Tenants who have entered into a Non-Aviation/Complementary Business License Agreement with the Commission shall pay a Non-Aviation/Complementary Business License Fee as set forth in Chart F of the attached Rent and Fee Schedule.

SECTION 7 – FACILITY ACQUISITION FEE

7.1 Applicability

Tenants who acquire an existing facility on a Reliever Airport shall pay a Facility Acquisition Fee, at the time of lease transfer, at the rate per square foot as set forth in Chart G of the attached Rent and Fee Schedule. Storage Tenants shall pay the rate per square foot of total leased area. Commercial Tenants shall pay the rate per square foot of building footprint area.

The Facility Acquisition Fee will apply to a lease transfer under the "Transfer" section, as amended, of lease forms entered into after the effective date of this Ordinance, and will apply to any assignment of the lease, for any reason, with or without consideration, including:

- A change of ownership or voting control, including a change in the name(s) on the lease, where there is a change of 50% or more (e.g., if only one name is on the lease, and that party wishes to add an additional name, a 50% change would occur, and the fee would apply);
- A transfer for estate-planning purposes (e.g., into a trust), or as a result of death;
- A change in name(s) (e.g., as a result of divorce), where the disposition change is a result of a court order, and there is a change of 50% or more;
- A transfer as part of a bankruptcy; or
- A transfer through a contract for deed.

7.2 Exception

The Facility Acquisition Fee will not apply in the following situation:

- A transfer to an Immediate Family Member, including a transfer to an Immediate Family Member for estate-planning purposes (e.g., into a family trust), or a transfer to an Immediate Family Member as a result of death.

SECTION 8 – ADMINISTRATION FEE

8.1 Applicability

An Administration Fee, as set forth in Chart H of the attached Rent and Fee Schedule, shall be paid by a Tenant or prospective Tenant for costs associated with the review and processing of lease requests and transactions.

An Administration Fee is applicable to all requests and transactions that require Commission authorization or consent, with the exception of the following: the generation of a new lease executed at the time of construction in a new building area; the renewal of an existing lease; the execution of a sewer and water amendment; or the execution of a lease transfer or new lease if a Facility Acquisition Fee, as described in Section 7, applies. Commission staff shall determine the type of lease request or transaction and the corresponding Administration Fee.

8.2 Additional Amounts

Commission staff may charge an additional amount, sufficient to cover its costs, if the costs associated with the review and processing of a lease request or transaction exceed the amount of the Administration Fee, such as for a transaction involving significant legal work. If the Commission assumes the responsibility for issuing building permits in the future, the Commission reserves the right to charge an additional amount, sufficient to cover the costs of the permitting process.

SECTION 9 – WAITING LIST FEE

9.1 Applicability

Any prospective Tenant wishing to have a name held on a list for future hangar space that has been identified in the Commission's capital improvement program shall pay a Waiting List Fee as set forth in the attached Rent and Fee Schedule. The Waiting List Fee will be collected by the Commission from those who are currently on the list and wish to maintain their position when this Ordinance is adopted, and from any in the future who wish to have a name placed on the list.

9.2 Fee Administration and Refundability

The Waiting List Fee amount paid will bear simple interest at the Commission's average annual percentage rate of return for the period during which the Waiting List Fee remains with the Commission. The Waiting List Fee will remain with the Commission until a lease is offered to the prospective Tenant, or until the Tenant or prospective Tenant requests the name be removed from the list. The Waiting List Fee, plus any interest, will apply toward the first year building area assessment, if the area is developed by the Commission and the prospective Tenant signs a lease with the Commission, or refunded fully, with interest, to the prospective Tenant, if the area is developed by a developer and the prospective Tenant enters into a lease with that developer.

If the prospective Tenant is offered a lease and rejects the offer, but wishes to remain on the list, the prospective Tenant will be placed at the bottom of the list, and the Waiting List Fee will remain with the Commission until another lease is offered to the prospective Tenant. The Waiting List Fee is fully refundable, with any interest, under the following circumstances: (1) the prospective Tenant dies, the decedent's name is removed from the list, and the decedent's estate requests a refund of the Waiting List Fee; (2) the prospective Tenant has not been offered a lease, has not rejected an offer, requests the name be removed from the list, and the Waiting List Fee has been paid in full for more than five years; or (3) the prospective Tenant has lost an airman's medical certificate, and requests the name be removed from the list. The Waiting List Fee is partially refundable, without interest, within the first five years, according to the following schedule, if the Waiting List Fee has been paid in full and the prospective Tenant requests the name be removed from the list: 80% refundable through the first two years; 60% after two years and before three years; 40% after three years and before four years; and 20% after four years and before five years.

