

- - - - - **Fifth Draft CXP Storage Hangar Use Policy** - - - - -

This proposed Policy applies to hangars at Carson City Airport commonly referred to as "Storage Hangars." The objective of this Policy is to implement the intent of the provisions relevant to Carson City Airport from the FAA's "Policy on the Non-Aeronautical Use of Airport Hangars" published in the Federal Register/ Vol. 81, No. 115 / Wednesday, June 15, 2016 / Pages 38906 > 38911.

1) General: Storage Hangars at Carson City Airport are to be used and occupied primarily for an Aeronautical Use. However, as provided for in the above referenced FAA Policy, Non-Aeronautical items are also permitted in a hangar so long as they do not interfere with the primary use of the hangar.

2) Aeronautical Use: - Qualifying Aeronautical Uses for Storage Hangars include:

- A. Storage of active aircraft ("aircraft" defined below).
- B. Final assembly of aircraft under construction.
- C. Non-commercial construction of amateur built or kit-built aircraft.
- D. Maintenance, repair or refurbishment of aircraft, ~~but not indefinite storage of nonoperational aircraft.~~
- E. Storage of aircraft handling equipment such as tow bars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- F. Vacant awaiting aircraft occupancy such as: Aircraft in use, on travel, or away for maintenance.
- G. Vacant reserved for aircraft domiciled at another airport, for anticipated aircraft purchase, or available for sale or rent.
- H. Other Aeronautical activity approved by Authority.

As used in this Policy, "Aircraft" are defined as: "A device that is used or intended to be used for flight in the air and to carry one or more people."

3) Permitted Non-Aeronautical Use:

A. Airport Area approved by FAA for Non-Aeronautical use on Airport Layout Plan or otherwise.

B. Non-Aeronautical items within Qualifying Aeronautical Use hangars unless the items:

1. Impede the movement of active aircraft in and out of the hangar or impede access to inactive aircraft or other Aeronautical contents of the hangar.

Items which can easily be moved to permit access to and/or movement of the aircraft shall not be regarded as an impediment. Typical examples include, but are not limited to: a functional vehicle, workbench, and tool box.

2. Displace the Aeronautical contents of the hangar. A functional vehicle parked in a vacant hangar while the aircraft designated or intended to occupy the vacant hangar is absent shall not be considered to displace the aircraft.

3. Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.

C. An auxiliary hangar which does not itself qualify as an Aeronautical Use hangar, if owned by the owner of a separate hangar which does qualify as an Aeronautical Use hangar, subject to approval by the Airport Authority and payment of a monthly Non-Aeronautical Occupancy Fee to CXP equal to the ground lease payment for the auxiliary hangar, in addition to the ground lease payment.

D. Other Uses approved by the Authority.

E. Other Uses approved by the FAA.

4) Prohibited Uses:

A. Residential: Hangars may not be used as a residence. The FAA differentiates between a typical pilot resting facility or aircrew quarters versus a hangar residence or hangar home. The former are designed to be used for overnight and/or resting periods for aircrew, and not as a permanent or even temporary residence.

B. Non-Aeronautical Business: Hangars may not be used for the conduct of a Non-Aeronautical business or municipal agency function unless the business activity is clearly incidental to the Aeronautical Use of the hangar in the sole judgement of the Airport Authority if called upon to review the question. Examples of conduct of a Non-Aeronautical business include, but are not limited to: storage of inventory; the participation of employees, contractors or others in addition to the hangar occupant; visits from the non-aviation public; and/or deliveries of Non-Aeronautical items.

5) Compliance: To encourage and ensure compliance with this Policy:

A. Within ___TBD___ days after approval of this CXP Storage Hangar Use Policy and within ___TBD___ days after any material change in the information previously reported to the Airport Manager each Lessee whose ground lease includes one or more Storage Hangars (the "Lessee") shall provide to the CXP Airport Manager timely contact information for each occupant of a hangar located upon the Lessee's ground lease, identifying information for any and all aircraft stored in Lessee's hangars, and a written statement of the basis by which the Lessee believes each hangar qualifies as Aeronautical Use.

