

Scottsdale Airport

SDL

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**CHAPTER 5 - AVIATION
SCOTTSDALE REVISED CODE**



REVISIONS

<u>REVISION NO.</u>	<u>DATE</u>	<u>SECTION</u>
1	12/7/99	SECTIONS 5-106, 5-302, 5-305.
2	7/1/08	SECTION 5-109
3	9/22/11	ALL SECTIONS
4	8/27/12	SECTIONS 5-101, ARTICLE III
5	10/21/14	SECTIONS 5-101, 5-109.1, 5-351, 5-353, 5-354,5-356 – 5-362
6	12/02/15	SECTION 5-101, SECTION 5-354

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ARTICLE I. IN GENERAL

Sec. 5-101. Definitions.

The following words and phrases, whenever used in this chapter or documents promulgated hereunder, shall be construed as defined in this section 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. All definitions contained in 49 U.S.C. § 40101 *et seq.* (previously known as the Federal Aviation Act of 1958, hereinafter cited as "FAA Act") and all amendments thereto shall be considered as included herein; and all definitions shall be interpreted on the basis and intention of the FAA Act and amendments thereto, 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.

Abate or abatement means to put an end to or correct a violation of this chapter.

Aeronautical activity means any activity or service which involves, makes possible, or is required for the operation of aircraft, or contributes to, or is required for, the safety of such operations. "Aeronautical activities" include, but are not limited to, charter operations (under either Federal Aviation Regulation (FAR) Part 121 or 135), charter brokerage, aircraft hangar leasing, pilot training, aircraft rental and sight-seeing, aerial photography, crop dusting, fire suppression, aerial advertising and surveying, aircraft sales, leasing, and servicing, aircraft management, and sale of aviation petroleum products, whether or not conducted in conjunction with other included activities which have a direct relationship to the operation of aircraft, repair and maintenance of aircraft, sale of general aviation aircraft parts, and any other activities which because of their relationship to the operation of aircraft can appropriately be regarded as an "aeronautical activity."

Aeronautical Business Permit means administrative approval issued by the Aviation Director to a person to conduct commercial aeronautical activity and to provide such services to: based and transient aircraft on the Airport only in facilities on the Airport at which such services are authorized.

Airport means all of the city-owned or leased real or personal property comprising Scottsdale Airport as now exists or as may hereafter be expanded and developed. "Airport" includes all of its facilities as shown on the most current Airport Layout Plan.

Airport Advisory Commission means the duly appointed seven-member Airport Advisory Commission of the city.

Airport Appeals Board means a body consisting of the Chairman of the Airport Advisory Commission, another Airport Advisory Commission member appointed by the Chairman, and a city representative appointed by the City Manager or his designee.

Aviation Director means the duly appointed director of the city's Aviation Department or the director's designee.

Based means an aircraft: (1) which the owner physically locates at the Airport or Airpark with the intent and purpose to remain for an undetermined period; (2) which, whenever absent from the Airport or Airpark, its owner intends to return to the Airport or Airpark for permanent storage;

and (3) whose presence in the Airport or Airpark is not transitory in nature. Based includes an aircraft that is located at the Airport or Airpark for a limited or seasonal duration.

City Attorney means the duly appointed attorney for the City or designee. The City Attorney's office includes both the Civil and Criminal divisions.

Commercial activity means the conduct of any aspect of a business, concession or service in order to provide goods or services to any person for compensation. An activity is a commercial activity even if it is bartered or the business is nonprofit, charitable, or tax-exempt.

Construction equipment means cranes, derricks and other machinery that could present a hazard to air navigation.

Cultural, civic and social organization means libraries, museums, historical sites, clubs and lodges, and indoor facilities for public assembly.

Fair disclosure means written notice to purchasers that land is in proximity to the Scottsdale Airport.

Hazard to air navigation means an obstruction determined by the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient use of the navigable airspace.

Natural growth means one or more trees or other plants that could represent a hazard to air navigation.

New development means:

(i) A Conditional Use Permit (CUP) application that is heard by the Planning Commission, which application is filed after October 1, 2012;

(ii) A development application that is heard by the Development Review Board, which application is filed after October 1, 2012;

(iii) Construction of a building, except buildings accessory to single-family dwellings, for which a building permit is issued after October 1, 2012 and construction is diligently pursued to completion; and

(iv) Construction of a structure located within the 20,000 foot radius of the Scottsdale Airport, that penetrates the 100:1 slope (100 feet horizontal run for each 1 foot vertical rise) from the nearest point of the runway, including structures accessory to single-family dwellings, for which a building permit is issued after October 1, 2012 and construction is diligently pursued to completion.

Obstruction means any structure, construction equipment, natural growth, or other object, including a mobile object.

Permission or permit means permission granted by the city.

Person means the state, county, a political subdivision of the state, other governmental entity, a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual. Person includes a trustee, receiver, assignee or similar representative.

Runway means a defined area on the Airport for aircraft landings and takeoffs along its length.

Structure means an object, constructed or installed, including, but not limited to buildings, towers, cranes, smokestacks, earthworks, mobile objects and overhead transmission lines.

Sec. 5-102. General conditions of use.

The conditions under which the Airport or any of its facilities may be used shall be as established pursuant to this chapter or otherwise by the City Council.

Sec. 5-103. Permission to use Airport conditional; denial of permission.

Any permission granted by the city directly or indirectly, expressly or by implication, to enter upon or use the Airport or any part thereof, including but not limited to, operators, off-Airport users, crew members and passengers, spectators, sightseers, pleasure and commercial vehicles, officers and employees of airlines, lessees and other persons occupying space at the Airport, persons doing business with the Airport, its lessees, sublessees and permittees and all other persons whatsoever, whether or not of the type indicated, is conditioned upon compliance with this chapter and any rules, regulations or minimum operating standard promulgated hereunder. Entry upon or into the Airport by any person shall be deemed to constitute an agreement by such person to comply with this chapter. The city reserves the right to deny any or all usage of the Airport to any person or persons for any cause.

Sec. 5-104. Consent of city.

Unless expressly provided otherwise, any consent or other permission of the city under this chapter must be obtained in advance in writing and signed by the Aviation Director.

Sec. 5-105. Notices and applications.

Unless expressly provided otherwise, any notice or application to the city must be given in writing to the Aviation Director during normal business hours at the Airport office in the terminal building.

Sec. 5-106. Adopted by reference.

The following publications, on file with the City Clerk, are hereby adopted by reference as if set out at length in this chapter:

- (a) Scottsdale Airport Rules and Regulations and any amendments thereto as may be approved by the Airport Advisory Commission.
- (b) Scottsdale Airpark Rules and Regulations and any amendments thereto as may be approved by the Airport Advisory Commission.
- (c) Scottsdale Airport Minimum Operating Standards and any amendments thereto as may be approved by the Airport Advisory Commission.
- (d) Scottsdale Airpark Minimum Operating Standards and any amendments thereto as may be approved by the Airport Advisory Commission.
- (e) Scottsdale Airport/Airpark Rates and Fees Schedule and any amendments thereto as may be approved by the Airport Advisory Commission and City Council.

Sec. 5-107. Conflicting laws, ordinances, regulations and contracts.

- (a) In any case where a provision of this chapter, rules and regulations, minimum operating standards, or rates and fees schedule adopted hereunder is found by the City Attorney to be in conflict with any other provision of this chapter or regulations adopted hereunder or in conflict with a provision of any zoning, building, fire, safety, health or other ordinance or code of the city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- (b) In cases where two (2) or more provisions of this chapter are in conflict, the most stringent or restrictive shall prevail.
- (c) It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or to excuse any person from performing obligations to the city under any lease or other contract.
- (d) No existing or future city contract, lease, agreement or other contractual arrangement, nor any payment or performance thereunder, shall excuse full and complete compliance with this chapter. Compliance with this chapter shall not excuse full and complete compliance with any obligations to the city under any existing or future city contract, lease, agreement or other contractual arrangement.
- (e) Compliance with this chapter does not excuse failure to comply with any other law.

