



Delaware Coastal Airport Policies

Volume II: General Provisions

*Adopted by Sussex County Council
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1 General Provisions

1.1 Purpose

1.1.1 This volume is one part of an overall policy document that governs the operation, management, and development of the Delaware Coastal Airport. It provides general guidance and policies that apply to all volumes of the policy document. The other volumes include:

- 1.1.1.1 Definitions
- 1.1.1.2 Rules and Regulations
- 1.1.1.3 Minimum Standards for Commercial Aeronautical Activities
- 1.1.1.4 Lease/Rates and Charges
- 1.1.1.5 Development Guidelines

1.2 Definitions

1.2.1 Definitions, identified and defined in the Definitions volume, whenever used in the Delaware Coastal Airport Policies, shall be construed as defined therein unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

1.3 Governing Body

1.3.1 The Airport is owned and operated by the Sussex County Council. The ultimate authority to grant the occupancy and commercial use of Airport land or Improvements, the right to engage in any Commercial Activity or Aeronautical Activity at the Airport, and to approve, adopt, amend, or supplement any Agreement, policy, or practice relating thereto, including these Delaware Coastal Airport Policies, is expressly reserved to the County Council.

1.4 Authority to Adopt

1.4.1 Delaware Coastal Airport Policies are promulgated under the authority granted by Title 2, Delaware Code, §909, which confers to the County the authority to adopt and amend all needful rules, regulations and ordinances for the management, government and use of any (airport) properties under its control.

1.5 Effective Date

1.5.1 Unless repealed by the County Council, these Delaware Coastal Airport Policies shall be in effect and shall remain in effect from the date of adoption by the County Council.

1.6 Statement of Policy

1.6.1 It is the intent of the Sussex County Council (the “County”) to: (1) plan, manage, operate, finance, and develop the Delaware Coastal Airport (Airport) to ensure the long-term financial health of the Airport and protect and promote the health, safety, security, and general welfare of the public consistent with all

applicable Regulatory Measures and (2) encourage the development and operation of general aviation businesses and the provision of quality aviation products, services, and facilities to the public at the Airport.

1.6.2 As set forth by the Federal Aviation Administration (the “FAA”), by way of its Airport Sponsor Assurances, the Delaware Coastal Airport is required to operate for the use and benefit of the public and shall be made available to all types, kinds, and classes of Aeronautical Activity on reasonable terms and without unjust discrimination.

1.7 Airport Management

1.7.1 The Airport Manager is responsible to the Sussex County Council for the operation, management, and security of the Airport and all Airport operated land, Improvements, and facilities.

1.7.2 The Airport Manager has the authority to take such action as may be necessary to safeguard the public in attendance and all facilities at the Airport. Persons employed on or using the Airport shall cooperate with the Airport Manager to enforce the Delaware Coastal Airport Policies. In addition, the Airport Manager may remove or eject from the Airport premises any person who knowingly and willfully violates any rule or regulation prescribed for the Airport, or any order or instruction issued by the Airport Manager, and may deny the use of the Airport and its facilities to any such person if it is determined that such denial is reasonably necessary under the circumstances.

1.7.3 The Airport Manager may suspend or restrict any or all operations without regard to weather conditions or other considerations whenever such action is deemed necessary in the interest of safety.

1.7.4 The Airport Manager may, as necessary, establish Standard Operating Procedures with other individuals, groups, or agencies for dealing with the operational emergencies that arise on the Airport.

1.8 Airport Capital Improvement

1.8.1 The Sussex County Engineer is responsible to the Sussex County Council for the construction of all Capital Improvements, including but not limited to, required Runways, Taxiways, aprons, and other airport infrastructure.

1.9 Airport Facilities Maintenance

1.9.1 The Sussex County Facilities Manager is responsible to the Sussex County Council for the maintenance of all County-owned facilities at the Airport.

1.9.1.1 Facilities addressed in Agreements will be maintained in accordance with the Agreement.

1.9.2 The Sussex County Facilities Manager is responsible for snow removal operations required to maintain the operational capability of the Airport during winter months.

1.10 Compliance with Regulatory Measures

1.10.1 Any permission granted by the Airport Manager directly or indirectly, expressly or by implication, to any person or persons to enter or use the Airport or any part thereof (including aircraft operators, crew members or passengers, spectators, operators of pleasure and commercial vehicles, and any other persons occupying space within the Airport, persons doing business with the Sussex County Council, its lessees or approved sub-lessees and permittees, any other person whatsoever) is conditioned upon strict compliance with Delaware Coastal Airport Policies and payment of such rates, fees or charges as may be established by the Sussex County Council.

