

PART 17

“APZ” AIRPORT ZONING OVERLAY DISTRICT REGULATIONS

Section 1700. Purpose

This Part regulates and restricts the height to which structures may be erected or objects of natural growth, and otherwise regulating the use of property in the vicinity of the Harrisburg International Airport (HIA) and the Capital City Airport (CCA) by:

- A. Creating the appropriate zones and establishing the boundaries thereof;
- B. Providing for changes in the restrictions and boundaries of such zones;
- C. Defining certain terms used herein;
- D. referring to the height limitation and zoning district map which is incorporated in and made part of this Chapter and part;
- E. Providing for enforcement and imposing penalties.

Section 1701. Authority

This Part is adopted pursuant to the authority conferred by 1984 Pa Laws 164, codified at 74 Pa. Cons. Stat. 5101 et. seq.

- A. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Harrisburg International Airport and the Capital City Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Harrisburg International Airport and the Capital City Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the Harrisburg International Airport and the Capital City Airport and the public investment therein. Accordingly, it is declared:
 - 1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Harrisburg International Airport and the Capital City Airport;
 - 2. That it is necessary in the interest of the public health, safety, morals and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
 - 3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
 - 4. It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alternation or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

Section 1702. Airport Surface Zones

In order to carry out the provisions of this Part, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to HIA and CCA. Such zones are shown on the HIA and CCA Height Limitation and Zoning District Map prepared by the Pennsylvania Department of Transportation, Bureau of Aviation, and dated Spring, 1989, or

the Borough of Highspire, Dauphin County, Pennsylvania Airport Overlay Zoning Map, one of which is attached to this Chapter 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 height limitation. The various zones are hereby established and defined as follows:

- A. Utility Runway Visual Approach Surface Zone - Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide. The zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- B. Utility Runway Non-precision Instrument Approach Surface Zone - Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is five hundred (500) feet wide. The zone expands outward uniformly to a width of two thousand (2,000) feet at horizontal distances five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- C. Runway Larger Than Utility Visual Approach Surface Zone - Established beneath the visual approach surface. - The inner edge of this zone coincides with the width of the primary surface and is five hundred (500) feet wide. The zone expands outward to a width of one thousand five hundred (1,500) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- D. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Surface Zone - Established beneath the non- precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is five hundred (500) feet wide. The zone expands outward uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- E. Runway Larger Then Utility With A Visibility Minimum As Low As 3/4 Mile Non- precision Instrument Approach Surface Zone - Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The zone expands outward uniformly to a width of four thousand (4,000) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- F. Precision Instrument Runway Approach Surface Zone - Established beneath the precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The Zone expands outward uniformly to a width of sixteen thousand (16,000) feet a horizontal distance of fifty thousand (50,000) feet from the primary surface. The centerline is the continuation of the centerline of the runway.
- G. Transitional Surface Zones - Established beneath the transitional surfaces adjacent to each runway and approach surface as indicated on the Height Limitation and Zoning District Map or the Borough of Highspire, Dauphin County, Pennsylvania Airport Overlay Zoning Map.
- H. Horizontal Surface Zone - Established beneath the horizontal surface, one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of ten thousand (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 surface zone does not include the approach surface and transitional surface zones.
- I. Conical Surface Zone - Established beneath the conical surface. This zone commences at the periphery of the horizontal surface and extends outward therefrom a horizontal distance of four thousand (4,000) feet.

Section 1703. Airport Surface Zone Height Limitations

Except as otherwise provided in this Part, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Part 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 in question as follows:

- A. Utility Runway Visual Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevations as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.
- B. Utility Runway Nonprecision Instrument Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.
- C. Runway Larger Than Utility Visual Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.
- D. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Surface Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand (10,000) feet along the extended runway centerline.
- E. Runway Larger Than Utility With A Visibility Minimum As Loa As 3/4 Mile Nonprecision Instrument Approach Surface Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand (10,000) feet along the extended runway centerline.
- F. Precision Instrument Runway Approach Surface Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of an at the same elevation as the primary surface and extending to a horizontal distance of ten thousand (10,000) feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional forty (40) feet horizontally for each foot vertically to an additional horizontal distance of forty thousand (40,000) feet along the extended runway centerline.
- G. Transitional Surface Zones - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation which is (4) feet above the mean sea level. In addition to the foregoing when an airport has a precision instrument runway approach zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety (90) degree angles to the extended runway centerline.
- H. Horizontal Surface Zone - Established at one hundred fifty (150) feet above the established airport elevation or at a height of four hundred sixty (460) feet above mean sea level for HIA and four hundred ninety seven (497) feet above mean sea level for CCA.
- I. Conical Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal surface and at one hundred fifty (150) feet above the established airport elevation and extending to a height of three hundred fifty (350) feet above the established airport elevation or at a height of six hundred sixty (660) feet above mean sea level for HIA and six hundred ninety seven (697) feet above mean sea level for CCA.

- J. Excepted Height Limitations - Nothing in this Part shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to thirty five (35) feet above the surface of the land.

