

SECTION 3.091. AIRPORT HAZARD ZONE, AH

SECTION 3.091. PURPOSE. A zone regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of the Lexington public use airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the land use plan and approach clear zone plan (zoning maps) which are incorporated in and made a part of this ordinance; providing for enforcement; and imposing penalties.

This zone is adopted pursuant to the authority conferred by Morrow County. It is hereby found that an airport hazard endangers the lives and property of users of the Lexington public use airport in Morrow County, and property or occupants of land in the vicinity thereof, and also if the obstruction type, in effect reduces the size of the area available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of these airports and the public investment therein. Accordingly, it is declared:

That the creation or establishment of an airport hazard within the zone is a public nuisance and an injury to the region served by public use airports in the county;

That it is necessary in the interest of the public health, public safety, and general welfare and prosperity that the creation or establishment of airport hazards be prevented; and

That the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

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 political subdivisions may raise and expend public funds and acquire land or interests in land.

A. Definitions. As used in this section, unless the context otherwise requires:

1. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from mean sea level (205 feet MSL).
2. AIRPORT HAZARD - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.
3. STRUCTURE - An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formation, and overhead transmission lines.

4. TREE - Any object of natural growth.
5. NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Section or an amendment thereto.
6. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
7. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.
8. RUNWAY - A defined area on public use airport prepared for landing and takeoff of aircraft along its length including both existing and proposed as shown on approved Airport Layout Plans for each airport.
9. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined in Federal Aviation Regulations (FAR) Part 77, and shown on the approved Approach and Clear Zone Plan for each airport.
10. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on the FAA approved Airport Layout Plan.
11. UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less (Runway 8-26 and 9-27 at the Morrow County Airport).
12. NON-PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on the Airport Layout Plan.
13. PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on the approved Airport Layout Plan.
14. PRIMARY SURFACE - A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation

of any point on the primary surface is the same as the elevation of the nearest point onto the runway centerline.

15. PUBLIC USE AIRPORT - Any airport, publicly or privately owned, which is open to public use and meets all appropriate state and federal operational criteria.

B. Airport Zones. In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a public use airport. Such zones are shown on both the "Land Use Plan" (Drawing 3) and "Approach and Clear Zone Plan" (Drawing 2) of the Morrow County Airport Layout Plan, which are attached to this Section and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive limitations. At the Lexington Airport, the AH Zone applies to the areas identified on the March 2001 ALP Map as the Approach Surface, Horizontal Surface and Conical Surface. The various zones are hereby established and defined as follows:

1. APPROACH AND CLEAR ZONES - Those areas depicted on the approved Approach and Clear Zone Plan including the horizontal conical, approach and primary surfaces which pertain to federal aviation Regulation (FAR) Part 77. Within this zone are the following defined sub-zones:

a. Utility Runway Visual Approach Sub-Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.

b. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Non-Precision Instrument Approach Sub-Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.

c. Precision Instrument Runway Approach Sub-Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.

d. Transitional Sub Zones - These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend

outward and upward at 90-degree angles to the runway centerline and the runway.

e. Horizontal Sub-Zone - The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

f. Conical Sub-Zone - The conical zone is hereby established in the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zones and the transitional zones.

C. Airport Zone Height Limitations. Except as otherwise provided in this Section, no structure or tree shall be erected, altered, allowed to grow, or be maintained in any zone created by this Section to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones and sub-zones in question as follows:

1. Utility Runway Visual Approach Sub-Zone - Slopes upward twenty (20) feet horizontally for each foot vertically, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. Runway Larger Than Utility with a Visibility Minimum Greater Than 3/4 Mile Non-Precision Instrument Approach Sub-Zone - Slopes upward thirty-four (34) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

3. Precision Instrument Runway Approach Sub-Zone - Slopes upward fifty (50) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

4. Transitional Sub-Zones - Slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation which is the highest elevation of each public use airport. In addition to the foregoing, there are established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface. Where the precision instrument runway

approach zone projects beyond the conical zone, height limits sloping upward and outward seven (7) feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

5. Horizontal Sub-Zone - One hundred and fifty (150) feet above the airport elevation.

6. Conical Sub-Zone - Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

7. Excepted Height Limitations - Nothing in this Zone shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to thirty five (35) feet above the surface of the land. When an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail. These surfaces are shown on the approved Approach and Clear Zone Plan for each public use airport.

D. Use Restrictions. Notwithstanding any other provisions of this Section, no use may be made of land or water within airport zones established by this Section in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the public use airport. Included in this restriction is any land or water use which would tend to foster or increase bird population and thereby increase the likelihood of a bird strike problem.

Notwithstanding any other provisions of this Section, no use may be made of land or water within the approved Approach and Clear Zones established by this Section in such a manner which would promote or provide for large congregations of people and/or above-ground storage of flammable substance.

E. Nonconforming Uses.

1. Regulations not Retroactive - The regulations prescribed by this Zone 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 Section, or otherwise interfere with the continuance of a 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 Zone and is diligently prosecuted.

2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing non-conforming 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 Morrow County Court, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the owner of the public use airport.

F. Permits.

1. Future Uses - 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 or sub-zone hereby created unless a permit therefore shall have been applied for and granted.

a. However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.

b. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to the regulation herein prescribed. If such determination is in the affirmative, the permit shall be granted.

2. 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 become a greater hazard to air navigation than it was on the effective date of this Zone 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.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the county determines 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.

4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Section may apply to the County Planning Commission for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical

difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Zone.

5. Hazard Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Zone and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the county or airport owner, at its own expense, to install, operate, and maintain thereon, such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

G. Enforcement. It shall be the duty of Morrow County Court to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the respective jurisdictions upon a form furnished by them. Applications required by this Section to be submitted to the agency of Morrow County Court shall be promptly considered and granted or denied by them. Application for action by the County Planning Commission shall be forthwith transmitted by the respective jurisdictions.

H. Appeals. Any person aggrieved, or any taxpayer affected by any decision of the county administering office made in his administration of this Zone may appeal as provided in Article 9 of this Ordinance.