

## **Article 3.2 Phoenix-Mesa Gateway Airport Overlay District**

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### **3.201 Purposes**

The purposes of the Phoenix-Mesa Gateway Airport Overlay District are to:

- A. Designate an area in the Town that is or may be impacted by noise generated by aircrafts using the Phoenix-Mesa Gateway Airport as depicted on the Town of Gilbert Zoning Map;
- B. Mitigate the effects of aircraft noise on the public health, welfare, and safety by prohibiting noise sensitive uses in new projects within Overflight Area 1, by establishing noise attenuation requirements applicable to noise sensitive uses in new projects within Overflight Area 2, and by requiring notification to future owners and occupants of possible noise impacts on noise sensitive uses in new projects within Overflight Areas 2 and 3 of the Phoenix-Mesa Gateway Airport Overlay District; and
- C. To identify and mitigate flight hazards.

### **3.202 Applicability**

Base zoning district regulations and other requirements of the Zoning Code shall apply except as specifically modified by an overlay district and/or by Table 3.203. The Official Zoning Map shall identify each Overflight Area within the Phoenix- Mesa Gateway Airport Overlay District.

- A. The provisions of this Article shall apply to noise sensitive uses and/or hazards in new or altered projects located wholly or partially within the Phoenix-Mesa Gateway Airport Overlay District.
- B. If a project is located partially within Overflight Areas 2 and 3, then the development and notification requirements for Overflight Area 2 shall apply to noise sensitive uses in the entire new project.
- C. If a project is located partially within Overflight Area 3 and partially outside of any overflight area, then the development and notification requirements for Overflight Area 3 shall apply to noise sensitive uses in the entire project.
- D. For the purposes of this Article, the following meanings shall apply:

1. “Airport” means the Phoenix-Mesa Gateway Airport owned and operated by the Phoenix-Mesa Gateway Airport Authority.
2. “Airport Overflight Area” or “AOA” means an area designated on the Official Zoning Map as Airport Overflight Area (AOA) 1, 2 OR 3.
  - AOA 1 Corresponding to the area exposed to long-term future noise of DNL 65 and higher.
  - AOA 2 Corresponding to the area exposed to long-term future noise of DNL 60 to DNL 65.
  - AOA 3 Generally corresponding to the area covered by dense, low-altitude flight tracks, the outer edges of the traffic pattern area, a majority of noise complaint locations, and the FAA-defined wildlife attractant separation area. Noise of 60 DNL or less.
3. “Day-Night Level” or “DNL” refers to the Federal Aviation Administration (FAA) standard metric for determining the cumulative exposure of individuals to noise.
4. “Hazards” means those items identified in Section 3.203 and Table 3.203.
5. “New Project” means a project with the following status of development as of April 21, 2019:
  - a. No preliminary plat has been approved; or
  - b. A preliminary plat has expired; or
  - c. No preliminary design review site plan has been approved; or
  - d. A preliminary design review site plan has expired; or
  - e. A permit has not be granted for construction on an alteration.
6. “Noise Sensitive Uses” means those uses as identified in Section 3.203 and Table 3.203.
7. “Phoenix Mesa Gateway Airport Overlay District” means that area so designated on the Official Zoning Map.
8. “Project” means, as of April 21, 2019, a subdivision with boundaries established by a recorded plat or a site with boundaries depicted on a construction permit document.

### 3.203 Development and Notification Requirements within the Phoenix Mesa Gateway Airport Overlay District

Uses and development within the each AOA shall meet the following compatibility requirements depending on the land use and zone, as depicted in Table 3.203:

- Compatible (C): Use may be allowed.
- Conditionally Compatible (CC): Use may be allowed subject to stated conditions.
- Marginally Compatible (MC): Use may be allowed subject to an outdoor-to-indoor noise level reduction of 25 decibels in buildings where people reside, sleep or gather.
- Incompatible (I): Use shall be avoided.
- 25 Decibels (25): An outdoor to indoor noise reduction of 25 decibels shall be required.

