

RESOLUTION NO. 2688

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING THE STANDARDIZED RESIDENTIAL THROUGH THE FENCE ACCESS AGREEMENTS FOR THE MAZATZAL MOUNTAIN AIRPARK AND AUTHORIZING THE TOWN TO ENTER SUCH AGREEMENTS WITH THE RESIDENTS OF THE MAZATZAL MOUNTAIN AIRPARK.

WHEREAS, the Mazatzal Mountain Airpark is a residential community that has Residential Through the Fence ("RTTF") access to the Payson Airport ("the Airport"); and

WHEREAS, the Federal Aviation Administration ("FAA") will not approve new RTTF access and generally disfavors existing RTTF access; and

WHEREAS, the FAA will allow continued use of existing RTTF access if airports implement appropriate policies and enter RTTF access agreements with RTTF users; and

WHEREAS, in order to comply with FAA policy and regulations, Town Staff and the Airport Commission have drafted an RTTF Policy for the Mazatzal Mountain Airpark ("the Policy") and standardized RTTF Agreements for Mazatzal Mountain Airpark residents; and

WHEREAS, on September 10, 2012, the Airport Commission voted to approve the Policy, attached hereto as Exhibit A; and

WHEREAS, the Town desires to approve three standard RTTF access Agreements contemplated by the Policy and to authorize the Town Manager and/or her designee to execute such Agreements,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the standardized RTTF access Agreements, attached hereto as Exhibits B, C, and D, are hereby approved in substantially the forms attached.

Section 2. That the Town Manager and/or her designee is hereby authorized to execute the appropriate RTTF Agreement with the individual residents of the Mazatzal Mountain Airpark.

Section 3. That the Town of Payson, acting by and through its officers, officials, and employees, is hereby authorized to take all other actions necessary or appropriate to carrying out the terms of this Resolution, the FAA policy regarding RTTF access, and Section 95.13 of the Code of the Town of Payson.

OCT 04 2012 G. H. *

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2012, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:



Silvia Smith, Town Clerk

Timothy M. Wright, Town Attorney

EXHIBIT A
TO
RESOLUTION 2688
(Residential Through the Fence Policy)

RESIDENTIAL THROUGH THE FENCE POLICY FOR MAZATZAL MOUNTAIN AIR PARK

In accordance with the requirements of the Federal Aviation Administration (“FAA”) and Chapter 95 of the Payson Town Code, currently developed residential properties in the Mazatzal Mountain Air Park are required to enter into an agreement with the Town of Payson concerning Residential Through the Fence (“RTTF”) access to the Payson Municipal Airport (“the Airport”). A monthly fee may or may not be required depending on the aircraft use on the property. Such fee is not for the use of the Bravo Taxiway gate, but is to meet the requirement from the FAA to charge airport users who reside and store their aircraft in an airpark comparable fees to those users storing aircraft on the Airport.

There are three categories which need to be addressed by agreement concerning payment of RTTF fees, or waiving such fees.

Category 1 (Owner/Pilot) - The property owner, who is a licensed pilot, owns and stores a flyable aircraft on the property. In this case the property owner is responsible for payment of the RTTF fee.

Category 2 (Rent/Lease) - The property owner has rented/leased storage space or otherwise allows another person who is a licensed pilot to store a legally flyable aircraft. In this case the renter/leasee is responsible for payment of the Through the Fence fee.

Category 3 (Fee Exemption) - The property owner either is not a licensed pilot or does not own, store, or allow to be stored, any legally flyable aircraft on the property. In this case, the Through the Fence fees will be waived until a change occurs putting this property in Category 1 or 2.

Each Category requires a signed RTTF Agreement.

For property that is undeveloped (vacant), no agreement is required at this time. Chapter 95 requires that prior to issuance of a building permit for the vacant lots in the Mazatzal Mountain Air Park, the owners must enter into an agreement with the Town per one of the above categories.

EXHIBIT B
TO
RESOLUTION 2688
(Agreement - Category 1, Owner/Pilot)

PAYSON MUNICIPAL AIRPORT
RESIDENTIAL THROUGH THE FENCE ACCESS
FOR
MAZATAZAL MOUNTAIN AIRPARK
AGREEMENT (CATEGORY 1, OWNER/PILOT)

This Agreement is made between the Town of Payson, an Arizona Municipal Corporation and owner of the Payson Municipal Airport, and hereinafter referred to as "AIRPORT" and _____, owner(s) of Lot ___ of the Mazatzal Mountain Airpark (Unit or Phase) recorded in Book _____ of Maps, Gila County, Arizona, hereinafter referred to as "OWNER", dated this _____ day of _____, 2012. The AIRPORT and the OWNER are collectively referred to as the PARTIES.