Sec. 5-108. Application.

Except where expressly limited by its terms, this chapter is effective throughout the city.

Sec. 5-109. Airport Advisory Commission.

- (a) There is created a Scottsdale Airport Advisory Commission consisting of seven (7) members.
- (b) The Airport Advisory Commission shall establish bylaws to govern its affairs. The bylaws shall designate:
 - 1. Officers of the Airport Advisory Commission, the time and manner of their election, the term of office and the powers and duties of each officer.
 - 2. The time, place and manner of notice of all regular and special meetings.
 - 3. The manner of adoption, amendment and repeal of Airport Advisory Commission bylaws.
 - 4. Such other provisions as may be deemed necessary or desirable which are not contrary to the provisions of any ordinance or resolution, the charter or the laws of this state or the United States, to aid the Airport Advisory Commission in conducting its affairs.

- (c) The Airport Advisory Commission shall, with the assistance of the city staff, advise the City Council as necessary on:
1. The Airport capital improvement program and financial plan.
 2. Rules, regulations, and minimum operating standards under this chapter.
 3. Environmental policies affecting Airport operations and Airport projects.
 4. Aviation-related development proposals at and surrounding the Airport or other development proposals in conflict with 14 C.F.R. Part 150, as amended, or other aviation-related laws, ordinances, rules, regulations or planning documents. In addition to advising the City Council, the Airport Advisory Commission may take action to inform the Planning Commission of such conflicts.
 5. Fees imposed by the city in connection with the Airport and the Airpark.
 6. Lease policies regarding city-owned property at the Airport.
 7. Land use policies at and surrounding the Airport in conflict with 14 C.F.R. Part 150, as amended, or other aviation-related laws, ordinances, rules, regulations or planning documents. In addition to advising the City Council, the Airport Advisory Commission may take action to inform the Planning Commission of such conflicts.
 8. The future role of the Airport as part of the statewide air transportation system.
 9. Safety matters under the jurisdiction of the Airport.
 10. Such other matters as the City Council may direct.
- (d) At the request of the City Council, the Airport Advisory Commission shall submit a written report regarding Airport activities.
- (e) The Airport Advisory Commission shall perform such other duties as are imposed on the Airport Advisory Commission by this chapter.
- (f) The City Council shall have the right and prerogative to initiate review of any decision of the Airport Advisory Commission and shall uphold, modify, or overrule said decision.

Sec. 5-110. Effect of agreements with federal government.

All lease agreements and permits and other contractual or governmental arrangements to which the city may be a party shall be subordinate to the provisions of any existing or future agreement between the city and the United States relative to the operation and maintenance of the Airport.

Sec. 5-111. Conformance with federal, state and other rules, regulations and agreements.

- (a) No person shall navigate, land aircraft upon, or conduct any aircraft or other operations on or from the Airport, nor shall any person engage in any other aviation activity at the Airport or elsewhere within the city, otherwise than in conformity with the requirements of

the Federal Aviation Administration and all other applicable federal, state, city laws, statutes, ordinances, rules, regulations and minimum operating standards.

- (b) Any use of the Airport by any person constitutes that person's agreement to conform in all respects to the requirements of any grant agreements by the city with the State of Arizona, the United States, and any other governmental entity.

Sec. 5-112. Liability of city.

The city is not responsible or liable for any loss, injury or damage to persons or property on the Airport, or using Airport facilities, for any reason, including but not limited to, fire, civil disorder, criminal activity, theft, vandalism, winds, flood, earthquake, collision, act of third parties or otherwise, or acts contrary to this chapter or any regulations promulgated hereunder.

Sec. 5-113. Indemnification.

- (a) To the fullest extent permitted by law, any person accessing or using the Airport or any of its facilities, or any Airpark taxilanes, and the person's successors, assigns and guarantors, must indemnify, defend and hold harmless, the city, its agents, employees, elected and appointed officials, directors, officers, commissioners and representatives from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses (including, but not limited to, claims adjustment, attorney fees and court costs), related to, arising from or out of, or resulting from:

1. Any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or in part by such person, or the person's employees and agents, or
2. The exercise of any rights or privileges under the Scottsdale Revised Code, Chapter 5, or under the Airport Minimum Operating Standards, Airpark Minimum Operating Standards, Airport Rules and Regulations, and Airpark Rules and Regulations.

- (b) This section includes, but is not limited to, environmental claims for property damage, cleanup, response, removal and remediation.

Sec. 5-114. Forms.

The Aviation Director shall have authority to specify forms to be used for applications, permits, reports and other documents required under this chapter and to reject any documents not conforming to said forms.

Sec. 5-115. Supplementing information.

Within fifteen (15) calendar days after any discovery of a material misstatement, omission or other inaccuracy or material change in any information contained in any application, report or other document provided to the city, the person submitting the information shall inform the city in writing of the inaccuracy or change and shall provide the city with the correct information in writing.

Sec. 5-116. Payment of fees and charges.

No person shall perform any activity for which a fee or charge is imposed under this chapter without first reporting the activity to the city and paying the appropriate fee to the city (as identified in the Minimum Operating Standards and/or Airport/Airpark Rates and Fees Schedule). Notwithstanding the preceding sentence, when a reporting procedure in this chapter specifically provides for subsequent reporting, prior reporting is not required. Fees, rates and charges for use of any Airport facilities and for any service or accommodations provided by the city shall be established in the same manner as rules and regulations are established under this chapter. Nothing in this chapter impairs or limits the city's ability to impose fees or charges by contract.

Sec. 5-117. Airport-related fee administration and collection.

The administration and collection of Airport/Airpark-related fees is vested in the tax collector. Except as expressly stated to the contrary in this chapter, all procedures, remedies, requirements, penalties and other provisions for the determination, administration and collection of privilege taxes shall apply to Airport/Airpark-related fees.

Sec. 5-118. Payment of bills and default of obligations.

All city billings are payable upon presentation. When any person is formally notified that said person is held in default of any written or implied obligation to the city, whether it be for breach of performance, services, covenants or nonpayment, the person shall thereafter be billed for all losses of revenue and expenses incurred to reestablish performance or service and other costs, unless the person files with the city within ten (10) calendar days of receipt of the formal notification a statement that corrective or preventive measures have been initiated and will diligently be carried out. If the promises contained in the statement are not fulfilled, the person will be considered in absolute default and appropriate lawful steps will be initiated by the city.

Sec. 5-119. Repealer and savings clause.

The effective date of this chapter is thirty (30) calendar days after the date this ordinance is adopted by the City Council. The pre-existing Chapter 5 of the Scottsdale Revised Code continues in full force and effect until this ordinance becomes effective, at which time it is repealed. All future duties and obligations thereafter arising under the pre-existing Chapter 5 of the Scottsdale Revised Code shall cease, but liability for fees and violations of the pre-existing Chapter 5 of the Scottsdale Revised Code as of the effective date of this ordinance are preserved and continue unaffected by this ordinance.

Sec. 5-120. Severability.

If any section, subsection, paragraph, sentence, clause, phrase or portion of this chapter should be declared invalid or unconstitutional for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; the City Council of the City of Scottsdale declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional; and, to this end, the provisions of this chapter are hereby declared to be severable.

Sec. 5-121. Use of city-owned Airport property.

The Aviation Director may enter into a lease, license, permit or other such agreement for the use of any city-owned Airport property, including but not limited to, land, buildings, office space, counter space, and aircraft storage facilities, subject to the following conditions:

- (a) Any lease of city-owned Airport property shall be in a form approved by the City Attorney and subject to approval by the Airport Advisory Commission and City Council.
- (b) Any Airport license or other such agreement shall be in a form approved by the City Attorney, with a term of three (3) years or less and a minimum of a thirty (30) calendar day cancellation clause. Any license or other such agreement not meeting these criteria shall be subject to approval by the Airport Advisory Commission and City Council.
- (c) Any Airport permit shall be in a form approved by the City Attorney and shall remain in effect until such time as the permittee requests cancellation in writing, or the permit is revoked pursuant to division 4 of this chapter.
- (d) Any use of city-owned Airport property for commercial aeronautical activities is subject to the requirements of the Airport Minimum Operating Standards.

Sec. 5-122. Access codes/gate access devices/access cards.

- (a) Persons who have been provided a code, gate access device, or access card to obtain access to the Airport shall only use Airport-issued codes/devices/cards and shall not divulge, duplicate, or otherwise distribute the same to any other person, unless otherwise approved in writing by the Aviation Director.
- (b) If a gate access device or access card is found in the possession of an unauthorized person, the device/card shall be confiscated by the Aviation Director and the person shall be escorted off the airside area.
- (c) A gate access device or access card that has not been used in one-hundred and eighty (180) consecutive days shall be deactivated.

Sec. 5-123. Runway weight-bearing capacity.

The weight-bearing capacity of the Airport runway is seventy-five thousand (75,000) pounds. No aircraft with a certificated maximum take-off weight in excess of forty-five thousand (45,000) pounds for single-wheel aircraft and seventy-five thousand (75,000) pounds for dual-wheel aircraft shall be permitted to operate from the Airport except in an emergency or pursuant to city consent specifying a particular aircraft operation on a particular date.

Sec. 5-124. Permit not transferable.

No lease, license, permit or agreement shall be assigned, transferred or in any other manner set over to another person without the prior written consent of the city.

Sec. 5-125. City Council review.

- (a) The City Council shall have the right and prerogative to initiate its own review of any decision of the Airport Appeals Board, but only upon the affirmative vote of four (4) council members taken within twenty (20) days following such decision of the Airport Appeals Board. Notice of such council-initiated review of any decision of the Airport Appeals Board shall be given by the City Clerk to the aggrieved party, Airport Appeals Board members and the Aviation Director within seven (7) days after initiation of such review by the City Council.
- (b) The City Clerk shall schedule such review for a City Council agenda not more than forty (40) nor less than fifteen (15) days following initiation of such review by the City Council. The City Council at its meeting after conducting such review shall uphold, modify, or overrule the decision of the Airport Appeals Board. The decision of the City Council shall be final.

ARTICLE II. RULEMAKING AUTHORITY

Sec. 5-201. Airport/Airpark Rules and Regulations.

The Aviation Director is authorized to establish or amend such rules, regulations and minimum operating standards as are necessary or useful to carry out or supplement the provisions of this chapter and provide for the orderly and safe operation of the Airport and Airpark.

Sec. 5-202. Limitation on rules and regulations by Aviation Director.

- (a) No rule, regulation or minimum operating standard established by the Aviation Director shall be effective until ten (10) calendar days after it is approved by the Airport Advisory Commission. Any regulation established by the Aviation Director shall be posted in the lobby or other area of the Airport terminal building open to the public during normal business hours for a period of not less than five (5) calendar days prior to approval by the Airport Advisory Commission.
- (b) No regulation established by the Aviation Director shall increase the monthly Aeronautical Business Permit fee.
- (c) Creation or modification of any fee is subject to approval by the Airport Advisory Commission and the City Council.

Sec. 5-203. Posting and filing of documents.

Airport Rules, Regulations, Minimum Operating Standards; Airpark Rules, Regulations, Minimum Operating Standards; and Airport/Airpark Rates and Fees Schedule shall be filed with the City Clerk. All amendments to these documents shall be filed with the City Clerk.

Sec. 5-204. Emergency rules and regulations.

With the approval of the City Manager, the Aviation Director has authority to impose emergency regulations. Such emergency regulations are limited to forty-five (45) calendar days duration and take effect immediately upon execution by both the Aviation Director and the City Manager, and posting of copies of the regulations at the Airport terminal building and at two (2) other public places within the city. Each emergency rule or regulation shall be reviewed and established as a permanent rule or regulation at the next regularly scheduled Airport Advisory Commission meeting.

ARTICLE III. AERONAUTICAL BUSINESS PERMITS AND FEES

Sec. 5-301. Aeronautical Business Permit required.

No commercial aeronautical activity shall be conducted by any person at the Airport or in the Airpark without said person being in possession of a valid Aeronautical Business Permit. Each person holding an Aeronautical Business Permit must hold a valid and current Business or Privilege Tax License issued by the city if such license is required by the city. Issuance of an Aeronautical Business Permit does not entitle the holder to possess, occupy or exclusively use any portion of the Airport or city-owned property within the Airpark, grant any exclusive right to conduct any business or activity, or authorize any conduct prohibited by zoning laws or any other applicable law.

Sec. 5-302. Aeronautical Business Permit applications.

Except as specifically stated otherwise in this chapter, an application for an Aeronautical Business Permit is subject to approval by the Aviation Director as indicated in the Airport or Airpark Minimum Operating Standards, and is subject to ratification by the Airport Advisory Commission at its next regularly scheduled meeting. The city is not responsible or liable for any loss, injury, or damage as a result of the failure of the Airport Advisory Commission to ratify an administrative approval of an Aeronautical Business Permit. Each application for an Aeronautical Business Permit shall be accompanied by the following:

- (1) An Aeronautical Business Permit application;
- (2) All information identified in section 2-1 of the Airport or Airpark Minimum Operating Standards; and
- (3) Such other information as the Aviation Director may reasonably request.

Sec. 5-303. Temporary Aeronautical Business Permits.

Notwithstanding section 5-302, the Aviation Director shall have authority to issue temporary Aeronautical Business Permits and to establish procedures relating thereto. Such temporary permits shall cover a single period of not more than sixty (60) consecutive days identified on the permit. No more than one (1) temporary permit shall be issued to any person in any twelve (12) month period. Each application for a temporary Aeronautical Business Permit shall be accompanied by an Aeronautical Business Permit form and any other applicable documentation as determined by the Aviation Director.

Sec. 5-304. Permit display.

Any person conducting commercial aeronautical activity shall, upon demand, produce the Aeronautical Business Permit to a city representative for inspection.

Sec. 5-305. Aeronautical business fee amount.

Aeronautical Business Permit fees are hereby imposed upon all commercial aeronautical activity. Aeronautical Business Permit fees for specific types of permitted commercial aeronautical activity are identified in the Airport or Airpark Minimum Operating Standards or the Airport/Airpark Rates and Fees Schedule.

Sec. 5-306. Aeronautical Business Permit fee payment.

Monthly Aeronautical Business Permit fees shall be due and payable by the 20th day of the month following the month in which services were provided, and shall include the applicable monthly permit fee, late fees, interest and penalties. Annual Aeronautical Business Permit fees shall be due and payable by the 20th day of January in advance of providing the service.

Sec. 5-307. Phase in for certain existing leases.

- (a) Unless otherwise expressly stated to the contrary in an existing lease of Airport property, and subject to the provisions of subsection (b), below, existing lessees of Airport property (or any other person who, with the prior written approval of the city, is licensed by an existing lessee to conduct activities permitted under an existing lease, and their successors and assigns) are exempt from all monthly Aeronautical Business Permit fees imposed by section 5-305, except the Airport/Airpark fuel flowage fee identified in the Airport/Airpark Rates and Fees Schedule.
- (b) The exemption established by this section shall terminate or expire automatically upon the termination, expiration, amendment or modification of the respective lease for any reason.

Sec. 5-308. Duration of permit.

An Aeronautical Business Permit shall remain in effect so long as the permittee complies with all of its terms, conditions, and covenants.

Sec. 5-309. Nonwaiver of defaults.

The waiver by the city of any breach by the permittee of any term, covenant, or condition of any permit shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition of the permit. No term, covenant, or condition thereof can be waived except by the written consent of the Aviation Director, and forbearance or indulgence by city, in any regard whatsoever, shall not constitute a waiver of the term, covenant, or condition to be performed by permittee, and until complete performance by permittee of the term, covenant, or condition, the city shall be entitled to invoke any remedy available to it hereunder or by law, despite such forbearance or indulgence.

Sec. 5-310. General conditions for all permits.