**Table 3.203 - Compatibility Matrix**

<i>Land Use</i>	<i>AOA 1</i>	<i>AOA 2</i>	<i>AOA 3</i>
<b>Residential / Group Living (Household and Group Living)</b>	I	I	CC (1/2/3/5/7)
<b>Civic and Institutional - Community Services</b>			
<i>Arboretum or Botanical Garden</i>	CC (5/6)	C	C
<i>Cemetery</i>	CC (5)	C	C
<i>Day Care Centers</i>	I	I	CC (1)
<i>Public Facilities</i>	CC (6/7)	CC (7)	CC (7)
<b>Health Care Facilities</b>			
<i>Hospitals</i>	I	I	CC (1/5)
<i>Surgery Center</i>	I	I	CC (1)
<i>Medical Offices and Clinics</i>	I	I	CC (1)
<i>Nursing Homes/Congregate Living</i>	I	I	CC (1/4/5)
<b>Transportation</b>			
<i>Airfield/Heliport/Helipad</i>	I	I	CC (6)
<i>Ambulance Service</i>	I	MC 25 (1/4)	C
<i>Park and Ride/Parking Facility</i>	C	C	C
<i>Transportation Passenger Terminals</i>	CC (5)	C	C
<b>Utility (all)</b>	CC/MC (5/6)	C	C
<b>Commercial</b>			
<i>Banks and Other Financial Institutions</i>	CC (5)	C	C
<i>Banquet Facilities</i>	I	MC 25 (1/4)	CC (1)
<i>Building Maintenance Services</i>	CC (5)	C	C
<i>Business Services</i>	CC (5)	C	C
<i>Eating and Drinking Establishments</i>	CC (5)	C	C
<i>Sexually Oriented Businesses</i>	CC (5)	C	C
<i>Stand-alone Smoking Lounges</i>	CC (5)	C	C

<b>Land Use</b>	<b>AOA 1</b>	<b>AOA 2</b>	<b>AOA 3</b>
<i>Vehicle and Equipment Sales, Leasing, Services and Fueling</i>	CC (5/6)	C	C
<b>Entertainment and Recreation, Indoor</b>			
<i>Amusement Centers, Athletic Clubs, Gyms</i>	CC (5)	C	C
<i>Theaters, Playhouses, Concert Halls, Performing Arts</i>	I	MC 25 (1/4)	CC (1/5)
<i>Haunted Houses, Teen Nightclub</i>	CC (5)	C	C
<b>Entertainment and Recreation, Outdoor</b>			
<i>Equestrian Arena</i>	I	CC (1/4)	CC (1)
<i>Golf Course</i>	CC (6/7)	C (7)	C (7)
<i>Parks</i>	CC (6/7)	C (7)	C (7)
<i>Special Events, Carnival</i>	CC (6)	C	C
<b>Office</b>	CC (5)	C	C
<b>Call Center</b>	CC (5)	C	C
<b>Government Offices</b>	CC (5)	C	C
<b>Retail Sales and Services</b>			
<i>Animal Services &amp; Clinics</i>	CC (5)	C	C
<i>Dry Cleaning and Laundry</i>	CC (5/6)	C	C
<i>Health Resort/Spa</i>	CC (5)	C	C
<i>Personal Services</i>	CC(5)	C	C
<i>Retail Sales (all)</i>	CC (5)	C	C
<b>Visitor Accommodation</b>			
<i>Hotels and Commercial Lodging</i>	MC 25 (1/4)	MC 25 (1/4)	CC (1)
<i>Recreational Vehicle Park</i>	I	I	CC (1/2/3)
<b>Industrial Services</b>			
<i>Crematorium</i>	CC (6)	C	C
<i>Data Center</i>	CC (6)	C	C
<i>Digital Production</i>	CC (6)	C	C
<i>Laboratories Commercial and Industrial</i>	MC (6)	CC (6)	C
<i>Mining and Quarrying</i>	CC (5/6)	CC (6)	C
<i>Research and Development</i>	CC (5/6)	CC (5/6)	C
<b>Manufacturing and Assembly</b>	CC (5/6)	CC (6)	C
<b>Warehousing, Storage, &amp; Distribution</b>	I	CC (6)	C
<b>Waste and Salvage</b>	CC (5/6/7)	C (7)	C (7)

Note (1) The following fair disclosure agreement and covenant, which would include the following disclosure, shall be recorded as a condition of development approval: “This property, due to its proximity to Phoenix-Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals. The mix of aviation activities and types of aircraft expected to be located and operate at the Airport now and in the future include: scheduled and unscheduled commercial charters, commercial air carriers and commercial air cargo operations, all of which are expected to use large commercial aircraft; general aviation activity using corporate and executive jets, helicopters, and propeller aircraft; aviation flight training schools using training aircraft; and military activity using high performance military jets. The size of aircraft and frequency of use of such aircraft may

change over time depending on market and technology changes.”

