



## City of Phoenix Aviation Department Rules and Regulations

Number: 04-02

**Authority** This Rule and Regulation is promulgated pursuant to Phoenix City Code, Chapter IV, Article I, 4-2

**Rule and Regulation** Ejectment or Prosecution of Disruptive Airport Patrons

The purpose of this Rule and Regulation is to assist Aviation Department Management Representatives, and police officers, in enforcing trespass laws and disorderly conduct against persons whose conduct causes unreasonable disruption of the use of the facilities of City of Phoenix Airports by the general public.

### General

Police Officers assigned to the Airport have authority to arrest patrons engaged in disorderly conduct pursuant to Arizona Revised Statutes Section 13-2904. Police Officers assigned to the Airports may arrest patrons engaged in misconduct pursuant to Arizona Revised Statutes Sections 13-1502(A)(1) or 13-1503(A), or Phoenix City Code Section 23-85.01, all pertaining to criminal trespass after the patron is given a reasonable order to leave the premises.

A.R.S. §13-2904 provides:

- A. A person commits disorderly conduct, if with intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, such person:
  - 1. Engages in fighting, violent or seriously disruptive behavior; or
  - 2. Makes unreasonable noise; or
  - 3. Uses abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person; or

4. Makes any protracted commotion, utterance or display with the intent to prevent the transaction of the business of a lawful meeting, gathering or procession; or
  5. Refuses to obey a lawful order to disperse issued to maintain public safety in dangerous proximity to a fire, a hazard or any other emergency; or
  6. Recklessly handles, displays or discharges a deadly weapon or dangerous instrument.
- B. Disorderly conduct under subsection A, paragraph 6 is a class 6 felony. Disorderly conduct under subsection A, paragraph 1, 2, 3, 4 or 5 is a class 1 misdemeanor.

A.R.S. §13-1502(A)(1) provides:

- A. A Person commits criminal trespass in the third degree by:
1. Knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over such property or reasonable notice prohibiting entry.
- B. Criminal Trespass in the third degree is a class 3 misdemeanor.

A.R.S. §13-1503 provides:

- A. A person commits criminal trespass in the second degree by knowingly entering or remaining unlawfully in or on any nonresidential structure or in any fenced commercial yard.
- B. Criminal trespass in the second degree is a class 2 misdemeanor.

In addition, Section 23-85.01 of the Phoenix City Code established trespass offenses in essentially the same terms as State law.

Through this Rule and Regulation, the Aviation Director hereby delegates authority to the following classifications to act as Management Representatives to have lawful control over Airport property: Aviation Supervisor IIs assigned to Operations and any Phoenix Police Airport Unit

Officer. Management Representatives should consider that not every request to a person to leave public property is necessarily reasonable for purposes of A.R.S. §13-1502(A) and §13-1503. The "lawfulness" of a person's presence on public property and the reasonableness of a Management Representative's request to leave the property will be issues for a jury to decide in light of the circumstances of a particular case.

Note that this Rule and Regulation is intended to supplement, and not amend, repeal or supersede the provisions of Article VI of Chapter 4 of the Phoenix City Code, Sections 4-127 through 4-138, pertaining to (1) the sale or distribution of merchandise; (2) solicitations and receipts of funds; and (3) non-commercial peripatetic expressive activity, i.e. picketing, distributing leaflets, etc. Any issues relating to these activities must be resolved in accordance with Article VI of Chapter IV.

#### **Prohibited Conduct**

Patrons of City Airports shall comport themselves in such a manner that all patrons can use the facilities to the maximum extent possible during all open hours. In addition to the misconduct delineated in the disorderly conduct statute, the following rules of conduct are hereby adopted and promulgated:

1. "Patron" means a person who enters upon property owned or leased by the City of Phoenix that is a part of a City-owned or operated airport.
2. Airport patrons shall be engaged in activities associated with the use of an airport, and patrons not so engaged shall be deemed to be loitering, and shall be required to leave. Waiting for the arrival or departure of passengers, ticketed passengers waiting for flight connections or stand-by seating, arrived passengers awaiting ground transportation pick-up, shall not be considered loitering.
3. Patrons shall respect the rights of other patrons and shall not harass or annoy others by noisy or boisterous activities by playing audio equipment so that others can hear it, or by other behavior which can be expected to disturb other persons.
4. Patrons shall not intentionally obstruct or block the free passage of other patrons within a terminal, or otherwise interfere with the use of an airport by other patrons.

5. Patrons shall not interfere with airport employees' performance of their duties.

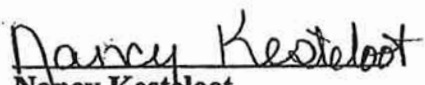
**Procedure**

Patrons acting in contravention of these rules shall be requested by a Management Representative to cease the offending conduct. Upon refusal by the Patron, the Management Representative shall in the presence of a police officer, (1) repeat the request; (2) inform the patron that he is in violation of an airport rule; and (3) if the conduct does not cease, demand that the patron leave the airport premises.

If the patron does not cease the conduct and refuses to leave, then the police officer is authorized to arrest the patron for criminal trespass.

The foregoing Rule and Regulation is hereby adopted and promulgated this December day of 15, 2000.

  
David Krietor  
Aviation Director

  
Nancy Kesteloot  
Assistant City Attorney