I. Recitals

1. The Town of Payson is the owner and Sponsor of the Payson Municipal Airport.
2. As Sponsor, the Town has certain responsibilities and requirements to fulfill to the Federal Aviation Administration.
3. Certain standards have been established by the Federal Aviation Administration Reauthorization Act of 2012 concerning Residential Through The Fence (RTTF) activities.
4. The PARTIES both desire that the existing RTTF operation using the access gate on Bravo Taxiway between the airport and residential properties continue.
5. Payson Town Code Section 95.13 requires property owners in the Mazatzal Mountain Airpark Subdivisions to execute a Through the Fence Access Agreement.
6. The PARTIES agree that the fee charged per Section II of this agreement is the OWNERS portion of the cost of building and maintaining the infrastructure for residential access to the airport that is beyond that needed for use by the general public.
7. The PARTIES agree that any aircraft stored on the property which are not owned by the property Owner are subject to a separate monthly fee in accordance with Section II of this agreement.

II. **THEREFORE**, in return for the AIRPORT continuing to allow and maintain facilities for RTTF traffic to access the Payson Municipal Airport the OWNER agrees to:

- a. Pay airport charges that are determined by the AIRPORT to be comparable with those charged to tenants and operators on the airport and making similar use of the airport. This entails paying a monthly fee to the AIRPORT equivalent to the regular aircraft tie-down fee on the airport.
- b. Maintain their property for residential, noncommercial use for the duration of this agreement.
- c. Prohibit access to the airport from other properties through the OWNER'S property.
- d. Prohibit commercial aircraft refueling on their property.
- e. Hereby grants an Avigation Easement in perpetuity over the above described property for the free and unobstructed passage of aircraft in and through the airspace, together with the right to cause in the airspace such noise, vibrations, dust and fumes as may be inherent in the operation of such aircraft, now known or hereinafter used, for

navigation of or flight in the airspace and for use of the airspace for landing on, taking off from, or maneuvering about the airport.

- f. Abide by the airport rules and regulations as described in Chapter 95 of the Payson Town Code.
- g. Notify buyer of this property that the new owner(s) is required to execute their own RTTF agreement with the Airport for off airport access.

III. Term of this Agreement

- a. This agreement shall remain in effect until the OWNER transfers title of the property to a new owner, or there are no longer any aircraft facilities on the property, whichever occurs first.

IN WITNESS WHEREOF the PARTIES have executed this Agreement the day and year first above written.

OWNER(S):

Signature of Owner

Printed Name of Owner

Signature of Owner

Printed Name of Owner

TOWN OF PAYSON:

Debra Galbraith, Town Manager

Approved as to Form:

Timothy M. Wright, Town Attorney

EXHIBIT C
TO
RESOLUTION 2688
(Agreement - Category 2, Rent/Lease)

PAYSON MUNICIPAL AIRPORT
RESIDENTIAL THROUGH THE FENCE ACCESS
FOR
MAZATAZAL MOUNTAIN AIRPARK
AGREEMENT (CATEGORY 2, RENT/LEASE)

This Agreement is made between the Town of Payson, an Arizona Municipal Corporation and owner of the Payson Municipal Airport, and hereinafter referred to as "AIRPORT," _____, owner(s) of Lot ___ of the Mazatzal Mountain Airpark (Unit or Phase) recorded in Book _____ of Maps, Gila County, Arizona, hereinafter referred to as "OWNER", and _____, owner(s) of an aircraft, hereinafter referred to as "AIRCRAFT OWNER", stored at Lot ___ of the Mazatzal Mountain Airpark (Unit or Phase) recorded in Book _____ of Maps, Gila County, Arizona, hereinafter referred to as "PROPERTY OWNER", dated this _____ day of _____, 2012. The AIRPORT, PROPERTY OWNER and the AIRCRAFT OWNER are collectively referred to as the PARTIES.

I. Recitals

1. The Town of Payson is the owner and Sponsor of the Payson Municipal Airport.
2. As Sponsor, the Town has certain responsibilities and requirements to fulfill to the Federal Aviation Administration.
3. Certain standards have been established by the Federal Aviation Administration Reauthorization Act of 2012 concerning Residential Through The Fence (RTTF) activities.
4. The PARTIES desire that the existing RTTF operation using the access gate on Bravo Taxiway between the airport and residential properties continue.
5. Payson Town Code Section 95.13 requires property owners in the Mazatzal Mountain Airpark Subdivisions to execute a Through the Fence Access Agreement.
6. The PARTIES agree that the fee charged per Section II of this agreement is the AIRCRAFT OWNER'S portion of the cost of building and maintaining the infrastructure for residential access to the airport that is beyond that needed for use by the general public.
7. The PARTIES agree that the AIRCRAFT OWNER of any aircraft stored on the property is responsible for paying a monthly fee in accordance with Section II of this agreement.

II. **THEREFORE**, in return for the AIRPORT continuing to allow and maintain facilities for RTTF traffic to access the Payson Municipal Airport the AIRCRAFT OWNER agrees to:

- a. Pay airport charges that are determined by the AIRPORT to be comparable with those charged to tenants and operators on the airport and making similar use of the airport. This entails paying a monthly fee to the AIRPORT equivalent to the regular aircraft tie-down fee on the airport.
- b. Abide by the airport rules and regulations as described in Chapter 95 of the Payson Town Code.