- Note (2) All final subdivision plats and public reports filed with the Arizona Department of Real Estate shall include the notice described in Note 1.
- Note (3) Sales and leasing offices established for new subdivisions and residential development projects shall provide notice to all prospective buyers and lessees stating that the project is located within an Aircraft Overflight Area. Such notice shall consist of a sign at least 4-foot by 4-foot installed at the entrance to the sales or leasing office at each project. The sign shall be installed prior to commencement of sales or leases and shall not be removed until the sales office is permanently closed or leasing office no longer leases units in the project. The sign should state the disclosure in Note 1 with letters of at least one (1) inch in height.
- Note (4) An avigation easement shall be recorded concurrently with or prior to the recordation of a subdivision plat or issuance of a building permit holding the Town, the public, and the Phoenix-Mesa Gateway Airport Authority harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or any other effects that may be caused by aircraft landing, departing or operating at or near a designated Airport, not including the physical impact of aircraft or parts thereof.
- Note (5) The developer should incorporate features into the design and construction of buildings where people live, work, or are otherwise received to achieve an outdoor-to indoor noise level reduction of 25 decibels.
- Note (6) Hazardous Materials and Airspace Protection Policies (Reference Section 3.203A):
- a. Facilities with aboveground storage tanks containing any of the following materials:
    - (1) Flammable or combustible liquids, including fuels or other substances containing at least 5 percent petroleum, with individual tanks having a capacity greater than 6,000 gallons or total tank capacities greater than 12,000 gallons.
    - (2) Liquefied petroleum, hydrogen and natural gases and cryogenic liquids with an individual tank capacity equivalent to 2,000 gallons of water or total tank capacities greater than the equivalent of 30,000 gallons of water.
    - (3) Compressed gases in excess of 50,000 cubic feet on the premises.
  - b. Facilities involving the manufacturing, processing, warehousing, or storage of toxic substances exceeding the threshold planning quantities for hazardous and extremely hazardous substances specified by the EPA.
  - c. Facilities involving the manufacturing, processing, warehousing, or storage of explosive materials, including fireworks, in quantities exceeding 50 pounds of

net explosive weight

- d. Medical and biological research facilities manufacturing, processing, warehousing, or storing toxic or infectious agents that are classified as Biosafety Level 2, 3, and 4 facilities by the US Department of Environmental Protection (EPA).

Note (7) Bird Attractants

- a. Coordination should be taken to address and mitigate as needed the potential for bird attractants as described in Section 3.203A.
- A. ***Airspace Protection Policies.*** The airspace protection policies are intended to ensure compliance with federal law, as described in Title 14, Code of Federal Regulations 14 CFR Part 77, Safe, Efficient Use, and Preservation of the Navigable Airspace. Any of these hazards within the 14 CFR Part 77 require FAA review. Potential Hazards outside of the 14 CFR Part 77 should be coordinated with the FAA to ensure safety.
1. ***Height.*** The erection of objects determined by the FAA to be a hazard to air navigation (i.e. proposed construction or alteration, for which the FAA has issued a Determination of Hazard (DOH)), should not be permitted, regardless of whether they penetrate a critical airspace surface depicted. The erection of such an object would necessitate modifications in airspace design or flight procedures by increasing visibility minimums or otherwise compromising the use of the Airport and the surrounding airspace. In addition to the physical hazards to flight posed by tall objects, other land use characteristics can interfere with the safety of flight.
  2. ***Glint and Glare.*** Highly reflective materials may produce glint and glare causing visual after-images or flash blindness in pilots and air traffic controllers, thus compromising flight safety. Materials creating the potential for persistent afterimage or flash blindness in pilots should be considered incompatible in AOA 1, AOA 2, and the portion of the AOA 3 within the boundaries of the 14 CFR Part 77 horizontal and outer approach surfaces. In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, reflective materials are acceptable unless the FAA has issued a Determination of Hazard (DOH) related to the use of the proposed reflective materials. If the airport staff and the permitting agency determine that the potential for persistent after-image or flash blindness exists, the burden of proof shall be on the applicant to demonstrate that the proposed project would not create glint or glare problems. Adequate proof can be provided in either of two ways:

- a. A technical study demonstrating that the proposed building materials would not create reflections severe enough to cause after-images or flash blindness in pilots on approach to any runway at any time of day during any time of the year.
  - b. If the FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process, the FAA's final Notice of Determination indicates no objections to the potential glint and glare effects of the proposed project.
3. *Lighting Systems.* Some lighting systems may contain features that pilots may confuse with airport identification and navigational lighting or that may compromise the vision of pilots on approach to a runway. The following lighting systems shall be considered incompatible in AOA 1, AOA 2, and the portion of the AOA 3 within the boundaries of the Part 77 horizontal and outer approach surfaces if they are directed toward the final approach paths of aircraft:
- a. Search lights (including temporary searchlights for special events, etc.)
  - b. Stroboscopic lights
  - c. Laser lights
  - d. A linear array of sequenced flashing lights
  - e. Any lighting systems that produce effects mimicking airport identification lighting, runway end identification lighting, or runway approach lighting.

