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DEC 13 2012

ORDINANCE NO. 4419

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING CHAPTER 8 OF THE CHANDLER CITY CODE TO CLARIFY ADMINISTRATIVE RESPONSIBILITY WITH RESPECT TO AIRPORT OPERATIONS AND TO AMEND PROVISIONS OF THE "CHANDLER MUNICIPAL AIRPORT RULES AND REGULATIONS, 2006," PREVIOUSLY ADOPTED AND MADE PART OF CHAPTER 8 BY REFERENCE.

BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Chapter 8 of the Chandler City Code is amended in its entirety as follows:

8-1. - 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. (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.

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."

Airpark means the taxilanes located outside the airport and intended for airport/airpark access and all real property adjacent to any portion of the airpark taxilanes.

Airport means all of the City-owned or leased real or personal property comprising the Chandler Municipal 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/airpark access means the ability to move aircraft, vehicles, equipment, property or

persons onto airport property from the airpark and vice-versa.

Airport Administrator means that certain employee of the City designated by the City Manager to be responsible for the day-to-day operation and maintenance of the airport, the airpark and all related facilities.

Based means located, hangared, tied down or headquartered with the intent to remain so for an indefinite period of time. An aircraft will be considered "based" at the Chandler Municipal Airport if:

- A. The owner physically locates it at the airport or airpark with no present intention of removal and with the purpose to remain for an undetermined period;
- B. Whenever absent from the airport or airpark, its owner intends to return to the airport or airpark for permanent hangaring; and
- C. Its presence in the airport or airpark is something other than merely transitory in nature.

City Manager means that person appointed by the City Council to serve as the City's chief administrative officer and to perform the powers and duties of such officer as set forth in Sec. 3.04 of the Charter of the City of Chandler and elsewhere in the City Code.

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 considered commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

Director means the Director of the Transportation and Development Department.

8-2. - Chandler Airport Commission.

There is hereby established a Commission to be known as the "Chandler Airport Commission," consisting of seven (7) members appointed by the Mayor with the approval of the Council. In addition, the Mayor shall appoint a Councilmember as an ex officio member to serve as liaison between the Commission and the Council. Six (6) members of the Chandler Airport Commission must be qualified electors of the City and have been a resident of the City for at least one (1) year immediately preceding the date of appointment. The seventh member need not be a resident of the City but must, at the time of appointment be a resident of and for the year immediately preceding have resided within, the unincorporated area bounded on the north and east by the City of Chandler City boundaries and on the south and west by the Gila River Indian community boundaries (an area commonly referred to as Sun Lakes.) The term of each member shall be for three (3) years. Each member shall serve until his/her successor is appointed.

8-2.1. Officers and bylaws. Commission members shall elect officers at the first meeting following the first day of May of each year. The Commission may adopt bylaws which may, among other things, set forth the time and place of meetings and such operating procedures as may be desired. All bylaws and any amendments thereto shall be subject to City Council review and approval. The Airport Manager-Administrator shall staff the Commission.

8-2.2. Powers and duties. The Airport Commission shall advise the City Council regarding:

- A. The maintenance and operation of the airport and its environs.
- B. Rules, regulations, and minimum operating standards under this chapter.
- C. Proposals for development at the airport and the airpark.
- D. Fees imposed by the City in connection with the airport and the airpark.
- E. Leases of City property at the airport which require Council approval.
- F. Land use policies at and surrounding the airport.
- G. The future role of the airport as part of the State-wide air transportation system.
- H. Safety matters under the jurisdiction of the airport.
- I. Such other matters as the City Council may direct and shall perform such other duties as imposed by this chapter.

8-3. - Adoption of airpark and airport rules and regulations.

The ~~Director~~ City Manager shall ~~may~~ recommend for Council adoption rules, regulations, operating standards and amendments thereto, for use of the airpark and airport which may be adopted by the City Council by reference. Three (3) copies of any document adopted by the City Council by reference shall be kept on file by the City Clerk for use and reference by members of the public.

8-3.1. Airport rules. That certain document known as the "Chandler Municipal Airport Rules and Regulations, 2006," (the "ARR") is hereby adopted by reference and made a part hereof as if fully set forth at length out in this chapter with the following additions, insertions, deletions and changes:

(a) The definition of *Airport manager* in Article 1 of the ARR is amended to read as follows:

"*Airport manager*" means the "*Airport Administrator*", as defined in Sec. 8-1 of the City Code.

(b) Section 4.1 of the ARR, entitled "Landing and Takeoff of Aircraft," is amended to add an additional subsection 4.1(e), which shall read as follows:

"(e) Helicopter aircraft arriving and departing the Airport shall operate under the direction of the Air Traffic Control Tower during tower operating hours while the Chandler Class D Airspace is active. In no case shall rotor wing aircraft arrive, depart, ground taxi or hover taxi between hangar rows or between hangars and perimeter fences.