The city is neither a joint venturer with, nor a partner or associate of, the permittee with respect to any manner provided for in the permit. Nothing herein contained shall be construed to create any such relationship between the parties or to subject the city to any obligation of the permittee whatsoever. The permit is a license and not a lease.

Sec. 5-311. Payment assurance.

In order to ensure that the city is receiving all of the fees to which it is entitled as provided by this chapter, upon request all commercial operators shall provide sufficient documentation verifying that appropriate fees were paid to the city. All operators shall also provide the city, at reasonable times and places, the operator's records, books of accounts and all other pertinent records for the current fiscal year and the three (3) preceding fiscal years. No inspection will be made without reasonable notice given to the operators.

Sec. 5-312. Insurance.

- (a) The operator, lessee, licensee, permittee or other person using the Airport or Airpark, required to obtain and maintain insurance under the Airport Minimum Operating Standards and Airpark Minimum Operating Standards, shall, at their own expense, obtain and maintain a general liability policy or Airport premises policy from an insurance company authorized to do business in Arizona, with the minimum coverage required by the applicable Minimum Operating Standards. All policies, except Workers' Compensation, shall name the City of Scottsdale, its agents, employees, elected and appointed officials, directors, officers, commissioners and representatives as Additional Insureds.
- (b) The operator, lessee, licensee, permittee or other person using the Airport or Airpark, is responsible for working with an informed and reputable insurance representative to understand and obtain all the applicable insurance required by the Airport Minimum Operating Standards and Airpark Minimum Operating Standards.
- (c) The city does not represent or warrant that the types of coverage or minimum limits contained in the applicable Minimum Operating Standards are sufficient to protect any Airport or Airpark user from liabilities that might arise out of the access or use of the Airport, any of its facilities, or any Airpark taxilanes.

ARTICLE III.I AIRPORT VICINITY DEVELOPMENT REGULATIONS

Sec. 5-350. Findings.

This article recognizes that obstructions to flights to and from the Scottsdale Airport may:

- (1) Endanger the lives and property of airport users and persons in the vicinity of the airport;
- (2) Affect existing and future instrument approach minimums to the airport; and
- (3) Reduce the areas available for aircraft landing, takeoff, and maneuvering.

Sec. 5-351. Purpose.

This article regulates new development, natural growth, and construction equipment in the Airport Influence Area, as shown in Figure 1, to:

- (1) Avoid obstructions that may destroy or impair the airport's utility and the public investment therein;
- (2) Comply with Federal Aviation Administration (FAA) standards for noise awareness and mitigation;
- (3) Protect the viability of the airport as a general aviation facility; and
- (4) Promote the public health, safety, and general welfare.

Sec. 5-352. Applicability.

The requirements of this article apply to all new development, natural growth, and construction equipment in the areas labeled AC-1, AC-2 and AC-3 shown on Figure 1, Airport Influence Area, below. The Airport Influence Area is adopted and amended in accordance with the FAA Part 150 Noise Compatibility Study.

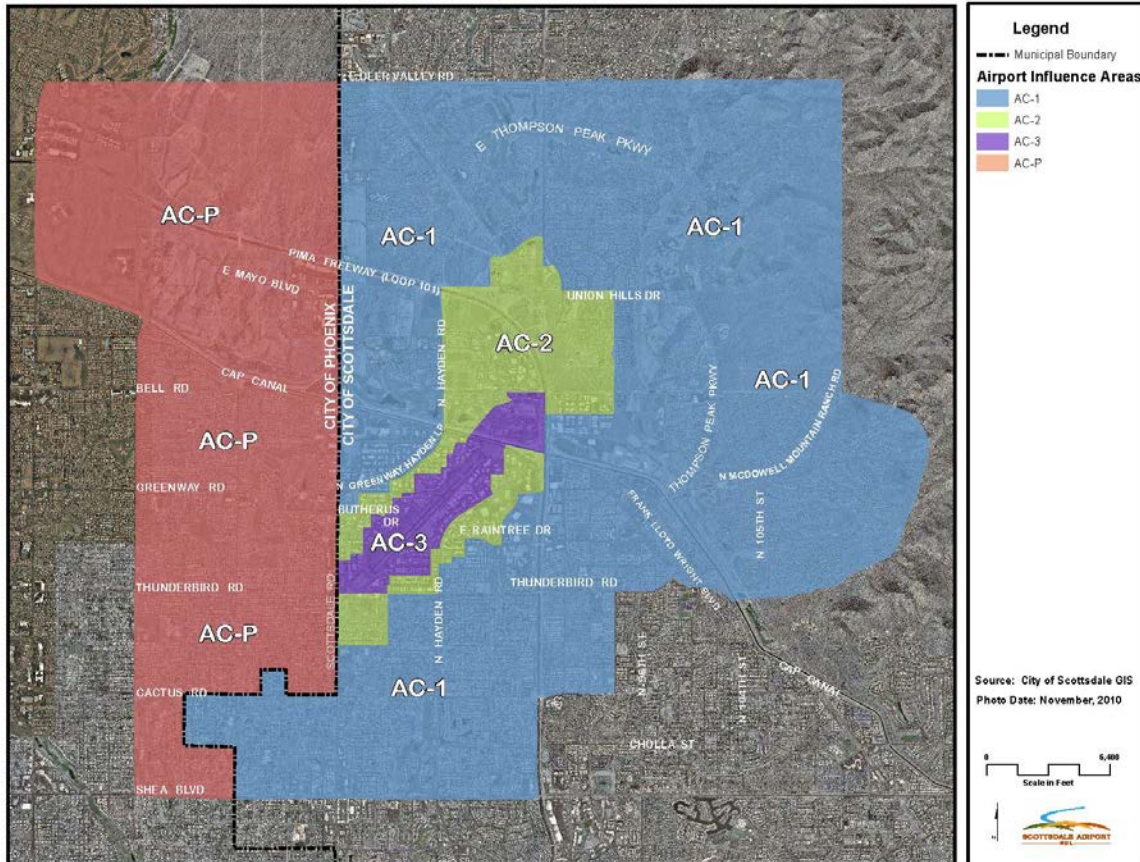


Figure 1. Airport Influence Area.

Sec. 5-353. Conflicts.

- (a) If a parcel is in two or more areas labeled AC-1, AC-2 and AC-3 shown on Figure 1, Airport Influence Area, the entire parcel shall meet the requirements of the most restrictive area.
- (b) In the case of conflict between this article and another provision of the Scottsdale Revised Code, the provision providing the higher standard for protection of the public health, safety and general welfare, as determined by the Aviation Director, shall apply.

Sec. 5-354. General requirements.

- (a) The owner of a new development (and natural growth and construction equipment associated with new development) to be constructed in the areas labeled AC-1, AC-2 and AC-3 shown on Figure 1, Airport Influence Area, shall complete forms required by the City and the Scottsdale Airport to comply with this chapter, and submit the completed forms with final plans. The owner shall comply with the requirements of the forms.
- (b) The owner of a new development (and natural growth and construction equipment associated with new development), to be located within the twenty thousand (20,000) foot radius of the Scottsdale Airport, that penetrates the 100:1 slope from the nearest point of the runway shall submit to the FAA the appropriate forms for FAA review. See FAA Form 7460-1. Before final plan approval, the owner shall submit the FAA response to FAA Form 7460-1.
- (c) The owner of new development (and natural growth and construction equipment associated with the new development), and more than two hundred (200) feet high, shall submit

to the FAA the appropriate forms for FAA review. See FAA 7460-1. Before final plan approval, the owner shall submit the FAA response to FAA Form 7460-1.

(d) The owner of construction equipment to be located within the twenty thousand (20,000) foot radius of the Scottsdale Airport, that penetrates the 100:1 slope from the nearest point of the runway shall submit to the FAA the appropriate forms for review. See FAA 7460-1. If the construction equipment is in violation of 14 CFR Part 77, the owner shall immediately remove the construction equipment as directed by the Aviation Director.

