

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AMENDING TITLE 11, MESA ZONING ORDINANCE, CHAPTER 19 “AIRFIELD OVERLAY DISTRICT”; PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, as follows:

Text written in **BOLD ALL CAPS** indicates new language.
~~Strikethrough~~ fonts indicate deletions.

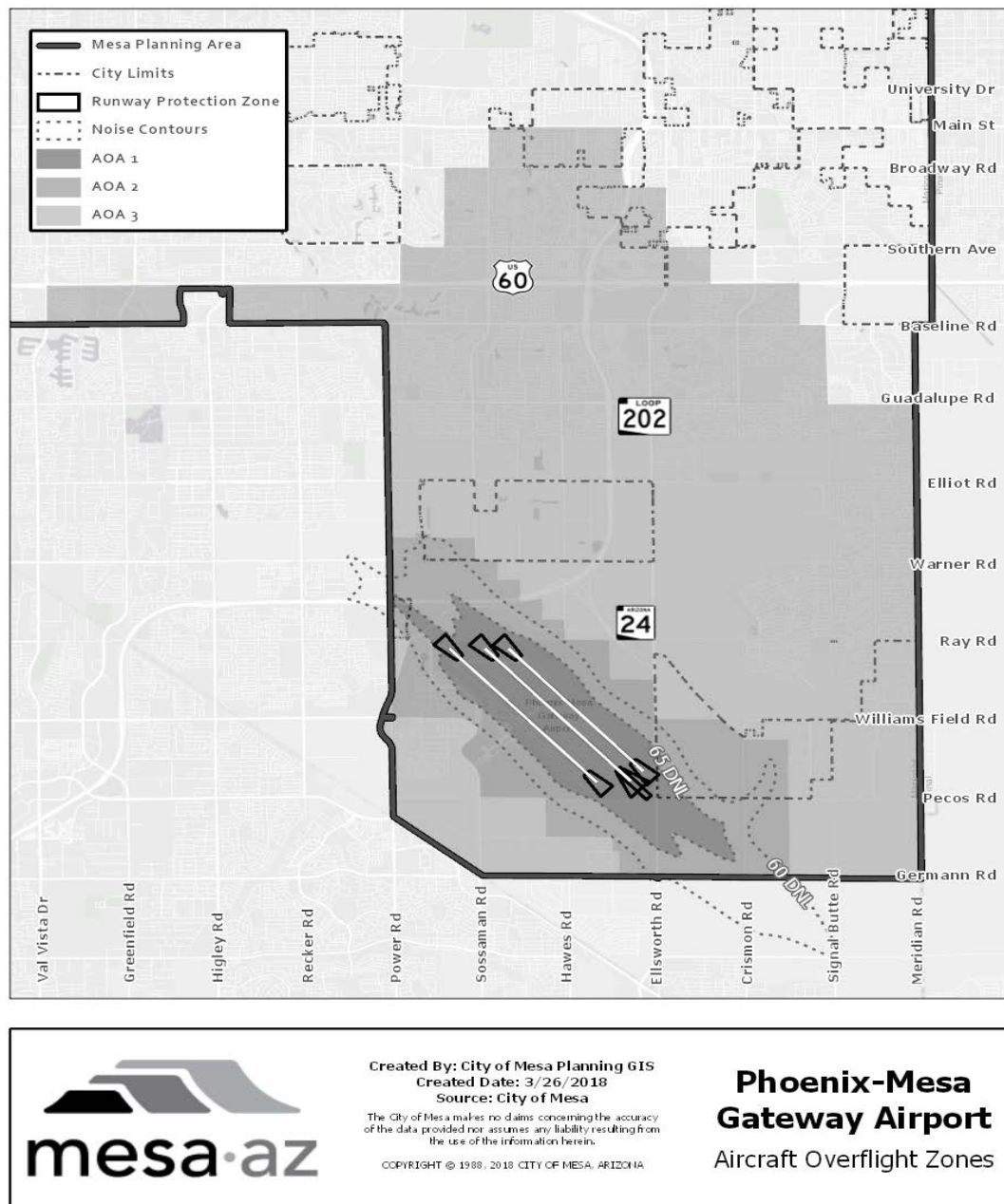
SECTION 1: Mesa City Code 11-19-1 is amended as follows:

11-19-1: Purpose and Intent

The purpose of the Airfield (AF) Overlay District is to recognize the effects and hazards associated with the operation of aircraft in designated areas and the effect of aircraft operation on nearby areas. This district is intended to promote the public health and safety in the vicinity of aircraft operation areas by establishing Runway Protection Zones and Overflight Areas and designating permitted land uses, public notification and noise attenuation requirements within these areas to minimize exposure to the hazards, ~~and~~ high noise levels, **AND OVERFLIGHT ACTIVITY** generated by aircraft operations and encourage future development compatible with and supportive of the continued operation of airports and other approved aircraft operation areas. **IMPLEMENTATION OF THIS DISTRICT ASSISTS IN ACHIEVING COMPLIANCE WITH CFP 14 PART 77 WITH REGARDS TO THE SAFE, EFFICIENT USE, AND PRESERVATION OF NAVIGABLE AIR SPACE.**

SECTION 2: Mesa City Code 11-19-2 Map AF-1: Airfield Overlay – Phoenix -Mesa Gateway Airport is deleted in its entirety and replaced with the following map:

AF-1: Airfield Overlay – Phoenix-Mesa Gateway Airport



SECTION 3: Mesa City Code 11-19-2(C) is amended as follows:

C. Where physical features on the ground differ from the information shown on maps AF-1 or AF-2, or when there arises a question as to how or where a parcel of property is zoned or in which Runway Protection Zone or Overflight Area the property is located and such questions cannot be resolved by the application of the above rules, the property shall be considered to be classified as the more restrictive Runway Protection Zone or Airport Overflight Area.

SECTION 4: Mesa City Code 11-19-3 is amended to update the following definitions (all other definitions remain the same):

Airport: The Phoenix – Mesa Gateway Airport owned and operated by the ~~Williams~~ **PHOENIX**- Gateway Airport Authority, or Falcon Field Airport, owned and operated by the City of Mesa, as may be applicable. Airports (plural) refers to both places.

~~Aviation~~ **AVIGATION** easement: An easement granted for aviation purposes over and across a property which acknowledges the property will be subject to aircraft overflights and which holds the City, the public and either of the Airports harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or other effects that may be caused by aircraft landing, departing or operating at or near either of the Airports, not including the physical impact of aircraft or parts thereof.

Noise sensitive uses: Those activities considered to be adversely affected by high noise levels including, but not limited to: single residence or multiple residence housing, ~~office buildings~~, hotels, motels, hospitals, nursing homes, places of worship, libraries, public and private schools, ~~and~~ **STANDALONE** day care centers, **AND PLACES OF PUBLIC ASSEMBLY.**

SECTION 5: Mesa City Code 11-19-5(E) is amended as follows:

E. Provisions. Notwithstanding any other provisions of this Chapter **AND IN COMPLIANCE WITH CFR 14 PART 77**, no use may be made within any area affected by this Chapter in such a manner as to obstruct navigable airspace, interfere with navigational signals, impair radio communication between the Air Traffic Control Tower and aircraft, impair visibility in the vicinity of the Airport, create bird strike hazards, or otherwise materially endanger or interfere with the landing, takeoff, operation or movement of aircraft.

SECTION 6: REPEAL OF CONFLICTING ORDINANCES

That all Ordinances or parts of Ordinances, and all sections of the Mesa City Code or parts of such sections in conflict herewith, are hereby repealed; provided that such repeal shall not:

- A. Affect suits pending, or rights and duties that matured or were existing, or penalties that were incurred and proceedings that were begun immediately prior to the effective date of this Ordinance;
- B. Impair, void or affect and grant or conveyance made, or any right acquired, or a cause of action now existing under such repealed portions.

SECTION 7: The effective date of this Ordinance shall be thirty (30) days following adoption by Mesa City Council.

SECTION 8: SEVERABILITY

If any section, subsection, sentence clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

SECTION 9: PENALTIES

CIVIL PENALTIES:

- A. Any owner, occupant or responsible party who is found responsible for a civil violation of this Ordinance, whether by admission, default, or after a hearing, shall pay a civil sanction of not less than \$150 or more than \$1,500, per citation. A second finding of responsibility within 24 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less

than \$250 or more than \$2,500. A third finding of responsibility within 36 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than \$500 or more than \$2,500. In addition to the civil sanction, the responsible party shall pay the applicable fees and charges set forth in the City's Development and Sustainability Department (Code Compliance) Schedule of Fees and Charges, and may be ordered to pay any other applicable fees and charges.

- B. The 36-month provision of subsection (A) of this Section shall be calculated by the dates the violations were committed. The owner, occupant, or responsible party shall receive the enhanced sanction upon a finding of responsibility for any violation of this Chapter that was committed within 36 months of the commission of another violation for which the owner or responsible party was convicted or was otherwise found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.
- C. Each day in which a violation of this Ordinance continues, or the failure to perform any act or duty required by this Ordinance or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

HABITUAL OFFENDER:

- A. A person who commits a violation of this Ordinance after previously having been found responsible for committing 3 or more civil violations of this Ordinance within a 24-month period — whether by admission, by payment of the fine, by default, or by judgment after hearing — shall be guilty of a class 1 criminal misdemeanor. The Mesa City Prosecutor is authorized to file a criminal class 1 complaint in the Mesa City Court against habitual offenders. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. Upon conviction of a violation of this Subsection, the Court may impose a sentence or incarceration not to exceed 6 months in jail; or a fine not to exceed \$2,500, exclusive of penalty assessments prescribed by law; or both. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than \$500 for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this Subsection.
- C. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 4th day of June, 2018.

APPROVED:

Mayor

ATTEST:

City Clerk