8-3.2. (Reserved)

8-3.3. (Reserved)

8-3.4. *Chandler Airpark Minimum Operating Standards.* (Reserved)

8-3.5. *Emergency regulations.* With the approval of the City Manager, the Airport Manager Administrator is hereby authorized to impose emergency regulations when necessary to protect immediate health and safety. Such emergency regulations are limited to forty-five (45) calendar days duration and take effect immediately upon execution by both the Director Airport Administrator 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. Such emergency regulation shall terminate if not adopted by Council within such forty-five-day period.

8-4. - Use and operation of the airport.

8-4.1. The airport shall be conducted as a public air facility for the promotion and accommodation of civil aviation and associated activities. The airport shall be open for public use at such hours and subject to such restrictions as may be determined by the City Council.

8-4.2. No person shall use the airport nor its facilities except in conformity with this chapter, the rules, regulations and operating standards adopted herein and all other applicable State and Federal laws, rules and regulations.

8-4.3. No person shall navigate, land aircraft upon, or conduct any aircraft or other operations to, on, from, or over the airport, nor shall any person engage in any other aviation activity at the airport or elsewhere within the City, except in conformity with all Federal Aviation Administration regulations; the applicable provisions of Title 28, Chapter 12, Arizona Revised Statutes; this chapter; and rules, regulations and operating standards adopted herein.

8-4.4. No person shall use the airport nor its facilities except in conformity with any Federal, State or other governmental entity grant conditions accepted by the City.

8-4.5. Where there exists a conflict between any regulation or limitation prescribed in this chapter and any other applicable regulations, the more stringent limitations or requirements shall govern and prevail.

8-4.6. ~~The Director or designee~~City Manager shall be responsible for the management and operate operation of the Chandler Municipal Airport and Airpark. The Director-City Manager may shall appoint an Airport Manager-Administrator to conduct day-to-day operations of the Airport and Airpark. or-but may delegate or assign the duties set forth in this chapter and any other duties otherwise given to the Airport Manager-Administrator by this Code to other City staff in the Transportation and Development Department.

8-4.7. *Access codes/devices.* Persons provided with either a code or access device for the purpose of obtaining access to the airport shall not allow any other to use such code or device nor divulge, duplicate or otherwise distribute the same to any other person. Violation may result in the loss of access privileges.

8-5. - Use of City-owned airport property.

The ~~Director~~City Manager or designee is hereby authorized to negotiate leases, licenses, permits or other such agreements 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 airport lease shall be in a form approved by the City Attorney.
- B. Any airport lease, license or other use agreement with a term of more than one (1) year requires prior Council approval. The ~~Director~~City Manager is hereby authorized to enter into and execute airport leases, licenses or other use agreements with a term of one (1) year or less.
- C. Any use of City-owned airport property for commercial aeronautical activities is subject to the requirements of the airport minimum operating standards.
- D. 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 or an agency thereof relative to the operation and maintenance of the airport.
- E. The leasing of airport real property for commercial uses may be done by competitive selection or by direct leasing in accordance with such procedures as may be authorized and approved by the Chandler City Council.

8-6. - Aeronautical business permit required.

No person shall conduct or operate any commercial aeronautical activity at the airport or in the airpark without first obtaining an aeronautical business permit pursuant to this chapter. 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.

8-6.1. Aeronautical business permit applications. An application for an aeronautical business permit shall be made on forms furnished by the Airport Manager~~Administrator~~ and accompanied by proof of possession of all required City business or privilege tax licenses and application fees as established by the City Council by resolution. The application shall include the information listed in the airport or airpark minimum operating standards.

8-6.2. Review process. An application for an aeronautical business permit shall be reviewed by the Airport Manager~~Administrator~~ who shall approve, deny or conditionally approve such applications based on the requirements listed in the airport or airpark minimum operating standards.

8-6.3. Appeal process. The decision of the Airport Manager~~Administrator~~ shall be final unless the applicant files an appeal to the ~~Director~~City Manager. The appeal must be in writing and filed with the City Clerk within fifteen (15) days of the date of the mailing of the notice of decision.

The appeal hearing shall be conducted in accordance with the procedures set forth in Chapter 1 of this Code. The decision of the ~~Director~~ City Manager shall be final.

8-6.4. *Permit display.* Each person conducting commercial aeronautical activity shall permanently post the aeronautical business permit in a conspicuous place in that person's business office. Any person conducting commercial aeronautical activity shall, upon demand, produce the aeronautical business permit to a City representative for inspection.

8-6.5. *Monthly aeronautical business fee.* All persons conducting any commercial aeronautical activity shall pay to the City the monthly aeronautical business permit fee established by the City Council by resolution. Such fees are due and payable by the 20th day of each month and shall be calculated based on the total amount of commercial aeronautical activity conducted in the previous calendar month.

8-6.6. *City's right to audit.* 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's ~~Finance Manager~~ Management Services Director or the ~~Finance Manager's~~ designee, 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.

8-6.7. *Right of inspection.* The ~~Airport Manager~~ Administrator or his/her authorized representative shall have the right at all reasonable times to inspect all areas under aeronautical business permit or lease or occupied by tenants.