SECTION 10 – FLYING CLUBS

10.1 Flying Club Activities

Flying Clubs shall be responsible for the activities of their members. Flying Clubs shall comply with all applicable federal, state and local requirements for Flying Clubs and aeronautical activity.

10.2 Flying Club Records

The Commission shall have access to all Flying Club records, including but not limited to the Flying Club's financial records, any tax statements, records relating to membership and any flight instruction conducted in club aircraft. The Commission shall also have access to the logbooks of all Flying Club members.

10.3 Flying Club Reports

Flying Clubs shall submit to the Commission a copy of all reports other than taxes, required by the state or federal government for Flying Clubs within thirty (30) days of the due date to the state or federal government. Failure to provide the reports to the state or federal government, whether or not waived by the governmental entity, does not release the Tenant from the obligation to provide the reports to the Commission as required under this Ordinance.

SECTION 11 – AUDITS

11.1 Subleasing

The Commission has the right, upon reasonable request, to inspect the Tenant's hangar and audit the number of aircraft using space within the hangar, to determine the number of aircraft, if any, for which the Tenant subleases space.

11.2 Fuel Flowage Fees

The Commission has the right at any time during the business day, upon reasonable request, to inspect the Tenant's Fuel pumps, Fuel supplier invoices and business records to ascertain the veracity of Tenant's reports.

The Commission may at any time require an inventory and audit of the Tenant's dealings in Fuel to be made by an auditor designated by the Commission. If, as a result of such inventory and audit, a deficiency of five percent (5%) or more is disclosed in the Tenant's Fuel flowage reports or payments, the cost of such audit shall be borne by the Tenant. The Tenant shall remit payment to the Commission for any amounts underreported, plus interest according to Section 12.2.

11.3 Landing Fees

The Commission has the right at any time during the business day, upon reasonable request, to inspect the records of FBOs as to operations from the apron area assigned to and under the control of each such operator or the records of a Based Tenant, to ascertain the veracity of the landing fee reports. Such records shall be organized in date order and shall include itemized transactions and operations that document landing fees, including aircraft registration numbers. Upon the Commission's request, the FBO or Based Tenant shall provide the logbooks that document any exception to landing fees due. If, as a result of such inspection and audit, a deficiency of five percent (5%) or more is disclosed, the cost of such audit shall be borne by the FBO or Based Tenant. The FBO or Based Tenant shall remit

payment to the Commission for any amounts underreported, plus interest according to Section 12.2.

11.4 Other Records

The Commission has the right, upon reasonable request, to audit Tenant's books and records as authorized by Tenant's lease.

SECTION 12 – PENALTIES

12.1 Sublease Violation

If the Commission determines that a Tenant is subleasing space within a hangar in violation of the Tenant's lease or sublease license agreement, the Tenant shall pay a penalty of two (2) times the current rate set forth in Chart E of the attached Rent and Fee Schedule, retroactive to January 1 of the current calendar year, for each aircraft for which the Tenant is subleasing space in violation of the Tenant's lease or sublease license agreement.

12.2 Interest on Late Payments

For any rents or fees due under this Ordinance, a Tenant shall pay a penalty for late or delinquent payments of twelve percent (12%) per annum on any past due balance calculated from the date the amount is due until the close of the business day upon which the delinquent payment is received by the Commission.

12.3 Misdemeanor

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 may be amended.

12.4 Other Actions Not Precluded

The penalties prescribed under this Ordinance in no way preclude the Commission from taking any other civil action authorized under the Tenant's lease or by law.

SECTION 13 – RENTS AND FEES ADJUSTMENT

13.1 Annual Rate Adjustments

a. Storage Tenant Per-Square-Foot Ground Rent

Storage Tenant per-square-foot ground rent will be adjusted on the anniversary date of the Tenant's lease during each applicable year, according to the attached Rent and Fee Schedule.

b. Commercial Tenant Rent

Commercial Tenant rents in the Rent and Fee Schedule will be adjusted on January 1 of each year, according to the attached Schedule. Gross Sales Thresholds and Reverse Sliding Scale Thresholds in Section 2.2 that are adjusted annually according to the CPI will be rounded up or down to the nearest half cent (\$.005) on a cumulative basis.

c. Fuel Flowage Fees

Fuel flowage fees will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

d. Sublease Fees

The Sublease Fee will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

e. Non-Aviation/Complementary Business License Fee

The Non-Aviation/Complementary Business License Fee will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

f. Facility Acquisition Fee

The Facility Acquisition Fee will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

13.2 Post 2012 Adjustments

If the rents and fees in Charts A, B, C, D, E, F, G and H of the attached Rent and Fee Schedule are not modified by the Commission before December 31, 2012, 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 operations and maintenance component of the ground rent rates in Charts A, B, and C shall be increased at four percent (4%) per year, and the depreciation component of the ground rent rates in Charts A, B, and C shall be increased at five percent (5%) per year; the Fuel Flowage Fees and the Sublease Fee shall be increased at four percent (4%) per year; and the Non-Aviation/Complementary Business License Fee, the Facility Acquisition Fee, and the Administration Fee shall be increased at three percent (3%) per year.