(e) All applications for natural growth and new development shall be processed in accordance with Appendix B of the Scottsdale Revised Code (Basic Zoning Ordinance).

(f) Natural growth, construction equipment, and new development in the areas labeled AC-1, AC-2 and AC-3 shown on Figure 1, Airport Influence Area, shall avoid:

- (1) Creating electrical interference with communications between the airport and aircraft.
- (2) Making it difficult for pilots to distinguish between airport lights and other lights.
- (3) Glare directed towards pilots using the airport.
- (4) Impairing visibility near the airport.
- (5) Creating bird strike hazards.
- (6) Endangering or interfering with aircraft landings, takeoffs, and maneuverings.

Sec. 5-355. Fair disclosure requirements.

(a) As recommended by the FAA Part 150 Noise Compatibility Study, each owner of property located in the areas labeled AC-1, AC-2 and AC-3 shown on Figure 1, Airport Influence Area, shall make fair disclosure to each purchaser. If a development is subject to Covenants, Conditions and Restrictions (CC&Rs), the owner shall include the disclosure in the CC&Rs.

(b) For development applications heard by the Development Review Board or Planning Commission, which are filed after October 1, 2012, the city may require the fair disclosure to be recorded against the property.

(c) The issuance of an occupancy permit may be subject to evidence that fair disclosure has been made and/or recorded, as applicable.

Sec. 5-356. Noise sensitive uses.

All land uses are regulated by the underlying zoning district in accordance with Appendix B of the Scottsdale Revised Code (Basic Zoning Ordinance). Noise sensitive land uses as part of new development are further regulated in the areas labeled AC-1, AC-2 and AC-3 shown on Figure 1, Airport Influence Area, pursuant to the following table. The Aviation Director may interpret and designate noise sensitive uses in conformance with the intent of the FAA to protect new development from aviation noise.

Table 5-356.A. Noise Sensitive Use Regulations.

Noise Sensitive Uses	AC-3	AC-2	AC-1
Cultural institution*	NP	P (1) (2)	P (1)
Civic and social organization	NP	P (1) (2)	P (1)
Day care*	NP	P (1) (2)	P (1)
Dwelling unit*	NP	P (1) (2)	P (1)
Elementary and secondary school*	NP	P (1) (2)	P (1)

Hospital*	NP	P (1) (2)	P
Manufactured home*	NP	P (1) (2)	P (1)
Place of worship	NP	P (1) (2)	P (1)
Residential health care facility	NP	P (1) (2)	P (1)
Travel accommodation*	NP	P (1) (2)	P

NP- Not Permitted

P- Permitted with Use Limitations:

(1)- Avigation easement required under Sec. 5-357 below.

(2)- Noise attenuation required under Sec. 5-358 below.

* The terms *cultural institution*, *day care*, *dwelling unit*, *elementary and secondary school*, *hospital manufactured home*, and *travel accommodation* are defined in the Basic Zoning Ordinance.

Sec. 5-357. Avigation easement requirement.

Before final plans approval for any new development, the owner of a new development in the areas labeled AC-1 (for noise-sensitive uses only, except hotels, motels, resorts and hospitals), AC-2 and AC-3 shown on Figure 1, Airport Influence Area, shall grant the city, and record, an avigation easement satisfactory to the city attorney's office.

Sec. 5-358. Noise attenuation requirements.

(a) All new developments that include noise-sensitive uses within the areas labeled AC-2 and AC-3 shown on Figure 1, Airport Influence Area, shall be constructed with noise attenuation measures in conformance with sound transmission requirements of the International Building Code (IBC).

(b) If noise sensitive uses occupy only a portion of a new development, only the noise sensitive uses are required to be protected.

Sec. 5-359. Existing structures.

(a) Nothing in this article requires any change in the construction or change in the intended use of any structure if the construction began before October 1, 2012.

(b) No use or natural growth established or structure begun before October 1, 2012 is permitted to become a greater hazard to air navigation than it was on October 1, 2012.

(c) The Aviation Director may require the owner of a structure, the construction of which began before October 1, 2012, to install markers and lights on the structure, if the Aviation Director deems them necessary for airport safety. The markers and lights shall be installed, operated, and maintained at the owner's expense.

(d) If a structure, the construction of which began before October 1, 2012, does not conform to the requirements in this article and is destroyed to the extent of fifty (50) percent or more of its value, then the reconstruction of the structure is subject to the requirements of this article.

(e) If natural growth is in violation of 14 CFR Part 77, the owner shall immediately remove the natural growth as directed by the Aviation Director.

Sec. 5-360. Variances.

(a) If an owner cannot meet the requirements of this article, the owner may apply to the Airport Appeals Board for a variance from the requirements, in accordance with the procedures in section 5-362.

(b) The owner shall file an application with the Aviation Director, including a written FAA determination that the variance will not affect the airport's safety, efficiency and utility.

(c) A variance may be allowed if the Airport Appeals Board finds that:

(1) The owner did not create the circumstances requiring a variance;

(2) A literal application of the requirements will result in unnecessary hardship; and

(3) The variance will advance the public interest, avoid hazards to air navigation, do substantial justice, and comply with the spirit of this chapter.

(d) The Airport Appeals Board may impose conditions on a variance. A violation of a condition is a violation of this chapter, and renders the variance void.

(e) A variance is void if the use has not begun within one (1) year after the variance is granted. The Airport Appeals Board may permit extensions, if the request for the extension is filed with the Aviation Director before the one (1) year expires.

(f) The Airport Appeals Board may not permit noise-sensitive uses within area labeled AC-3 shown on Figure 1, Airport Influence Area.

Sec. 5-361. Use determination, administration and enforcement.

(a) The Aviation Director's determination that a use is a noise-sensitive use may be appealed to the Airport Appeals Board, in accordance with the procedures in section 5-362.

(b) The Aviation Director shall administer and interpret this chapter.

(c) The Aviation Director shall enforce the requirements of this article, with the assistance, as requested, of the planning department and code enforcement.

Sec. 5-362. Procedure – application for a variance and appeal under Article III.I.

(a) Upon receipt of the following, the Airport Appeals Board shall set a hearing within ten (10) calendar days and give notice of hearing:

(1) A variance application.

(2) An appeal of the Aviation Director's determination that a use is a noise-sensitive use.

(b) An appeal of the Aviation Director's determination that a use is a noise-sensitive use shall be taken by filing a written notice of appeal with the Aviation Director no later than (10) calendar days after the Aviation Director's determination. The right to appeal is waived if the notice of appeal is not timely filed.

(c) The Airport Appeals Board may grant continuances of the hearing, but hearings under this section shall be conducted no later than thirty (3) calendar days from the date on which the application was filed.

(d) All meetings shall be public except as provided by Arizona Revised Statutes. Minutes of the meetings shall be kept.

(e) The applicant and the city may be represented by counsel at the hearing. Formal rules of evidence shall not apply. The Airport Appeals Board may compel the attendance of witnesses. Both applicant and the city may cross-examine witnesses and present evidence through testimony and exhibits. The Airport Appeals Board shall determine the order and manner of proof.

(f) The Airport Appeals Board shall make findings of fact and conclusions of law based on evidence. The concurring vote of a majority of the members of the Airport Appeals Board is required for decision.

(g) The Airport Appeals Board shall rule on the matter and give notice of the ruling in writing within ten (10) calendar days, unless all parties stipulate that additional time is required to render a fair decision. The Airport Appeals Board may impose conditions on its ruling.

(h) The exhaustion of remedies at the city level does not preclude an aggrieved party from seeking any other remedies provided by law.

ARTICLE IV. ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 5-401. Violations.

- (a) It shall be unlawful for any person to cause, facilitate, aid or abet any violation of any provision of this chapter, or any rules, regulations or minimum operating standards promulgated hereunder, or to fail to perform any act or duty required by this chapter or rules, regulations or minimum operating standards promulgated hereunder.
- (b) When two (2) or more persons have liability to the city or are responsible for a violation, their responsibility shall be joint and several.

Sec. 5-402. Enforcement of judgments.