B. Lessees are required to report all aircraft based at CXP to the Carson City Tax Assessor.

C. If the Airport Manager disputes a Lessee's claim of Aeronautical Use, the Lessee may appeal the dispute to the CXP Authority, whose decision shall be final.

D. If it is determined by the Airport Manager and not appealed, or by the Authority upon appeal, that a hangar located upon the Lessee's ground lease has not met the qualifications for Aeronautical Use, either the Airport Manager or the Authority, whichever made the final decision, shall require the Lessee to have the subject hangar brought into compliance with this Policy or become subject to any and all enforcement actions permitted under Nevada law.

E. If it is determined by the Authority that a Lessee or hangar Occupant has misrepresented material facts to the Airport Manager or the Authority regarding hangar use and/or failed to comply with the decision of the Authority regarding such use, the Authority may impose upon the

Lessee a penalty _____TBD_____, in addition to any and all enforcement actions available against the offending Lessee and/or Occupant under relevant Nevada law.

End:

Comments (To aid in review of this proposal only): - - - - -

1. FAA Wording: A large fraction of Draft Sections 1, 2, and 3 was copied word-for-word from the new FAA Hangar Use Policy, but was reorganized with the objective of making our CXP Storage Hangar Use policy more easily understood. Next, some FAA provisions which did not apply at all at CXP were eliminated (for simplicity), while some FAA provisions were modified and some provisions were added, all with the objective of better fitting the real world of CXP, while implementing the overall intent of the FAA.

2. CXP Implementation Flexibility: Fortunately, in its New Hangar Use Policy, while the FAA delegated enforcement to the Sponsor (in our case the CXP Authority), the FAA also allows our Authority some flexibility with implementation of the FAA Policy in order to meet local conditions. Even as a non-attorney, I know our Authority has the right to include provisions within the CXP Storage Hangar Use Policy more stringent than the FAA's Policy. An important question beyond my knowledge is whether our Authority has the right to include provisions less stringent. I hope the Policy adopted by our Authority will be evaluated not on the basis of a word-by-word comparison to the FAA's Policy but judged on its effectiveness at achieving the objectives of the FAA Policy, specifically including the objective of financial self-sufficiency.

3. FAA Key Objective: As explained in the FAA's comments preceding their Final Policy, an important reason for this new FAA Hangar Policy was concern over long hangar waiting lists at some airports where misuse or under-use of hangars has blocked availability of hangars for active aircraft owners.

Generally, this is not our problem at CXP. Although we may not always have a hangar available for purchase or rent on the terms or conditions desired by a potential purchaser or renter, I believe it is fundamentally important that our Authority place high priority upon encouraging development of additional hangars on our excess land in order to increase the land lease, hangar property tax, and aircraft property tax revenue required to operate CXP, particularly as we face the end of the rock sale revenue.

Therefore, while hangars should be used by pilots for aircraft, since most hangar occupants at CXP are hobbyists for whom aviation is only one of multiple interests, it seems to be in the best interest of CXP to not only permit, but encourage the broad use of our primarily aeronautical hangars for non-interfering Non-Aeronautical uses in order to keep CXP

attractive for existing CXP users and attract new additions to our community while resisting feel-good restrictions not absolutely necessary.

4. Aircraft Definition: "Aircraft" is defined beginning with wording from one of at least two FAA Definitions, to which I added the requirement that the "device ... carry one or more people" to distinguish from drones which now are regarded as Aircraft by the FAA.

For another definition, "Title 49 USC 40102(a)(6) defines "aircraft" as any contrivance invented, used or designed for navigation of or flight in the air."

5. Nonoperational Aircraft: Under Aeronautical Use - Maintenance I included the FAA full provision but struck out: "~~but not indefinite storage of nonoperational aircraft.~~" For an airport with a hangar shortage and active aircraft waiting list, the FAA restriction makes sense as in "Let's clean house." However, at CXP we have an excess of hangars and excess land to build more hangars. Therefore, if the owner of a nonoperational aircraft wants to buy or rent a hangar to store his treasure, how is it in the best interest of CXP to deny that opportunity?

6. Vacant Hangars: The Vacant hangar provisions do not appear in the FAA Final Policy, but are discussed in the FAA's response to Comment 10, on Federal Register page 38909.