In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, these potentially problematic lighting systems are acceptable unless the FAA has issued a Determination of Hazard (DOH) related to the proposed lighting.

4. *Dust, Smoke and Water Vapor.* Land uses that would create columns of dust, steam, water vapor, or smoke dense enough to impair pilot or air traffic controller vision and compromise flight safety shall be considered incompatible in AOA 1, AOA 2, and in the portion of AOA 3 within the boundaries of the Part 77 horizontal and outer approach surfaces. If the airport staff and the permitting agency determine that a proposed project has the potential to create a hazard the burden of proof should be on the applicant to demonstrate that the proposed project would not create problems severe enough to impair pilot vision or air traffic controller vision.

The FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process and issued a determination indicating no objections to the proposed project on account of dust, steam, water vapor, or smoke, that determination should be considered adequate evidence that the project can proceed without creating this

hazard. In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, these potentially problematic sources of dust, smoke, and water vapor are acceptable unless the FAA has issued a Determination of Hazard (DOH) related to the proposed sources.

5. *Thermal Hazards.* Land uses that produce thermal plumes (such as power plants or other land uses that employ smoke stacks, cooling towers, or that create thermal exhaust), even when not a visual hazard, may interfere with aircraft control by causing air turbulence. Land uses that produce thermal plumes with the potential to interfere with the safe control of aircraft should be considered incompatible in AOA 1, AOA 2 and the portion of AOA 3 within the boundaries of the Part 77 horizontal and outer approach areas. If the airport staff and the permitting agency determine that a proposed project has the potential to cause a hazard, the burden of proof shall be on the applicant to demonstrate that the proposed project would not create hazardous thermal plumes. Adequate proof could be provided in either of two ways:
  - a. A technical study demonstrating that the proposed project would not create thermal plumes severe enough to compromise the safe control of the smallest aircraft expected to fly over the proposed facility.
  - b. If the FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process, the FAA's final Notice of Determination indicates no objections to the potential thermal plume effects of the proposed project.
6. *Electromagnetic Interference.* Sources of electromagnetic interference with aircraft instrumentation and ground-based radar and navigational aids shall be considered incompatible within the Airport Planning Area (AOA-1, AOA-2, and AOA-3). Examples of potentially problematic sources may include radio transmission facilities, microwave transmission towers, and wind turbines. If the permitting agency suspects that a proposed project may create the potential for electromagnetic interference with aviation navigational or communication equipment, it should consult with the airport staff and bring the matter to the attention of the FAA for study. Typically, the potential for electromagnetic interference would be considered by the FAA through the 14 CFR Part 77 OE/AAA process. If the FAA has reviewed the proposed project, the project sponsor shall be required to comply with any conditions or recommendations relating to the mitigation of electromagnetic interference.
7. *Bird Attractants.* The following land uses, which have the potential to attract birds, should be considered marginally within 10,000 feet of the Airport's Air Operations Area and conditionally compatible between 10,000 feet and 5 statute miles of the Air Operations Area. Where these uses are considered to be conditionally compatible. For both the 10,000 foot and 5 statute mile areas measures should be taken to reduce the risk of attracting birds. For guidance, refer to Federal Aviation Administration, Advisory Circular AC 150/5200-33B, Hazardous Wildlife Attractants on or Near



Airports.

- a. Waste Disposal Operations
- b. Transfer Stations (open or partially open air) that handle waste that are not fully enclosed or lack ventilation and air filtration systems adequate to control odors escaping to the outdoors)
- c. Composting Operations that accept food waste
- d. Water Management Facilities
- e. Stormwater Management Facilities (artificial ponds, including water detention, retention, or recharge ponds, that create above-ground standing water should be considered incompatible within 10,000 feet of the Air Operations Area unless required by other provisions of municipal, county, or state law. Where these facilities are necessary and must be allowed, measures should be taken to minimize the risks of attracting birds.)

In the portion of AOA-3 within the boundaries of the CFR 14 Part 77 horizontal and outer approach surfaces, these uses should be considered compatible only if coordination measures are taken to minimize the risk of attracting birds. In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, waterscapes, including those intended to support aquatic vegetation and animal life, are acceptable; projects within either the 10,000 feet or 5 statute miles of the Air Operations Area are subject to FAA review in accordance with AC 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports. Plans for such proposed developments such as wastewater treatment facilities and associated settling ponds, including any devices or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes and artificial marshes designed for wastewater treatment and wetlands mitigation projects shall be circulated to the Phoenix-Mesa Gateway Airport Authority for coordination with the FAA, and for review and comment prior to development.