Any judgment for abatement, restitution or civil sanctions taken pursuant to this article may be enforced as any other civil judgment.

Sec. 5-403. Violations not exclusive.

Violations of this chapter are in addition to any other violation enumerated within this Code and in no way limit the penalties, actions or abatement procedures which may be taken by the city for any violation of this chapter which is also a violation of any other provisions of this Code or statutes of the state.

Sec. 5-404. Each day separate violation.

Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate offense.

Sec. 5-405. Inspections.

- (a) The Aviation Director shall enforce the provisions of this chapter, and is hereby authorized and directed to make inspections in the normal course of job duties; or in response to a complaint that an alleged violation of the provisions of this chapter may exist; or when there is a reason to believe that a violation of this chapter has been or is being committed.
- (b) The Aviation Director may enter onto any property, or into any building or premises, at all reasonable times to inspect or to perform the duties imposed upon the Aviation Director by this chapter, provided that if such property, building or premises is occupied, the Aviation Director shall present credentials to the occupant and request entry. If such property, building or premises is unoccupied, the Aviation Director shall first make a reasonable effort to locate the owner or other person having charge or control of the property, building or premises and request entry. If entry is refused, the Aviation Director has recourse to every remedy provided by law to secure entry.
- (c) When the Aviation Director shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant, or person having charge, care, or control of any property, building, or premises shall fail or neglect, after proper

request is made as herein provided, to promptly permit entry by the Aviation Director for the purpose of inspection and examination pursuant to this chapter.

- (d) No person shall interfere with, prevent, or attempt to interfere with or prevent an individual employed by the city or other person contracted for by the city, from investigating an alleged violation of this chapter, or from abating a violation of this chapter.

Sec. 5-406. False information.

No person shall knowingly make a false or fraudulent statement, or knowingly misrepresent a fact, or mislead an individual employed by the city or other person contracted for by the city, when that individual is investigating or abating a violation of this chapter.

Sec. 5-407. Service of notices.

- (a) Any notice required to be given for any purposes under this chapter shall be given by the City Manager or designee by hand-delivery; by mailing the notice by certified mail, return receipt requested; by email, return receipt requested; or by facsimile transmission.
- (b) Notice is deemed effective on the date it is hand-delivered, deposited in the United States mail, emailed, or faxed.
- (c) Nothing herein shall preclude the city from giving additional oral or written notice at its discretion. If the city does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.

DIVISION 2. DENIAL OF USE

Sec. 5-501. Denial grounds.

- (a) The Aviation Director may, deny access to, and deny the use and privileges of, the Airport or any of its facilities to any person:
 - 1. Who violates this chapter or any rules, regulations or minimum operating standards promulgated hereunder;
 - 2. Whose action would place the Airport in violation of 49 U.S.C. § 47160 *et seq.*, 14 C.F.R. Part 1 *et seq.*, or the FAA Grants and Assurances (see 14 C.F.R. Part 152); or
 - 3. Who violates any future conditions which the city may impose by appropriate process or any federal statute or regulations hereafter enacted.
- (b) The Aviation Director may, deny access to, and deny the use and privileges of, the Airport or any of its facilities to any person who must register aircraft as based in the Airport:
 - 1. Who violates this chapter or any rules, regulations or minimum operating standards promulgated hereunder;
 - 2. Whose action would place the Airport in violation of 49 U.S.C. § 47160 *et seq.*, 14 C.F.R. Part 1 *et seq.*, or the FAA Grants and Assurances (see 14 C.F.R. Part 152); or
 - 3. Who violates any future conditions which the city may impose by appropriate process or any federal statute or regulations hereafter enacted.
- (c) The person to whom the aircraft is registered is responsible for the acts of all persons (including, but not limited to, all agents, employees and pilots) to whom control, operation or any authority to use said aircraft is granted. The involvement of said aircraft in any act or omission that violates any of the above-enumerated laws, statutes, ordinances, rules, regulations, minimum operating standards or other conditions may result in one or more enforcement actions by the city.
- (d) The Aviation Director may deny access for up to five (5) years. After the denial period ends, a person may request access, but the Aviation Director may continue to deny access if denial is in the best interests of the Airport. A denial may be appealed to the Airport Appeals Board as set forth in sections 5-504 and 5-505.
- (e) Notwithstanding the provisions of (a) and (b) of this section, the Aviation Director may summarily deny Airport access, effective immediately, pending the hearing specified in section 5-503, to any person for whom probable cause exists to believe the person committed an act or omission relating to dangerous refueling, dangerous aircraft or vehicle operation, lack of insurance, theft of or damage to property, assault and battery or such other act or omission as may constitute a danger to the health, safety, or welfare of any individual or the public in general.

Sec. 5-502. Denial procedure.

- (a) Upon probable cause to believe that a person has committed acts constituting grounds for denial of access, the Aviation Director shall provide the affected party with notice of an order to show cause why access should not be denied. The notice shall give at least seventy-two (72) hours notice of the hearing date and list the grounds for the possible denial of access.
- (b) Persons subject to subsection 5-501(e) shall be provided a hearing as soon as reasonably practical but in no event shall said hearing be delayed more than seventy-two (72) hours after the effective time of the denial of access, except upon mutual agreement of the Aviation Director and the affected party.

Sec. 5-503. Denial hearing.

Except for the summary denial of access under subsection 5-501(e), access to, and the use and privileges of, the Airport or any of its facilities shall be denied at the date and time of the hearing if the affected party fails to appear to contest the denial. The affected party shall have the right to present evidence and cross-examine any witnesses. The hearing shall be informal and the rules of evidence shall not apply. The Aviation Director may rule on the denial of use at the close of the evidence and argument, but, in any case, shall enter a ruling within ten (10) calendar days after the completion of the hearing. The Aviation Director shall notify the affected party in accordance with section 5-407. Pending any appeal to the Airport Appeals Board, the Aviation Director's denial of access shall be effective immediately if the ruling is made by the Aviation Director at the time of the hearing, or upon notice of the ruling when the ruling is made after the hearing.

Sec. 5-504. Appeal.

- (a) A person may appeal the denial of use to the Airport Appeals Board by filing a written notice of appeal with the Aviation Director not later than ten (10) calendar days after the Aviation Director has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed. Except as provided under subsection 5-501(e), the timely filing of an appeal shall stay enforcement of the denial of access until the appeal is finally determined by the Airport Appeals Board.
- (b) This division contains all the appellate relief to which an aggrieved party is entitled through city procedures. The exhaustion of appellate remedies at the city level does not preclude an aggrieved party from seeking any other remedies provided by law.

Sec. 5-505. Appeal procedure.

- (a) Upon receipt of a written notice of appeal, the Airport Appeals Board shall set an appeal hearing within ten (10) calendar days and shall give notice of the hearing as provided in this division.
- (b) When required in the interest of fairness, the Airport Appeals Board may grant continuances of the hearing, but all hearings on denial of access shall be heard not later than thirty (30) calendar days from the date on which the notice of appeal was filed.

- (c) Except for the summary denial of access under subsection 5-501(e), access to, and the use and privileges of the Airport or any of its facilities shall be denied at the date and time of the hearing unless the affected party or the party's counsel appears to contest the denial.
- (d) An appellant may be represented by counsel at the hearing and the city may be represented by the City Attorney. Formal rules of evidence shall not apply. Both the appellant and the city shall have the right to present evidence through testimony or exhibits and to cross-examine witnesses. The Airport Appeals Board shall preside over the proceedings and shall determine the order and manner of proof.
- (e) At the conclusion of the hearing, the Airport Appeals Board shall rule on the appeal and notify the appellant of the ruling in accordance with section 5-407, within ten (10) calendar days after the hearing, unless all parties stipulate that additional time is required to render a decision. The Airport Appeals Board's decision shall be supported by a preponderance of evidence. The decision of the Airport Appeals Board is final unless the City Council initiates review in accordance with section 5-125.
- (f) Except for the summary denial of access under subsection 5-501(e), the denial of access shall be effective immediately if the ruling is made by the Airport Appeals Board at the time of the hearing, or upon notice of the ruling when the ruling is made after the hearing.