8-6.8. *Airport-related fee administration and collection.* The administration and collection of airport-related fees is vested in the ~~Tax Administrator~~ Management Services Director. 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-related fees.

8-6.9. *Permit not transferable.* No lease, license, permit or agreement issued herein may be assigned, transferred or in any other manner set over to another person without the prior written consent of the City.

8-6.10. *Duration of permit/revocation.* An aeronautical business permit shall remain in effect for three (3) years unless abandoned by the permittee or revoked by the City. The ~~Airport Manager~~ Administrator may revoke such permit for violation of any of the terms or conditions of the permit, for violation of the City Code, or any rule, regulation or operating standard adopted herein, for violation of any Federal, State or other applicable governmental regulation including the FAA grants assurances, for failure to make timely payments to City of the monthly aeronautical business permit fee, for failure to timely pay any taxes or other amounts due to City or for creating dangerous or unsafe conditions on any airport property or at the airpark.

Upon receipt of a notice of revocation, the permittee may request a hearing before the ~~Airport Manager~~ Administrator and may appeal the decision of the ~~Airport Manager~~ Administrator to the ~~Director~~ City Manager in the same manner as appeal of applications for a permit.

8-7. - Violations.

Any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in Chapter 1 of this Code.

In addition to the penalties set forth in Chapter 1, violations of this chapter, of any applicable State or Federal regulation or of any rule, regulation, order, or instruction issued by the Airport ~~Manager-Administrator~~ and/or the City Manager may result in withdrawal of permission by the Airport ~~Manager-Administrator~~ to use the airport.

8-7.1. Violations not exclusive. Violations of this chapter are in addition to any other violation enumerated within City ordinances or Chandler City 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 ordinance or Chandler City Code provision or Statutes of the State. Violations of this Chapter may be abated in accordance with Chapter 26 of this Code.

8-7.2. Investigation. 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 correcting or abating a violation of this chapter.

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, correcting or abating a violation of this chapter.

8-8. - Withdrawal of permission to use airport.

Notwithstanding the following provisions, the Airport ~~Manager-Administrator~~ may summarily deny airport access, pending the hearing specified below, to any person as to whom probable cause exists to believe such person has 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.

8-8.1. Procedure.

A. Upon probable cause to believe that a person has committed acts constituting grounds for withdrawal of permission to use the airport, the Airport ~~Manager-Administrator~~ shall provide the affected party with notice of an order to show cause why permission should not be withdrawn. The notice shall give at least seventy-two (72) hours' notice of the hearing date and list the grounds for such action.

B. Persons whose permission to use the airport has been summarily withdrawn 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 such withdrawal, except upon mutual agreement of the Airport ~~Manager-Administrator~~ and the affected party.

C. Access to, and the use and privileges of, the airport or any of its facilities shall be

withdrawn and denied at the date and time of the hearing unless the affected party appears to contest such action. 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 Airport ~~Manager-Administrator~~ may issue a decision at the close of the hearing, but shall issue a decision either withdrawing permission to use and denying access to the airport or dismissing the charges within ten (10) calendar days of the completion of the hearing. Such decision may also grant conditional permission to use the airport.

D. A person may appeal the decision of the Airport ~~Manager-Administrator~~ to the City's ~~Director-Manager~~ by filing a written notice of appeal with the City Clerk not later than ten (10) calendar days after the date of the Airport ~~Manager's-Administrator's~~ decision. The right to appeal is waived if the notice of appeal is not timely filed.

E. The appeal hearing shall be conducted in accordance with the procedures set forth in Chapter 1 of this Code. The decision of the ~~Director-City Manager~~ shall be final.

8-9. - Service of notices.

Any notice required to be given for any purposes under this chapter shall be by either personal delivery or by mailing the notice by certified mail, return receipt requested to the address provided to the Airport ~~Manager-Administrator~~ by the intended recipient.

Notice is deemed effective on the date it is hand-delivered or deposited in the United States mail.

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.

8-10. - Extension of runway; physical limitations.

To guarantee to the citizens of the City of Chandler the continued quiet enjoyment in and to the homes, schools, churches and work places, the Chandler Municipal Airport shall not be permitted to accommodate, in any fashion, aircraft which require for takeoff a runway longer than five thousand seven hundred (5,700) feet. Extension of the runway shall require voter approved bonds, which specify that the bond monies are for the purpose of extending the runway.

In addition, the Chandler Municipal Airport shall not be designed to accommodate aircraft that weigh in excess of seventy-five thousand (75,000) pounds maximum gross weight, and/or have a wingspan of seventy-nine (79) feet or more.

8-11. - Airport certification.

Notwithstanding any other authority granted in this Chapter 8 to the ~~Director or the Airport Manager-Administrator~~ or the City Manager, no certificate under Federal Aviation Regulation Part 139, Airport Operating Certificate, required for accommodating applicable commercial scheduled and unscheduled passenger service, shall be applied for or obtained for the Chandler Municipal Airport without the prior approval of the Chandler City Council.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2012.

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2012.

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4419 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2012, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

PUBLISHED: