

Chapter 18.50: "A" Airport Environs Overlay District

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18.50.010 Purpose

- A. This chapter is adopted pursuant to the authority conferred by the State Airport Approaches Zoning Law. It is found that an airport hazard endangers the lives and property of users of Benton Airpark and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, thus tending to destroy or impair the utility of Benton Airpark and the public investment therein. Accordingly, the following is declared:
1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Benton Airpark.
 2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented.
 3. That the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- B. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City may raise and expand public funds and acquire land or interests in land.

18.50.020 Zones Established

In order to carry out the provisions of this chapter, there are created and established certain zones which include all the land lying within the approach zones, transition zones, horizontal zone, and conical zone. Such areas are shown on Benton Field—Airport Approaches Zoning Map, consisting of one sheet dated June 1962, prepared under the direction of the City Airports Director, which is incorporated in this chapter and made a part of this code. The various zones are established and defined as follows:

- A. **Approach Zone.** An approach zone is established at each end of all non-instrument runways for non-instrument landings and takeoffs. The approach zone shall have a width of 250 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 2,250 feet at a distance of 10,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.
- B. **Transition Zones.** Transition zones are established adjacent to each non-instrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of the runways have variable widths as shown on the zoning map. Transition zones extend outward from a line 250 feet on either side of the centerline of the non-instrument runway for the length of such runway, plus 200 feet on each end, and are parallel and level with such runway centerlines. The transition zones along the runways slope upward and outward one foot vertically for each 7 feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to approach zones for the entire length of the approach zones. These transition zones have variable widths as shown on the zoning map. The transition zones flare symmetrically with either side of the runway approach zones from the base of the zones and slope upward and outward at the rate of one foot vertically for each 7 feet horizontally to the points where they intersect the surface of the horizontal zone.
- C. **Horizontal Zone.** A horizontal zone is established as the area within a circle with its center at the airport reference point and having a radius of 5,000 feet. The horizontal zone does not include the approach zones and the transition zones.
- D. **Conical Zone.** A conical zone is established commencing at the periphery of the horizontal zone and extending to a distance of 8,000 feet from the airport reference point. The conical zone does not include the approach zones and transition zones.

18.50.030 Height

- A. Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by the provision of this chapter to a height in excess of the height limit established of such zone. The height limitations are computed from the established airport elevation and are established for each of the zones in question as follows:

1. **Approach Zones.** One foot in height for each 20 feet in horizontal distance beginning at a point 200 feet from the end of the non-instrument runway and extending to a point 10,200 feet from the end of the runway.
 2. **Transition Zones.** One foot in height for each 7 feet in horizontal distance beginning at a point 125 feet from the centerline of non-instrument runway, measured at right angles to the longitudinal centerline of the runway, extending upward to a maximum height of 150 feet above the established airport elevation, which is 719 feet above mean sea level. In addition to the foregoing, there are established height limits of one foot vertical height for each 7 feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal surfaces.
 3. **Horizontal Zone.** One hundred fifty feet above the established airport elevation or a maximum height of 869 feet above mean sea level elevation, with a radius of 5,000 feet measured from the airport reference point.
 4. **Conical Zone.** One foot in height for each 20 feet of horizontal distance beginning at the periphery of the horizontal zone and measured in an inclined plane passing through the airport reference point, extending out from the horizontal surface 3,000 feet measured on a horizontal plane.
- B. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.
- C. Nothing in this chapter shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to 45 feet above the surface of the land.

18.50.040 Use Restrictions

Notwithstanding any other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to create electrical interference with radio communications between the airport and aircraft; make it difficult for flyers to distinguish between airport lights and others; result in glare in the eyes of flyers using the airport, impairing visibility in the vicinity of the airport; or otherwise endanger the landing, taking off, or maneuvering of aircraft.

18.50.050 Nonconforming Uses

- A. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this chapter or otherwise interfere with the continuance of any nonconforming use. Nothing contained in this chapter shall require any change in the construction, alteration, or intended use of any structure, the construction or

alteration of which was begun prior to the effective date of this chapter and is diligently prosecuted.