III. **THEREFORE**, in return for the AIRPORT continuing to allow and maintain facilities for RTTF traffic to access the Payson Municipal Airport the PROPERTY OWNER agrees to:

- a. Maintain their property for residential, noncommercial use for the duration of this agreement.
- b. Prohibit access to the airport from other properties through the PROPERTY OWNER'S property.
- c. Prohibit commercial aircraft refueling on their property.
- d. Hereby grants an Avigation Easement in perpetuity over the above described property for the free and unobstructed passage of aircraft in and through the airspace, together with the right to cause in the airspace such noise, vibrations, dust and fumes as may be inherent in the operation of such aircraft, now known or hereinafter used, for navigation of or flight in the airspace and for use of the airspace for landing on, taking off from, or maneuvering about the airport.
- e. Notify buyer of this property that the new owner(s) is required to execute their own RTTF agreement with the Airport for off airport access.

IV. Term of this Agreement

- a. This agreement shall remain in effect until either the PROPERTY OWNER transfers title of the property to a new owner, or the property is no longer rented for the storage of a legally flyable aircraft, whichever occurs first.

IN WITNESS WHEREOF the PARTIES have executed this Agreement the day and year first above written.

PROPERTY OWNER(S):

Signature of Property Owner

Printed Name of Property Owner

Signature of Property Owner

Printed Name of Property Owner

AIRCRAFT OWNER:

Signature of Aircraft Owner

Printed Name of Aircraft Owner

STATE OF ARIZONA)
) §
County of Gila)

The foregoing agreement was acknowledged before me this ____ day of _____, 2012, by _____, who acknowledged his/herself as being the owner of an aircraft stored at Lot ___ of Mazatzal Mountain Air Park and that as Aircraft Owner of said aircraft, signed his/her name as such.

Notary Public

My commission expires:

EXHIBIT D
TO
RESOLUTION 2688
(Agreement - Category 3, Fee
Exemption)

PAYSON MUNICIPAL AIRPORT
RESIDENTIAL THROUGH THE FENCE ACCESS
FOR
MAZATAZAL MOUNTAIN AIRPARK
AGREEMENT (CATEGORY 3, FEE EXEMPTION)

This Agreement is made between the Town of Payson, an Arizona Municipal Corporation and owner of the Payson Municipal Airport, and hereinafter referred to as "AIRPORT" and _____, owner(s) of Lot ____ of the Mazatzal Mountain Airpark (Unit or Phase) recorded in Book _____ of Maps, Gila County, Arizona, hereinafter referred to as "OWNER", dated this _____ day of _____, 2012. The AIRPORT and the OWNER are collectively referred to as the PARTIES.

I. Recitals

1. The Town of Payson is the owner and Sponsor of the Payson Municipal Airport.
2. As Sponsor, the Town has certain responsibilities and requirements to fulfill to the Federal Aviation Administration.
3. Certain standards have been established by the Federal Aviation Administration Reauthorization Act of 2012 concerning Residential Through The Fence (RTTF) activities.
4. The PARTIES both desire that the existing RTTF operation using the access gate on Bravo Taxiway between the airport and residential properties continue.
5. Payson Town Code Section 95.13 requires property owners in the Mazatzal Mountain Airpark Subdivisions to execute a Through the Fence Access Agreement.
6. The PARTIES agree that no fees are required from the property owner when there are no legally flyable aircraft stored on the property, or there is not a licensed pilot residing on the property.

II. **THEREFORE**, the Owner hereby requests an exemption to the payment of the RTTF Access Fees and attests and agrees that:

- a. _____ there are no legally flyable aircraft stored on the property,
or
_____ there is not a licensed pilot residing on the property.
(Select appropriate exemption)
- b. That they will notify the Town within 10 calendar days when the exemption selected in item IIa no longer applies. In the event of this change, the Owner agrees to execute the standard RTTF Access Agreement and to pay fees comparable with those charged to tenants and operators on the airport.
- c. Hereby grants an Avigation Easement in perpetuity over the above described property for the free and unobstructed passage of aircraft in and through the airspace, together with the right to cause in the airspace such noise, vibrations, dust and fumes as may be inherent in the operation of such aircraft, now known or hereinafter used, for navigation of or flight in the airspace and for use of the airspace for landing on, taking off from, or maneuvering about the airport.

- d. Notify buyer of this property that the new owner(s) is required to execute their own Exemption or RTTF agreement with the Airport for off airport access.

III. Term of this Agreement

- a. This agreement shall remain in effect until the OWNER transfers title of the property to a new owner, or until replaced by the standard RTTF Access Agreement, whichever occurs first.

IN WITNESS WHEREOF the PARTIES have executed this Agreement the day and year first above written.

OWNER(S):

Signature of the Owner

Printed Name of Owner

Signature of the Owner

Printed Name of Owner

TOWN OF PAYSON:

Debra Galbraith, Town Manager

Approval as to Form

Timothy M. Wright, Town Attorney