Section 1704. Airport Zoning Requirements

- A. Reasonableness - All airport zoning regulations adopted under this Part shall be reasonable; none shall impose any requirement or restriction unless it is reasonable necessary to effectuate the purpose of this Part. In determining what regulations it may adopt, the Borough of Highspire shall consider, among other factors, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood and the uses to which the property to be zoned is put and adaptable.
- B. Use Restrictions - Notwithstanding any other provisions of this Part, no use may be made of land or water within any zone established by this Part in such a manner as to create electrical interference with navigational signals or radio communication 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, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.
- C. Nonconforming Uses:
1. Regulations Not Retroactive - The regulations prescribed by this Part shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any nonconforming use, except as provided in Section 1705 (relating to permits and variances). 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 Part, and is diligently executed.
 2. 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 or nearby of such markers and lights as shall be deemed necessary by the Borough of Highspire or other agency of jurisdiction 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 owner of the structure.

Section 1705. Permits and Variances

- A. Future Uses - Except as specifically provided in 1705.A.1-3, hereunder no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have 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 herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Part shall be granted unless a variance has been approved in accordance with Section 1705.D.
1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet or vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
 2. In area lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required

for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except then, because of terrain, land contour or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.

3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Part, except that no permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

- B. Existing Uses - Before any conforming structure may be replaced, substantially altered or rebuilt or tree allowed to grow higher or replanted, a permit must be secured from the municipality authorizing the replacement or change. No permit shall be granted that would allow the establishment or creation of an obstruction 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 Chapter or any amendments thereto or than it is when the application for a permit is made.
- C. Nonconforming Uses Abandoned or Destroyed - Whenever the Zoning Enforcement Officer determines that a nonconforming tree or structure has been abandoned or more than eighty (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 this Part.
- D. Variance - Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth or otherwise use his property in violation of airport zoning regulations may apply to the Zoning Hearing Board for a variance from the zoning regulations in question. A variance shall only be granted after the requirements of Part 3 of this Chapter are satisfied. A variance may be allowed where 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 would be in accordance with the spirit of the regulations and this Part. Any variance may be granted subject to any reasonable conditions that the Zoning Hearing Board may deem necessary to effectuate the purposes of this Part.

The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for variance to the requirements of this Part may be considered by the Zoning Hearing Board unless a copy of the application has been furnished to the Airport Manager (or person of equivalent description) for advice as to the aeronautical effects of the variance. If the Airport Manager (or person of equivalent description) does not respond to the application within fifteen (15) days after receipt, the Zoning Hearing Board may act without such input to grant or deny said application.

- E. Hazard Marking and Lighting - In granting any permit or variance under this Section, the Board shall, if it deems the action advisable to effectuate the purpose of this Part and reasonable under the circumstances, so condition the permit or variance as to require the owner of the structure or object of natural growth in question to permit the municipality, as its own expense, or require the person or persons requesting the permit or variance, to install, operate and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the FAA.

Section 1706. Enforcement/Notice

- A. Local Enforcement - It shall be the duty of the Zoning Officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Enforcement Office shall be promptly considered and granted or denied. Application for action by the Zoning Hearing Board shall be forthwith transmitted by the Zoning Officer.
- B. Notice To Department - Notwithstanding any other provision of law, a municipality or board which decides to grant a permit or variance under this Part shall notify the PA Department of Transportation (PennDOT) of its decision. This notice shall be in writing and shall be sent so as to reach the department at least ten (10) days before the date upon which the decision is to issue.

Section 1707. Appeals

- A. Right of Appeal - Any person aggrieved or taxpayer affected by any decision of the Borough of Highspire may appeal to the Zoning Hearing Board as provided by law.
- B. Reasonable Time Requirement - All appeals hereunder must be taken within a reasonable time as provided by the rules of the Zoning Hearing Board. The Zoning Hearing Board shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- C. Stay of Proceedings - An appeal shall stay all proceedings in furtherance of the action appealed from unless the Borough certifies to the Zoning Hearing Board, after the notice of appeal has filed with it, a stay would in its opinion cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the Zoning Hearing Board or notice to the municipality or joint zoning appeal board.
- D. Power to Reverse, Affirm or Modify Orders - The Board of Adjustment may, in conformity with the provisions of this Part, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

Section 1710. Acquisition of Air Rights

In any case in which it is desired to remove, lower or otherwise terminate a non-conforming structure or use, or the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations, or it appears advisable that the necessary approach protection be provided by acquisition of property rights, rather than be airport zoning regulations, the Borough of Highspire may acquire by purchase, grant or condemnation, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such air right, aviation easement or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purpose of this Part. In the case of the purchase of any property or any easement or estate, or interest therein, or the acquisition thereof by the power of eminent domain, the Borough making the purchase of exercising the power shall, in addition to the damages for the taking, injury or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

Section 1711. Relation to Other Zoning Regulations

- A. Incorporation - In the event that a municipality has adopted or hereafter adopts a comprehensive zoning ordinance regulating, among other things, the height of buildings, and airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of the comprehensive zoning regulations and be administered and enforced in connection therewith.
- B. Conflicts - in the event of conflict between any airport zoning regulations adopted under this Part and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of lane, or any other matter, and whether the other regulations were adopted by the

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municipality which adopted the airport zoning regulations of be some other municipality or otherwise, the more stringent limitation or requirement shall govern and prevail.

Section 1712. Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Hearing, may appeal to the Court of Common Pleas as provided by law. In cases where applicable law does not provide an appeal from a municipality to a Board, a person or taxpayer may appeal from a decision of a municipality or joint airport zoning hearing board, as provided by law for similar zoning proceedings.