

Article 29:

AIRPORT APPROACH ZONING

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Sec. 9-1.2900:

Short Title

This chapter shall be known and may be cited as the “Airport Zoning Regulations of the City of Ontario”.
(§ 1, Ord. 997)

Sec. 9-1.2905:

Authority: Purposes

The provisions of this chapter are adopted pursuant to the authority conferred by the provisions of Article 6.5 of Chapter 2, Part 1, Division 1, Title 5 of the Government Code of the State, otherwise known as the “Airport Approaches Zoning Law”, and for the purposes of promoting the public health, public safety, and general welfare of the inhabitants of the City by preventing the creation or establishment of airport hazards, thereby protecting the lives and property of users of the Ontario International Airport, and of occupants of land in its vicinity, and preventing destruction or impairment of the utility of the airport and the public investment therein.
(Ord. 997)

Sec. 9-1.2910:

Definitions

For the purposes of this chapter, unless otherwise apparent from the context certain words and phrases used in this chapter are defined as follows:

- A. “Airport” shall mean the Ontario International Airport.
- B. “Airport approach zone”. The airport approach zone shall include the approach area and the air space directly above it.
- C. “Airport hazard” shall mean any structure, tree, or use of land which obstructs the air space immediately adjacent to the air space required for the flight of aircraft in landing or taking off at an airport so as to endanger the life or property of persons within the aircraft as well as the life or property of persons on the ground below.

- D. "Airport hazard area" shall mean any area of land or water upon which an airport hazard might be established but for the regulations contained in this chapter. The zones described in subsections (b), (e), and (f) of this section and as designated and delineated on the map described in Section 9-1.2915 of this chapter are hereby designated as the airport hazard area of the Airport.
- E. "Airport Transition Zone". The transition zone shall include the land areas directly beneath the transition surfaces and the air spaces directly above and below the transition surfaces.
- F. "Airport Turning Zone". The turning zone shall include the land areas directly beneath the conical surface and the horizontal surface and the air spaces directly above and below the horizontal surface and conical surface.
- G. "Approach area" shall mean the land area directly below the approach surface area as delineated on the map described in Section 9-1.2915 of this chapter.
- H. "Approach surface" shall mean the inclined plane designated "Approach Surface Area" on the map described in Section 9-1.2915 of this chapter.
- I. "Conical surface" shall mean the area extending upward and outward from the periphery of the horizontal surface as designated "Conical Surface Area" on the map described in Section 9-1.2915 of this chapter.
- J. "Horizontal surface". The horizontal surface is a plane, circular in shape, with its height 150 feet above the established airport elevation of 952 feet as established by the United States Coast and Geodetic Survey. The elevation of the horizontal surface is therefore 1,102 feet, United States Coast and Geodetic Survey Datum. The horizontal surface has a radius of 10,000 feet from the airport reference point as shown by the United States Coast and Geodetic Survey Airport Obstruction Plane and Profile, Ontario International Airport, Ontario, California, O P 965.
- K. "Landing area" shall mean the area of the airport used for the landing, takeoff, or taxiing of aircraft, consisting of the area extending 50 feet each side of the center line and 20 feet outward from the ends of Runway 7-25 and extending 200 feet each side of the center line and 200 feet outward from the ends of Runway
- L. "Nonconforming use" shall mean any structure, tree, or use of land which does not conform to a regulation set forth in this chapter, or an amendment thereto, as of the effective date of such regulation.
- M. "Person" shall mean any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic and shall include any trustee, receiver, assignee, or other similar representative thereof.
- N. "Structure" shall mean any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
- O. "Transitional surfaces" shall mean the area designated "Transitional Surface Area" on the map described in Section 9-1.2915 of this chapter.
- P. "Tree" shall mean any object of natural growth. (§ 2, Ord. 997, as amended by §§ 1,2, and 3, Ord. 1594, and §§ 2,3,4,5,6, and 7, Ord. 1693, eff. September 5, 1968)

Sec. 9-1.2915:**Airport Hazard Areas Map Adopted**

There is hereby adopted as an Airport Hazard Areas Map (Figure 29-1), showing permitted height limits at the Airport, Department of Airports Drawing No. 6832-800, one copy of which is on file in the office of the City Clerk and one copy of which is on file in the office of the Chief Building Official. The boundaries of the Airport Hazard Areas and the height limitations imposed therein shall be as shown on said map, and all of the notations, marks,

references, and other information thereon are incorporated by reference herein the same as though set forth at length.