- B. Notwithstanding the provisions of the previous subsection, the owner of any nonconforming structure or tree is required to permit the installation, operation, and maintenance thereon of such markers and lights as are deemed necessary by the City Airports Director to indicate to the operators of aircraft in the vicinity of the airport the presence of the airport hazards. The markers and lights shall be installed, operated, and maintained at the expense of the City.

18.50.060 Permits

- A. **Future Uses.** Except as specifically provided in this subsection, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone created in Section 18.50.020 unless a permit has been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations prescribed in this chapter. If the determination is in the affirmative, the permit shall be granted.
 - 1. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when because of terrain, land contour, or topographic features, the tree or structure would extend above the height limits prescribed for the zone
 - 2. In the area lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when the tree or structure would extend above the height limit prescribed for the approach zone.
 - 3. Nothing contained in any of the exceptions set forth in this subsection shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limits established by this chapter except as set forth in Section 18.50.030.
- B. **Existing Uses.** No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher or become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- C. **Nonconforming Uses Abandoned or Destroyed.** Whenever the City Building Inspector determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that

would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

- D. **Variances.** Any person desiring to erect or increase the height of any structure or permit the growth of any tree or use his/her property not in accordance with the regulations prescribed in this chapter may apply to the Airport Zoning Commission for a variance from such regulations. Such variances shall be allowed when it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of this chapter.
- E. **Hazard Marking and Lighting.** If such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, any permit or variance granted may be so conditioned as to require the owner of the structure or tree in question to permit the City, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

18.50.070 Administration of Provisions

It shall be the duty of the City Building Inspector to administer and enforce the regulations prescribed in this chapter. Applications for permits and variances shall be made to the Building Inspector upon a form furnished by him. Applications required by this chapter to be submitted to the Building Inspector shall be promptly considered and granted or denied by him. Applications for action by the Airport Zoning Commission shall be forthwith transmitted by the Building Inspector.

18.50.080 Commission—Duties

- A. The Airport Zoning Commission shall hear and decide appeals from any order, requirement, decision, or determination made by the City Airports Director or Building Inspector in the enforcement of this chapter; hear and decide special exceptions to the terms of this chapter upon which the Commission under such regulations may be required to pass; and hear and decide specific variances.
- B. The Chairman of the Planning Commission shall be the Chairman of the Airport Zoning Commission with meetings of the Commission being held at the call of the Chairman and at such other times as the Commission may determine, but usually concurrently with Planning Commission meetings. All hearings of the Commission shall be public with the Director keeping minutes of Commission proceedings, records of Commission examinations, and other official actions, all of which shall immediately be filed in the office of the Director and shall be matters of public record.
- C. The Commission shall make written findings of fact and conclusions of law, giving the facts upon which it acted and its legal conclusion from such facts in revising, affirming, or

modifying any order, requirement, decision, or determination which comes before it under the provisions of this chapter.

- D. The concurring vote of a majority of the members of the Commission shall be sufficient to reverse any order, requirement, decision, or determination of the City Airports Director or Building Inspector or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

18.50.090 Appeals to Commission

- A. Any person aggrieved or any taxpayer affected by any decision of the City Airports Director or Building Inspector, if of the opinion that any such decision is an improper application of these regulations, may appeal to the Commission.
- B. All appeals must be taken within a reasonable time as provided by the rules of the Commission by filing with the Director a notice of appeal specifying the grounds thereof. The Director shall forthwith transmit to the Commission all the papers constituting the record upon which the action appealed from was taken.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Airports Director or Building Inspector, as the case may be, certifies to the Commission after the notice of appeal has been filed with it that by reason of the facts stated in the certificate a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by order of the Commission on due cause shown.
- D. The Commission shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- E. In conformity with the provisions of this chapter, the Commission may reverse or affirm in whole or in part or modify the order, requirement, decision, or determination appealed from and may make the order, requirement, decision, or determination as may be appropriate under the circumstances.

18.50.100 Violation—Penalty

Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than \$500 or imprisonment for not more than 90 days or both such fine and imprisonment; and each day a violation continues to exist shall constitute a separate offense.