

CHAPTER 181

AIRPORT ZONE HEIGHT LIMITATIONS

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181.005. PURPOSE. The purpose of this Chapter is intended to prevent the establishment of space obstructions in air approaches through height restrictions.

181.010. SPECIAL DEFINITIONS.

- (A) AIRPORT APPROACH means a fan-shaped area beyond the end of a runway where special height regulations are established. The dimensions of this area are those defined for the Airport Approach Zone of the Airport Development District, Chapter 180.015.
- (B) AIRPORT HAZARD means any structure, tree, or use of land which unreasonably obstructs the air space required for the safe flight of aircraft in landing or taking off at Independence Airport, or is otherwise hazardous to such landing or taking off of aircraft.
- (C) AIRPORT HAZARD AREA means any area of land upon which an airport hazard might be established if not prevented.
- (D) CLEAR ZONE means a fan shaped area beginning at the end of a runway, incorporated in the "airport approach" area, that should be kept essentially clear. Wherever possible, this area should be free of any construction or obstacle. The dimensions of this area are those defined for the Clear Zone of the Airport Development District, Chapter 180.015.

181.015. APPLICATION OF AIRPORT ZONE HEIGHT LIMITATIONS PROVISIONS.

- (A) In any zoned area where an airport approach area is combined with a primary zone, the following regulations shall apply. If any conflict in regulation or procedure occurs with a primary zone herein before specified, the provisions of this Chapter shall govern.
- (B) The following standards shall be applied to the Airport Development District in establishing appropriate heights limitations for structure and objects of natural growth;
 - (1) The clear zones will be kept free of any height obstructions which might be hazardous to normal air navigation operations, as determined by the State of Oregon Aeronautics Division.
 - (2) Nothing in this Chapter shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height of up to 35 feet above the surface of the land, except for areas in the clear zones. Height limitations for the clear zone will be based upon the following ratio: slopes 20 feet outward for each foot upward beginning at the end of the paved runway and extending to a horizontal distance of 700 feet.
 - (3) Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.
 - (4) Whenever the height controls provided by Federal Aviation Administration Regulations prescribes a lower height than permitted by the provisions of this ordinance in areas affected by aircraft operations in and around a State airport, then such lower height shall govern.

181.020. NONCONFORMING USES.

- (A) Regulations Not Retroactive. The regulations prescribed by this Chapter shall not be construed to require the removal, lowering, or other change or alteration of structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained

herein 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 Ordinance and is diligently prosecuted.

- (B) **Marking and Lighting.** Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.
- (C) **Nonconforming Uses Abandoned or Destroyed.** Whenever it is determined that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

181.025. VARIANCES. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, not in accordance with the regulations prescribed in this Chapter, may apply to the Hearings Officer or Planning Director for a variance from such regulations following those procedures for variances set forth in Chapter 122. The application for variance shall be accompanied by a determination from the Oregon Department of Transportation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this Ordinance.

Additionally, no application for variance to the requirements of this Chapter may be considered by the Hearings Officer or Planning Director unless a copy of this application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within 15 days after receipt, the Hearings Officer or Planning Director may act to grant or deny said application. [Amended by Ordinance #88-21, dated November 30, 1988.]