13.3 Commission Action

The Commission may reevaluate and adjust the rates and fees set forth in the attached Rent and Fee Schedule by Commission action, and shall adjust the Ground Rent Surcharge/Credit on an annual basis as described in this Ordinance. Prior to a Commission decision to implement a Ground Rent Surcharge, a public meeting shall be held, and comments from that public meeting forwarded to the appropriate committee for consideration, and to the full Commission thereafter, as appropriate.

In making a decision to adjust rates, the Commission shall consider state and federal mandates and policy (e.g., in light of security mandates or extraordinary environmental costs), as well as the requirements of this Ordinance. Written notice will be provided to Tenants of public meetings to address rents and fees and of any new rents and fees adopted by the Commission.

SECTION 14 – GENERAL PROVISIONS

14.1 Additional Tenant Charges

a. Assessments and Other Fees

This Ordinance has no applicability to assessments or other fees that the Tenant is required to pay on the date this Ordinance takes effect. All such assessments and fees remain in effect.

b. Special Rent Assessment

The Commission is authorized to charge Special Rent Assessments to Tenants consistent with Minn. Stat. § 473.651 for Reliever Airport projects or services, over and above those contemplated by a Tenant's lease, which benefit the Tenant, charged on a basis uniform and consistent with those of other Tenants at the Reliever Airports. The Commission's Executive Director is authorized to create procedures to implement Special Rent Assessments. Such procedures shall include notice to affected Tenants and opportunity to comment prior to imposition of any such assessment.

14.2 Provisions Severable

If any part or parts of this Ordinance is declared 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.

14.3 Notice

Any 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 facsimile to the last facsimile number on file with the Commission.

14.4 Amendment

Ordinance No. 101 is amended and restated on the date this Ordinance takes effect.

14.5 Effective Date

This Ordinance is effective January 1, 2008.

RENT AND FEE SCHEDULE

Chart A – Per-Square Foot Ground Rent (annual rate per square foot)

	2007	2008	2009	2010	2011	2012
St. Paul	.509	.530	.552	.575	.598	.623
Flying Cloud	.434	.452	.470	.490	.510	.531
Anoka County	.434	.452	.470	.490	.510	.531
Crystal	.380	.395	.412	.429	.447	.465
Airlake	.326	.339	.353	.368	.383	.399
Lake Elmo	.326	.339	.353	.368	.383	.399

Chart B – Commercial Ground Rent without percentage (annual rate per square foot)

	2007	2008	2009	2010	2011	2012
St. Paul	.373	.389	.405	.422	.439	.457
Flying Cloud	.320	.333	.347	.362	.377	.393
Anoka County	.320	.333	.347	.362	.377	.393
Crystal	.282	.294	.306	.319	.333	.347
Airlake	.190	.198	.207	.216	.225	.235
Lake Elmo	.190	.198	.207	.216	.225	.235

Chart C – Commercial Ground Rent with percentage * (annual rate per square foot)

	2007	2008	2009	2010	2011	2012
St. Paul	.250	.260	.271	.283	.295	.307
Flying Cloud	.239	.249	.260	.271	.282	.294
Anoka County	.163	.170	.178	.185	.194	.202
Crystal	.163	.170	.178	.185	.194	.202
Airlake	.142	.148	.154	.161	.168	.176
Lake Elmo	.142	.148	.154	.161	.168	.176

Chart D – Fuel Flowage Fees (rate per gallon)

	2007	2008	2009	2010	2011	2012
St. Paul	.108	.112	.117	.122	.127	.132
Flying Cloud	.108	.112	.117	.122	.127	.132
Anoka County	.108	.112	.117	.122	.127	.132
Crystal	.087	.090	.094	.097	.101	.105
Airlake	.087	.090	.094	.097	.101	.105
Lake Elmo	.087	.090	.094	.097	.101	.105

* Plus applicable percentage rate on eighty percent (80%) of annual calendar year Net Gross Revenue per Section 2.2.b.