Please recall the Lessee remains obligated for the ground lease payment and the real estate property tax, even if a hangar is vacant. Furthermore, depending upon the reason for the vacancy, the owner of an absent aircraft may be responsible for the personal property tax on the aircraft.

7. Other Aeronautical: To "Aeronautical Use," was added "Other Aeronautical," to preserve options for the Authority. For example, there may come a time when certain unmanned aircraft could be stored in CXP hangars - if approved by the Authority as Other Aeronautical.

8. Auxiliary Hangar: I anticipate a challenging provision in this Draft will be Permitted Non-Aeronautical, Option C, Auxiliary Hangar. What I am trying to implement here is that some hangar owners have or may have in the future an extra hangar which does not meet the tests for Aeronautical Use, but is a non-interfering use for that particular hangar at a time when CXP has or may have excess hangars. For example, an owner of several hangars available for rent may want to use one of his

hangars to store equipment used for maintenance and support of his other hangars.

To reduce the possibility of abuse of this provision, I included the requirement that the Non-Aeronautical hangar use be approved by the Authority, which could impose restrictions on their approval.

In order to prevent people from obtaining CXP hangars for solely Non-Aeronautical uses, I included the requirement that the owner also have at least one hangar which qualifies as Aeronautical Use.

In order to comply with the FAA Hangar Policy, I propose a Non-Aeronautical Use Fee equal to the ground lease payment i.e., double the ground lease up to Fair Market Value (as determined recently in the Lease Extension matter).

A better solution for this limited situation may be for the Authority to grant approval as a Permitted Non-Aeronautical Use, Item D, Other Uses approved by the Authority.

9. Compliance: As a small airport operating on a tight budget, we need to be efficient. How do we best encourage and ensure compliance with this Policy and do so efficiently?

I began with the belief that most storage hangars are occupied with real aircraft, whether active, under maintenance, under restoration, or vacant for acceptable reasons. That is, I believe most CXP storage hangars are clearly occupied for Aeronautical Use. Therefore, all we really need for these hangars is current contact information for their occupant and identifying information on the aircraft sufficient to satisfy the FAA that we are responsibly monitoring hangar use.

Sanity Check: If a Lessee informs the Airport Manager in writing that C-172 N7XYZ is stored in hangar PDQ, that is probably accurate and I see no need for CXP to spend limited funds on an inspection to confirm the written information provided by the Lessee. Also, this is a small airport. If some scofflaw is cheating, that will not remain a secret for long.

That leaves us with the question of how to Monitor the minority of hangar occupants who do not have one or more aircraft in their hangar. Here I favor the written explanation of any other basis by which the Occupant (reporting through the Lessee) believes the hangar qualifies as Aeronautical Use. Again this is simple, efficient, and should be satisfactory in most

instances. For example, because it is the Lessee's responsibility to establish each hangar's Aeronautical Use, in those instances where no specific aircraft can be identified, I anticipate use of supporting documentation to support a claim of Aeronautical Use such as equipment lists, maintenance orders, photos, etc.

What about monitoring aircraft ingress, egress, and access? Here is an example of a feel-good restriction favored by the FAA. However, at CXP, why do we care if a hangar occupant chooses to be inefficient with the placement of his hangar contents? For the FAA, concerned with keeping scarce hangars available at airports with long waiting lists, it makes sense to prioritize actively used aircraft. For our airport, with excess hangars and land, I do not believe it is either in our best interest or efficient to become hangar contents placement monitors.

On the other hand, some degree of regulation is required. For example, the requirement that Non-Aeronautical items should not displace the Aeronautical contents of the hangar is important. Therefore, if a hanger for which Aeronautical Use is claimed is vacant, Non-Aeronautical items should not occupy the vacant aircraft's space, with the exception of a functional vehicle as provided for by the FAA.

This leaves us with enforcement in what I believe will be a very small minority of cases. Here I propose a right for the Authority to impose a penalty upon the Lessee which holds the ground lease for the subject offending hangar occupant, in addition to any and all enforcement actions available against the offending Lessee and/or Occupant under relevant Nevada law. Generally, it will be up to the Lessee to deal with its offending member.

Comments End.