1.10.2 All Entities occupying or using Airport land or Improvements, engaging in an Aeronautical Activity on Airport land or Improvements, or developing Airport land or Improvements shall comply, at the Entity's expense, with all applicable Federal, State, and County laws and ordinances; as may be in effect and amended from time to time.

1.11 *Conflicting Regulatory Measures and Agreements*

1.11.1 If a provision of the Delaware Coastal Airport Policies is found to be in conflict with any other provision of Delaware Coastal Airport Policies, or with any zoning, building, fire, safety, health, or other ordinance, code, rule, or regulation of the County, the provision which establishes the higher or more restrictive standard shall prevail.

1.11.2 It is not the intent of the Delaware Coastal Airport Policies to repeal, abrogate, annul, or in any way impair or interfere with any existing provision of any Regulatory Measure except those specifically repealed by these Delaware Coastal Airport Policies.

1.11.3 It is not the intent of these Delaware Coastal Airport Policies to excuse any Entity from performing any obligation it may have with the Airport as set forth in any Agreement the Entity has with the Airport, whether such Agreement is in existence on the date of the adoption of these Delaware Coastal Airport Policies or entered into at any time thereafter.

1.11.4 No existing or future Agreement, nor any payment or performance required there under, shall excuse any Entity from full and complete compliance with these Delaware Coastal Airport Policies.

1.11.5 Compliance with these Delaware Coastal Airport Policies shall not excuse any Entity from full and complete compliance with any responsibility or obligation the Entity may have (to the Airport) under any existing or future Agreement.

1.12 *Right to Self-Service*

1.12.1 These Delaware Coastal Airport Policies will not prevent any Entity operating Aircraft on the Airport from performing any services on its own Aircraft, with its own Employees and its own equipment (including, but not limited to, maintenance, repair, and refueling) that it may choose to perform

1.12.2 Individual Operators may restrict the use of their exclusive Leased Premises and each Aircraft Operator must adhere to all applicable Regulatory Measures in the performance of any services on its own Aircraft.

1.13 *Prohibited Activities*

1.13.1 “Through the Fence” Activities are prohibited at the Airport.

1.14 *Fines and Penalties*

1.14.1 The Sussex County Council reserves the right to establish fines and penalties for violations of these Delaware Coastal Airport Policies.

1.14.2 Entities shall have the responsibility to timely pay in full any fine or penalty levied against the Entity, by the Airport, the County, the Sussex County Council, or its representatives, elected officials, officers, officials, employees, agents, and volunteers as a result of Entity's failure to comply with any applicable Regulatory Measure.

1.14.3 If the fine or penalty is contestable (and contested by the Entity), the Entity shall pay the fine or penalty when upheld by the Agency having jurisdiction.

1.15 *Severability*

1.15.1 If any section, paragraph, clause, phrase or other part of the Delaware Coastal Airport Policies is held invalid by any Court of competent jurisdiction, or by any agency, department or commission, such decision shall not affect the validity of the remaining provisions hereof, and the application of those provisions to any person or circumstances shall not be affected thereby.

1.16 *Subordination*

1.16.1 Delaware Coastal Airport Policies are subject and subordinate to the provisions of any existing or future Agreements between the County and the State of Delaware or the United States pertaining to the operation, management, planning, and development of the Airport and are specifically subordinated to, and to be construed as in accordance with the Grant Assurances.

1.17 *Notices, Requests for Approval, Applications, and Other Filings*

1.17.1 Any notice, request for approval, application, or other filing required or permitted to be given or filed with the Airport and any notice or communication required or permitted to be given or filed with any Lessee, prospective Lessee, Operator, or prospective Operator pursuant to these Delaware Coastal Airport Policies shall be in writing, signed by the party giving such notice, and shall be sent by overnight courier, United States certified mail, facsimile (confirmed by dated return signature), email (confirmed by return email) or in person (confirmed with dated and signed receipt) and shall be deemed to have been given when delivered to the Airport, Lessee, or Operator at their principal place of business or such other address as may have been provided to the Airport.

1.18 *Amendments*

1.18.1 These Delaware Coastal Airport Policies supersede and cancel all previous County Regulatory Measures pertaining to the occupancy or use of Airport land or Improvements, engaging in Aeronautical Activity(s) on Airport land or Improvements, or developing Airport land or Improvements.