Chart E – Sublease Fee (annual rate per aircraft)

	2007	2008	2009	2010	2011	2012
Single Engine / Turbo Prop / Reciprocating	150.00	156.00	162.24	168.73	175.48	182.50
Twin Engine / Turbo Prop / Reciprocating	300.00	312.00	324.48	337.46	350.96	365.00
Turbo Jet Engine	600.00	624.00	648.96	674.92	701.92	730.00

Chart F – Non-Aviation/Complementary Business License Fee (monthly rate)

	2007	2008	2009	2010	2011	2012
All Reliever Airports	150.00	154.50	159.14	163.91	168.83	173.89

Chart G – Facility Acquisition Fee (rate per square foot)

	2007	2008	2009	2010	2011	2012
All Reliever Airports	1.00	1.03	1.06	1.09	1.12	1.15

Chart H – Administration Fee ** (rate per request or transaction)

	2007	2008	2009	2010	2011	2012
Approval of Tenant Modification to Leased Area	90.00	93.00	96.00	99.00	102.00	105.00
Consent to Leasehold Mortgage and Subordination Agreement	100.00	103.00	106.00	109.00	112.00	115.00
Consent to Sublease – Commercial Lease	210.00	216.00	222.00	229.00	236.00	243.00
Standard Amendment	160.00	165.00	170.00	175.00	180.00	185.00
Standard Assignment	160.00	165.00	170.00	175.00	180.00	185.00
Standard Termination	90.00	93.00	96.00	99.00	102.00	105.00

** Plus additional amount, if applicable, per Section 8.2.

Other Fees

STP Minimum Landing Fee	\$20.00
Waiting List Fee	\$500.00

OPERATING BUDGET AND CAPITAL IMPROVEMENT PROGRAM PROCESS DESCRIPTIONS

Following are general descriptions of the Metropolitan Airports Commission's ("MAC") operating budget and capital improvement program processes. More specific or updated information may be obtained from MAC or its website.

Operating Budget Process Description

In May, staff presents recommended budget targets and guidelines to the Finance, Development and Environment Committee. After allowing a month of review and opportunity for comment by the public, the Committee provides direction to staff regarding budget targets at the Committee meeting in June. During September, presentation of a preliminary operating budget and supporting documents are prepared for the Finance, Development and Environment Committee, senior staff, and airlines. In addition, a draft budget is sent to the Minnesota State Legislature. The month of October is reserved for presentations to the Finance, Development and Environment Committee and revisions prior to requesting final approval.

The Finance, Development and Environment Committee will receive updates from staff during October and November. The recommendation from the Finance, Development and Environment Committee for final approval is typically requested at the December Commission meeting. Final approval of the 2007 Operating Budget was given at the December Commission meeting. Rate changes are sent out as usual at the beginning of December based upon approval from the full Commission.

At any time during the fiscal year, the Executive Director may recommend to the full Commission that all or any unencumbered appropriation balances of individual line-items be transferred to those line-items that require additional budgeted funds. In addition, the Executive Director may recommend to the full Commission the appropriation of additional funds above and beyond those approved at the time of budget adoption."

Capital Improvement Program Process Description

MAC develops a Capital Improvement Program ("CIP") for construction projects at the Minneapolis – St. Paul International Airport and the six Reliever Airports. The CIP is a seven-year program that is reviewed and updated annually.

The CIP consists of the following elements:

1. **Capital Improvement Projects** - These are projects that have been reasonably defined for implementation in the upcoming calendar year. MAC staff requests authority from the Commission to develop final plans and specifications and advertise for bids for these projects.
2. **Capital Improvement Program** - These are projects that have been identified as a need or potential need but require further study in order to properly determine the scope, feasibility,

or cost of the project. MAC staff requests authority from the Commission to develop plans and specifications for these projects to refine the projects for inclusion in next year's program.

3. Capital Improvement Plan - This encompasses the last five years of the total program and consists of projects that staff deems likely to be needed during the period. This portion of the program assists in financial planning and meets the requirements of the Metropolitan Council's Investment Framework. MAC staff requests authority from the Commission to study and prepare preliminary plans and specifications for the projects.

In a typical year, a draft CIP is made available to MAC Commissioners, affected municipalities, and the public in early September. A schedule is included with the draft CIP. Comments may be submitted in writing to Airport Development on or prior to the date listed on the schedule for final receipt of comments on the draft CIP.

Responses to comments are then prepared along with a final version of the CIP. These are presented to the Commission typically in the month of December for approval. In some instances, actions by the MAC Commission regarding the CIP as a whole, or portions of the CIP, may be deferred or tabled.