(§ 1, Ord. 1693, eff. September 5, 1968)

Sec. 9-1.2920:

Height Limits.

Except as otherwise provided in this chapter, no building or structure shall be erected, structurally altered, enlarged, or maintained; no object shall be placed, projected, or maintained; and no tree shall be planted, allowed to grow, or be maintained within the Airport Approach Zone, Airport Turning Zone, Airport Transition Zone, or Airport Hazard Areas as designated on the map described in Section 9-1.2915 of this chapter which building, structure, object, or tree exceeds the permitted heights specifically shown on said map; provided, however the provisions of this section shall not prevent structures and trees to an overall height of not to exceed forty-five (45') feet above the natural ground elevation.

Whenever and wherever any of such surfaces overlap, the most highly restrictive requirement shall govern and control; provided, however, the foregoing descriptions shall not impose upon the City any duty of maintenance or care.

(§ 3, Ord. 997, as amended by § 8, Ord. 1693, eff. September 5, 1968)

Sec. 9-1.2925:

Use Restrictions

Notwithstanding any other provision of this chapter, no use may be made of land within an airport approach zone, airport turning zone, or airport transition zone in such 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, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

(§ 4, Ord. 997)

Sec. 9-1.2930:

Nonconforming Uses

The provisions of Section 9-1.2905 of this chapter shall not be constructed to require the removal, lowering, or any other change or alteration of any structure or tree not conforming to said provisions on June 2, 1954, nor shall said provisions interfere with the continuance of any nonconforming use.

The provisions of Section 9-1.2905 of this chapter shall not require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to June 2, 1954, and which construction is diligently prosecuted and completed within one year thereof.

(§ 5, Ord. 997)

Sec. 9-1.2935:

Permits

Before any existing structure may be replaced, substantially altered, or rebuilt within any airport approach zone, airport turning zone, or airport transition zone, a permit shall be secured authorizing such replacement or change. No such permit shall be granted which would allow the establishment or creation of an airport hazard, or permit a nonconforming use, or permit a structure to be made or become higher or become a greater hazard to air navigation than it was on June 2, 1954, or than it is when the application for a permit is made.

(§ 8, Ord. 997)

Sec. 9-1.2940:**Variances**

Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations set forth in this chapter may apply to the City Planner for a variance therefrom. Such variance shall be allowed where a literal application or enforcement of said regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the provisions of this chapter; provided, however, any variance may be subject to such reasonable conditions and restrictions as the City Planner may deem necessary.

Sec. 9-1.2945:**Hazard Marking and Lighting**

Any permit or variance granted pursuant to the provisions of Sections 9-1.2935 and 9-1.2940 of this chapter, if such action is deemed advisable to effectuate the purposes of this chapter and is reasonable in the circumstances, may be so conditioned as to require the owner of the structure in question to permit the City to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(§ 9 Ord. 997)

Sec. 9-1.2950:**Administrative Agency**

The Planning Director is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations set forth in this chapter. The duties of the Planning Director shall include hearing and deciding all permits pursuant to the provisions of Section 9-1.2907 of this chapter, but he shall not have or exercise any of the powers or duties delegated to the Board of Adjustment by the provisions of this chapter.

(§ 6, Ord. 997)

Sec. 9-1.2955:**Board of Adjustment**

A. Powers and duties. There is hereby created a Board of Adjustment to have and exercise the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Planning Director in the enforcement of the provisions of this chapter;
2. To hear and decide special exceptions to the provisions of this chapter upon which such Board may be required to pass by subsequent ordinances; and
3. To hear and decide specific variances pursuant to the provisions of Section 9-1.2940 of this chapter.

B. Members. The Board of Adjustment shall consist of members of the Planning Commission of the City, ex officio.

C. (c) Rules: Meetings: Procedure: Records. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this chapter. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations

and other official actions, all of which shall immediately be filed in the office of the Board and be a public record. (§ 11, Ord. 997)

**Sec. 9-1.2960:
Appeals**

- A. Authorized.** Any person aggrieved, or taxpayer affected, by any decision of the City Planner made in the administration of the provisions of this chapter, if of the opinion that a decision of the City Planner is an improper application of the provisions of this chapter, may appeal to the Board of Adjustment.
- B. Filing.** All such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the City Planner and with the Board a notice of appeal specifying the grounds therefor. The City Planner shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- C. Stay of proceedings.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Planner certifies to the Board, after the notice of appeal has been filed, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by order of the Board on notice to the City Planner and on due cause shown.
- D. Hearings: Notices.** The Board shall fix a reasonable time for the hearing of the appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person, or by agent, or by attorney.
- E. Decisions.** The Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order requirement, decision, or determination as ought to be made.
- F. Findings and conclusions to be in writing.** The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it pursuant to the provisions of this chapter.
- G. Majority vote.** The concurring vote of a majority of the members of the Board shall be sufficient to reverse any order, requirement, decision, or determination of the City Planner, or to decide in favor of the applicant on any matter upon which it is required to pass, or to effect any variation from the provisions of this chapter. (§ 10, Ord. 997)