1.18.2 These Delaware Coastal Airport Policies may be supplemented, amended, or modified by the County from time to time and in such a manner and to such extent as is deemed appropriate by the County.

1.18.3 The County may issue special rules, regulations, notices, memorandums, directives, covenants, restrictions, or conditions from time to time as is deemed appropriate by the County.

1.18.4 The County shall provide for timely public notification of pending supplements, amendments, or modifications to these Delaware Coastal Airport Policies in order to provide the opportunity for public comment and input by Operators, Lessees, consumers, users, and the community.

1.19 *Variance or Exemption*

1.19.1 A special variance or exemption may be obtained from the County provided that the variance or exemption is petitioned for in writing and that permission for the variance or exemption is obtained in writing from the County.

1.19.1.1 Each variance or exemption shall be petitioned for and granted or denied separately.

1.19.2 Requests for special variance or exemption must state definitively the Delaware Coastal Airport Policy Document and the provision for which the variance or exemption is being sought, describe the proposed variance or exemption, state the reason or rationale for the proposed variance or exemption, and identify the duration of the proposed variance or exemption.

1.19.3 The County has the right to approve variances to these Delaware Coastal Airport Policies when, in the County's opinion, a specific clause, section, or provision does not seem justified in a particular case because of special conditions and unique circumstances.

1.19.4 Any variance or exemption approved by the County shall apply only to the special conditions or unique circumstances of the particular case under which the variance or exemption is granted and shall not serve to amend, modify, or alter the Delaware Coastal Airport Policies.

1.19.5 When a specific product, service, or facility is not currently being provided at the Airport, the County may enter into an Agreement with an FBO or SASO with terms and conditions that are less than those outlined in these Delaware Coastal Airport Policies (e.g., reduced rents, lower minimum standards, etc.), only for a limited period of time (i.e., pioneering period). The duration of the pioneering period shall be specified in the Agreement and shall only be valid during that specific period of time.

1.20 *Enforcement*

1.20.1 The County shall be responsible for enforcing these Delaware Coastal Airport Policies.

1.20.1.1 Initial enforcement is delegated by the Sussex County Council to the Airport Manager.

1.20.1.2 The Airport Manager or his/her designee must be present during the enforcement of these Delaware Coastal Airport Policies by a third party.

1.20.2 Any Entity who violates these Delaware Coastal Airport Policies or any other rule, regulation, notice, memorandum, order, or directive issued by the Airport Manager or his/her designee may be cited and/or removed from the Airport, denied the use of the Airport, and/or prevented from engaging in Activities at the Airport and shall be subject to all legal, equitable, statutory, and common law rights and remedies available to the Airport including, but not limited to, actions for declaratory relief, injunctive relief, specific performance, and damages.

1.20.3 In the event an Entity fails to comply with these Delaware Coastal Airport Policies, the Airport Manager may send a written statement of violation to the Entity at the most recent address, if any, on file with the Airport. The Entity shall have ten (10) days within which to provide a written response statement to the Airport explaining in detail why the violation occurred and to advise the Airport that the violation has been corrected. The County, in its sole discretion, has the right to revoke the Entity's privileges at the Airport or it may suspend the operations for such a period of time as it deems necessary in order to obtain a correction of the violation. In addition, any such violations shall be considered by the Airport and the County in renewing any permit, license, or Agreement held by the Entity.

1.20.4 The Entity shall pay for any and all costs or expenses incurred by the County, including but not limited to attorney fees, arising under this Section and/or in the further enforcement of these Delaware Coastal Airport Policies.

1.20.5 However, if the Entity contests the notice of violation and is found, after further investigation, not to be in violation of these Delaware Coastal Airport Policies, Entity shall not be required to pay for any costs or expenses incurred by the County.

1.20.6 Violation of these Delaware Coastal Airport Policies may also or alternatively result in revocation of Apron access or use privileges, termination of Agreement and/or denial of use of the Airport.

1.20.7 Entities aggrieved by a decision of the Airport Manager may appeal (in writing) such decision to the Sussex County Administrator within ten (10) days after such decision is issued. Unless and until changed by the County Administrator, the decision of the Airport Manager shall be followed.

1.20.8 Entities may appeal (in writing) the decision of the Sussex County Administrator to the Sussex County Council. The decision of the Sussex County Council on such appeal shall be final.