Sec. 5-506. Settlement agreements.

- (a) After the Aviation Director denies access to, and the use and privileges of the Airport or any of its facilities, and before the Aviation Director enters a ruling, the Aviation Director and affected person may enter into a settlement agreement to allow access.
- (b) After the affected person appeals the denial of access to the Airport Appeal Board, and before the Airport Appeals Board enters a ruling, the Airport Appeals Board and the affected person may enter into a settlement agreement to allow access.

DIVISION 3. SANCTIONS; PROCEDURES

Sec. 5-601. Remedies.

The Aviation Director, the City Attorney's office, and the City Manager or designee, may pursue any or all of the remedies provided in this article.

Sec. 5-602. Jurisdiction of city court.

- (a) Jurisdiction of all proceedings to enforce the provisions of this chapter shall be in city court.
- (b) Civil actions commenced in city court to enforce this chapter may be adjudicated by a judge or a court hearing officer.

Sec. 5-603. Civil violation; commencement of action.

- (a) A civil violation may be commenced by issuance of a citation or by complaint.
- (b) The citation shall be substantially in the same form as the Arizona Traffic Ticket and Complaint and shall direct the defendant to appear in city court within ten (10) calendar days after issuance of the citation.
- (c) The citation shall further notify the defendant that failure to appear on or before the date specified in the complaint will result in the entry of a judgment by default against the defendant, and the court may, in its discretion, impose a civil sanction not to exceed two hundred fifty dollars (\$250.00).
- (d) Service of the citation/complaint may be accomplished and shall be deemed proper and complete by any of the following methods:
 - (1) By having the defendant sign the citation/complaint with a promise to appear in court within ten (10) calendar days of the issuance of the citation/complaint.
 - (2) By hand delivering a copy of the citation/complaint to the defendant.
 - (3) By mailing a copy of the citation/complaint to the person charged by certified or registered mail, return-receipt requested, to the person's last known address.
 - (4) In the event service cannot be accomplished as set forth in (d)(1), (2) or (3), the city may serve the defendant by any means allowed by the Arizona Rules of Civil Procedure for the Superior Court.

Sec. 5-604. Civil citation, authority to issue.

The Aviation Director, the City Attorney, or the City Manager or designee, may issue a civil citation pursuant to this chapter.

Sec. 5-605. Appearance by defendant.

The defendant shall, within ten (10) calendar days of the issuance of the citation or summons and complaint, appear in person or through the defendant's attorney in the city court and shall either admit or deny the allegations contained in the citation. If the defendant admits the

allegations, the court shall enter judgment against the defendant and impose a civil sanction for the violation not to exceed two hundred fifty dollars (\$250.00), and may, in its discretion, deny defendant use of the Airport pursuant to section 5-612. If the defendant denies the allegations contained in the citation, the court shall set the matter for hearing.

Sec. 5-606. Default judgment.

If a defendant fails to appear as directed on the civil citation or complaint or at the time set for hearing by the court, the allegations in the civil citation or complaint shall be deemed admitted and the court shall enter judgment against the defendant and impose a civil sanction for the violation not to exceed two hundred fifty dollars (\$250.00), and may, in its discretion, deny defendant use of the Airport pursuant to section 5-612.

Sec. 5-607. Rules of procedure for civil violations.

The Arizona Rules of Court for Civil Traffic Violation Cases shall be followed by the Scottsdale City Court for civil violations of this chapter, except as modified or where inconsistent with the provisions of this chapter.

Sec. 5-608. Civil sanctions.

Upon a finding of responsible to a civil violation, the court shall impose a civil sanction not to exceed two hundred fifty dollars (\$250.00).

Sec. 5-609. Rules of procedure for criminal violations.

The Arizona Rules of Criminal Procedure shall be followed by the Scottsdale City Court for criminal violations of this chapter, except as modified or where inconsistent with provisions of this chapter.

Sec. 5-610. Criminal penalty.

Upon a conviction of a misdemeanor the court may impose a penalty in accordance with subsection 1-8(a) of this Code and state law for class one misdemeanors. Probation may be imposed in accordance with the provisions of title 13, chapter 9, Arizona Revised Statutes.

Sec. 5-611. Restitution.

In addition to any civil sanction or criminal penalty provided for in this article, any person violating this chapter shall be liable for all costs which may be associated with the city's rectifying any violation of this chapter. The court shall impose restitution in addition to any civil sanction or criminal penalty.

Sec. 5-612. Denial of Airport use.

In addition to any civil sanction or criminal penalty provided for in this article, the court may issue an order suspending the right of any person violating this chapter to use the Airport or any of its facilities.

DIVISION 4. LICENSE AND PERMIT REVOCATION

Sec. 5-701. Revocation grounds.

The Aviation Director may revoke any license or permit issued pursuant to this chapter, upon the happening of any of the following events:

- (a) A violation of the terms of such license or permit, of any provision of this chapter, or any rules, regulations or minimum operating standards promulgated pursuant to this chapter.
- (b) Falsification of any application or other information provided to the city under this chapter.
- (c) Any action which would place the Airport in violation of 49 U.S.C. § 47160 *et seq.*, 14 C.F.R. Part 1 *et seq.*, or the FAA Grants and Assurances (see C.F.R. Part 152).
- (d) A violation of any future rules, regulations, minimum operating standards or other conditions which the city may impose by appropriate process or any federal statute or regulation hereafter enacted.

Sec. 5-702. Revocation procedure.

Upon probable cause to believe that the licensee or permittee has committed acts constituting grounds for revocation as provided in section 5-701, the Aviation Director shall provide the affected party with notice of an order to show cause why the license or permit should not be revoked. The notice shall give at least seventy-two (72) hours notice of the hearing date and list the grounds for the possible revocation. The affected party shall have the right to present evidence and cross-examine any witnesses. The hearing shall be informal and the rules of evidence shall not apply. Except for the summary suspension under subsection 5-703(c), the license or permit revocation is effective at the date and time of the hearing if the affected party fails to appear to contest the revocation.

Sec. 5-703. Revocation hearing.

- (a) The Aviation Director may rule at the close of the evidence and argument, but shall enter a ruling within ten (10) calendar days of the completion of the hearing. Upon the decision of revocation, the aggrieved party shall forthwith surrender the subject license or permit.
- (b) After a revocation, any person responsible for the commission of the acts constituting the ground for the revocation shall be ineligible to reapply for a like license or permit within an appropriate period of time as determined by the Aviation Director. A partnership, corporation, company or association which has as a partner, officer, stockholder or member ineligible for reapplication as provided by this subsection shall itself be ineligible for a like period.
- (c) Notwithstanding the provisions of (b) of this section, the Aviation Director may summarily suspend, effective immediately, pending a revocation hearing, the license or permit of any person for whom probable cause exists to believe he/she committed an act relating to dangerous refueling, dangerous aircraft or vehicle operation, lack of insurance, theft of or damage to property, assault and battery or such other act or omission as may constitute danger or threat to the health, safety or welfare of any person or the public in general. The affected party shall be provided a hearing as soon as reasonably practical but in no event

shall said hearing be delayed more than seventy-two (72) hours after the effective time of the summary suspension, except upon mutual agreement of the Aviation Director and the affected party.

Sec. 5-704. Appeal.

- (a) An aggrieved party may appeal the denial of a license or permit renewal or revocation to the Airport Appeals Board by filing a written notice of appeal with the Aviation Director not later than ten (10) calendar days after the Aviation Director has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed. Except as provided under subsection 5-703(c), the timely filing of an appeal shall stay enforcement of the revocation until the appeal is finally determined by the Airport Appeals Board.
- (b) This division contains all the appellate relief to which an aggrieved party is entitled through city procedures. The exhaustion of appellate remedies at the city level does not preclude an aggrieved party from seeking any other remedies provided by law.

Sec. 5-705. Appeal procedure.