**Sec. 9-1.2965:
Judicial Review**

Any person aggrieved, or taxpayer affected, by any decision of the Board of Adjustment may appeal to a court as provided in Section 50485.11 of the Government Code of the State. The findings of fact of the City Planner or Board of Adjustment, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a decision of the City Planner or Board of Adjustment shall be considered by the court unless such objection shall have been urged before the administrative agency, or if it was not so urged, unless there were reasonable grounds for failure to do so. (§ 12, Ord. 997)

**Sec. 9-1.2970:
Conflicting regulations**

Where the provisions of this chapter impose a greater or more stringent restriction upon the use of land that is imposed or required by any other law or regulation, the provisions of this chapter shall govern. (§ 14, Ord. 997)

**Sec. 9-1.2975:
Violations: Penalties**

Each violation of the provisions of this chapter, or of any regulation, order, or ruling promulgated or made pursuant hereto, shall constitute a misdemeanor and shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

In addition, the City may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the provisions of this chapter or any order or ruling in connection with the administration or enforcement of said provisions, and the court shall adjudge to the City such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper. (§ 13, Ord. 997)

**Sec. 9-1.2980:
Airport Safety Zones**

The following regulations apply to uses on all parcels, regardless of zoning district, which fall within an airport approach safety zone:

- A. The maximum height within Airport Approach Safety Zones, as described in the Airport Environs Element of the General Plan, shall be one (1) story and shall not encroach into limits of the Federal Aviation Regulation (FAR) Part 77 imaginary surfaces;
- B. The maximum floor area ratio in the Airport Approach Safety Zones shall be twenty-five hundredths (0.25);
- C. Within the boundaries of the Airport Approach Safety Zones, the maximum lot coverage shall be twenty-five (25) percent;
- D. Unless the configuration of a parcel would otherwise prevent such, all proposed developments should be designed with no structures directly on the extended runway centerline. Parking lots may be located in line with runway approaches;
- E. All exterior illumination and parking lot lights shall be designed to avoid skyward glare, which may endanger aircraft operations. Buildings within this area shall install aircraft warning lights on the roof where required by the FAA;
- F. All development shall be constructed or reconstructed in accord with Federal Aviation Regulations (FAR) Part 77;
- G. An aviation and noise easement shall be granted to the City of Ontario and recorded prior to the issuance of any permits for new development. For the purpose of this requirement, new development shall mean the construction of new or replacement structures excluding attached to detached accessory structures, such as garages, storage buildings and the like.
- H. Any building located within the Airport Approach safety Zone which is intended for human occupancy, shall be acoustically designed by a qualified acoustic engineer to mitigate internal noise below 55 Community Noise Equivalent Level (CNEL). This requirement shall be a condition for the Development Advisory Board;

- I. Within the boundaries of the Airport Approach Safety Zones, employment shall not exceed twenty-five (25) persons per acre. Land uses which would normally exceed this limit may only be approved with supporting data showing the average intensity will not be exceeded;
- J. For properties within Airport Approach Safety Zones, the following materials must be submitted in conjunction with any requested permits or development plan approvals:
 - 1. A written description of the nature of the anticipated use, with sufficient information to enable the City Planner to determine the compatibility of the use in this area. The description shall include but not limited to information regarding proposed operations, the number of employees on a shift, the total number of shifts, customer service (numbers of customers anticipated to visit the site), hours of operation and other appropriate material;
 - 2. Pictures and addresses of the same or similar use, if any, which are in existence elsewhere;
 - 3. Additional materials which may be required to clarify any aspects of the use as determined at the time of application review.
- K. Uses which possess or promote any of the following characteristics shall not be permitted within an Airport Approach Safety Zone, including:
 - 1. Flammable;
 - 2. Uses which attract birds;
 - 3. Overhead power lines;
 - 4. Electrical interference;
 - 5. Smoke;
 - 6. High intensity lighting;
 - 7. Concentration of people exceeding twenty-five (25) persons per acre.