- (a) Upon receipt of a written notice of appeal, the Airport Appeals Board shall set an appeal hearing within ten (10) calendar days and shall give notice of the hearing as provided in this division.
- (b) When required in the interest of fairness, the Airport Appeals Board may grant continuances of the hearing, but all hearings on license or permit revocations and suspensions shall be heard not later than thirty (30) calendar days from the date on which the notice of appeal was filed.
- (c) An appellant may be represented by counsel at the hearing and the city may be represented by the City Attorney. Formal rules of evidence shall not apply. Both the appellant and the city shall have the right to present evidence through testimony or exhibits and to cross-examine witnesses. The Airport Appeals Board shall preside over the proceedings and shall determine the order and manner of proof. Except for the summary suspension under subsection 5-703(c), the license or permit revocation is effective at the date and time of the hearing unless the affected party or the party's counsel appears to contest the revocation.
- (d) At the conclusion of the hearing, the Airport Appeals Board shall rule on the appeal and notify the appellant of the ruling in accordance with section 5-407, within ten (10) calendar days after the hearing, unless all parties stipulate that additional time is required to render a decision. The Airport Appeals Board's decision shall be supported by a preponderance of evidence. The decision of the Airport Appeals Board is final unless the City Council initiates review in accordance with section 5-125.
- (e) Except for summary suspension under subsection 5-703(c), the revocation shall be effective immediately if the ruling is made by the Airport Appeals Board at the time of the hearing, or upon notice of the ruling when the ruling is made after the hearing.
- (f) The licensee or permittee shall surrender all revoked licenses and permits to the Airport Appeals Board at such time as the revocation becomes effective.

Sec. 5-706. Settlement agreements.

- (a) After the Aviation Director revokes or suspends a license or permit, and before the Aviation Director enters a ruling, the Aviation Director and affected person may enter into a settlement agreement regarding the license or permit.
- (b) After the affected person appeals the revocation to the Airport Appeals Board, and before the Airport Appeals Board enters a ruling, the Airport Appeals Board and the affected person may enter into a settlement agreement regarding the license or permit.

DIVISION 5. ABATEMENT OF VIOLATIONS

Sec. 5-801. Abatement in lieu of or in addition to other actions.

- (a) In addition to or in lieu of denial of access or filing a civil or criminal complaint, the city may file notice to abate any violation of this chapter. Such abatement shall proceed independently of any denial of access or civil or criminal violation filed pursuant to this chapter.
- (b) If any person, served a notice to abate by the city pursuant to this chapter, fails to comply with such notice or order, the city may abate the conditions subject to the notice.
- (c) If the City elects to abate the violation, the Aviation Director or designee shall prepare a verified statement as to the actual cost of abating the violation, and shall add an additional fifteen (15) percent for costs of inspection and other incidental costs associated with abating the violation. The statement shall be sent in accordance with section 5-407, to the owner(s) or other person(s) upon whom the notice to abate or order was served. That statement shall further set forth the following:
 - (1) The person has fifteen (15) calendar days from the date of the statement to pay.
 - (2) Appeal procedures.

Sec. 5-802. Emergency abatement.

If a situation presents an imminent danger or threat to the health, safety or welfare of any person or the public in general, the city may issue a notice to abate directing the responsible person to take such immediate action as is appropriate to abate the emergency. In addition, the city may act to abate the emergency. In the event the city is unable to contact the responsible person, such inability in no way affects the city's right to abate the emergency. The responsible person shall be granted a review before the Airport Appeals Board on the matter upon that person's request, as soon as practicable, but such appeal shall in no case stay the abatement of such emergency.

Sec. 5-803. Notice to abate.

- (a) If, after an inspection, the city finds one (1) or more violations of this chapter, and the city elects to use the abatement process, the city shall, in writing, notify the owner, or agent for the owner.
- (b) The notice to abate shall set forth the following information:
 - 1. The owner has fifteen (15) calendar days from service of notice in accordance with section 5-407 to abate the violation.
 - 2. Identification of the property in violation by street address if known, and if unknown, then by book, map and parcel number.
 - 3. Statement of the violation in sufficient detail to allow a reasonable person to identify and correct the violation(s).

4. Reinspection date and time.
5. Name, address and phone number of the city inspector who sent the notice to abate.
6. A warning stating that if the violations are not corrected within the fifteen (15) calendar day period the city can abate the problem and assess the owner the cost of such abatement and record a lien on the property for the assessment.
7. Appeal procedures.
8. The fifteen (15) calendar day notice set forth in this section shall not apply to emergency abatements pursuant to section 5-802.

Sec. 5-804. Appeal of notice to abate.

- (a) Any notice to abate or any assessment can be appealed to the Airport Appeals Board.
- (b) An appeal must be filed within fifteen (15) calendar days of the service of the notice to abate or the assessment and must be filed with the Aviation Director's office.
- (c) Failure of a person entitled to appeal under this chapter to timely file an appeal shall constitute a waiver of the right to appeal and such person shall be estopped to deny the validity of any notice or assessment which could have been timely appealed.
- (d) The notice of appeal shall set forth, in writing, the person's reasons for believing no violation of the chapter has occurred or that the assessment is excessive.
- (e) The individual appealing shall accompany the written appeal with an appeal fee of twenty-five (\$25.00) dollars, such sum to be deposited in the Airport enterprise fund of the city.
- (f) In case of financial hardship, the fee may be suspended by the Aviation Director until the decision on appeal is rendered. The Airport Appeals Board may waive the fee upon a finding of financial hardship.

Sec. 5-805. Procedure on appeal.

- (a) The Airport Appeals Board shall set a hearing date for review of the appeal within forty (40) calendar days of the receipt of notice of appeal by the Aviation Director.
- (b) The Airport Appeals Board shall take testimony from all parties to the appeal. The hearing shall be informal and the rules of evidence shall not apply. The parties may, if they choose, be represented by an attorney.
- (c) The Airport Appeals Board shall prepare a written summary of the hearing and shall set forth the decision reached. A decision shall be rendered and sent in accordance with section 5-407 to all parties to the appeal within fifteen (15) calendar days of the hearing. The decision of the Airport Appeals Board is final unless the City Council initiates review in accordance with section 5-125.

Sec. 5-806. Abatement variances and time extensions.

- (a) Any person may request a variance or time extension of a notice to abate or an assessment. Such request shall be made to the Airport Appeals Board.
- (b) The same time limits for filing and written requirement that appear in section 5-704 on appeals applies to this section.
- (c) The procedure shall be the same as set forth in section 5-705.
- (d) The Airport Appeals Board may grant a variance only where it is determined that all of the following apply:
 - 1. Special circumstances or conditions apply to this appeal application such as hardship;
 - 2. Authorization of the variance is necessary for the preservation and enjoyment of substantial property rights; and
 - 3. Authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.
- (e) If a variance is granted by the Airport Appeals Board, the conditions in paragraph (d) allowing the variance and the extent of the variance shall be explicitly stated.
- (f) The Airport Appeals Board may grant one (1) extension of the time limit set forth in section 5-803. Such extension shall not exceed one hundred eighty (180) calendar days. The extension period granted by the Airport Appeals Board starts to run on the day the Airport Appeals Board issues a decision pursuant to section 5-805(c). The Airport Appeals Board may grant an extension only where it is shown that:
 - 1. It would create a hardship to comply with the decision within the fifteen (15)-day period of section 5-803; and
 - 2. The moving party presents a plan that is approved by the Airport Appeals Board, by which said party will comply with the decision within no more than one-hundred eighty (180) calendar days.

Sec. 5-807. Appeal from decision of Airport Appeals Board.

Any party aggrieved by a decision of the Airport Appeals Board may seek review by the City Council in accordance with section 5-125 and thereafter may appeal to the Superior Court in accordance with the *Rules of Procedure for Special Actions*.

Sec. 5-808. Stay of order during appeal.

Except for orders to vacate or violations presenting an imminent hazard, the timely filing of an appeal shall stay enforcement of a notice to abate or assessment until the appeal is finally determined by the Airport Appeals Board.