

CHAPTER XXXIII

AIRPORT ZONING

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Section 101. Short Title. This Chapter shall be known and may be cited as the Reading Municipal Airport Zoning Ordinance. (Ordinance No. 165, October 26, 1981, Section I)

Section 102. Definitions. As used in this Chapter, unless the context otherwise requires:

Airport: Means Reading Municipal Airport, located in Bern Township, Berks County, Pennsylvania.

Airport Elevation: 344 feet above mean sea level.

Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 103 of this Chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Transitional, Horizontal, and Conical Zones: These zones are set forth in Section 103 of this Chapter.

Board or Board of Adjustment: The Board of Adjustment created under Section 108 hereof.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 ft.

Hazard to Air Navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height: For the purpose of determining the height limits in all zones set forth in this Chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface: A horizontal plan 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming Use: Any structure, object of natural growth, or use of land which is inconsistent with the provisions of this Chapter, or an amendment thereto, and which is in existence as of the effective date of this Chapter, or of such amendment hereto, as the case may be.

Municipality: Means the Township of Spring, Berks County, Pennsylvania.

Nonprecision 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 nonprecision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 103 of this Chapter.

Person: An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

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 an approved airport layout plan or any other planning document.

Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hand surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 103 of this Chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and

approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

Tree: Any object of natural growth.

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.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

Zoning Officer: Means that person appointed by the municipality to issue zoning permits who shall be charged with the duty of administering and enforcing this Chapter.

(Ordinance No. 165, October 26, 1981, Section II)

Section 103. Airport Zones. In order to carry out the provisions of this Chapter, 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 Reading Municipal Airport. Such zones are shown on the Airport Zoning Map consisting of one sheet, any zone created by this Chapter to a height in excess of the applicable height 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 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 5,000 feet along the extended runway centerline.

(B) Runway Larger Than Utility Visual Approach 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 5,000 feet along the extended runway centerline.

(C) Runway Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach 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 10,000 feet along the extended runway centerline.

(C) Precision Instrument Runway Approach Zone. Slopes fifty (50) 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 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.

(D) Transitional 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 150 ft. above the airport elevation which is 344 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning 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 the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

(E) Horizontal Zone. Established at 150 feet above the airport elevation on at a height of 494 feet above mean sea level.

(F) Conical Zone. Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

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

(Ordinance No. 165, October 26, 1981, Section III)

Section 104. Use Restriction. Notwithstanding any other provisions of this Chapter, no use may be made of land on water within any zone established by this Chapter in such a manner as to create electrical interference with navigational signals on 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 to use the airport. (Ordinance No. 165, October 26, 1981, Section V)

Section 105. Nonconforming Uses.

(A) Regulations Not Retroactive. The regulations prescribed in this Chapter shall not be construed to require the removal, lowering or other change on alteration of any structure on tree not conforming to the regulations as the effective date of this Chapter, on 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 begin prior to the effective date of this Chapter, 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 to indicate to the operations 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.

(Ordinance No. 165, October 26, 1981, Section VI)

Section 106. Permits.

(A) Future Uses. Except as specifically provided in a, b, and c 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 thereon 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, on 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 Chapter shall be granted unless a variance has been approved in accordance with Section 106(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 feet of 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 areas 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 runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when 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 zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, 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, on alteration of any structure, on growth of any tree in excess of any of the height-limits established by this Chapter except as set forth in Section 103(G).

(B) Existing Uses. 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. Except as indicated, all applications for such a permit shall be granted.

(C) Nonconforming Uses Abandoned or Destroyed. Whenever the Zoning Officer 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.

(D) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Chapter, may apply to the Board of Adjustment for a variance from such regulations. 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. Such variances on enforcement of the regulations will result in practical difficulty or 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 Chapter. Additionally, no application for variance to the requirements of this Chapter may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the Board of Adjustment may act on its own to grant or deny said application. Any variance granted may be made subject to any reasonable conditions that the Board may deem necessary to effectuate the purposes of this Chapter.

(E) Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary.

(Ordinance No. 165, October 26, 1981, Section VII)

Section 107. Enforcement.

(A) 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 Officer upon a form published for that purpose. Applications required by this Chapter to be submitted to the Zoning Officer shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Zoning Officer.

(B) In addition to other available remedies, the municipality may institute in any court of competent jurisdiction an action to prevent, restrain, connect or abate any violation of this Chapter, on of any order or ruling made in connection with its administration or enforcement.

(Ordinance No. 165, October 26, 1981, Section VIII)

Section 108. Board of Adjustment.

(A) There is hereby created a Board of Adjustment which shall be the Zoning Hearing Board of the municipality which shall have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Officer in the enforcement of this Chapter; (2) to hear and decide special exceptions to the terms of this Chapter upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide applications for variances.

(B) The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Chapter. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment 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 Adjustment and shall be a public record.

(C) The Board of Adjustment shall make written findings of facts 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 under the provisions of this Chapter.

(D) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, on determination of the Zoning Officer, or decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or the effect variation to this Chapter.

(Ordinance No. 165, October 26, 1981, Section IX)

Section 109. Appeals.

(A) Any person aggrieved, or any taxpayer affected by any decision of the Zoning Officer, made in the administration of the Chapter, may appeal to the Board of Adjustment.

(B) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Zoning Officer and with the Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record from which the action appealed was taken.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Officer certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the opinion of the Zoning Officer, cause

imminent peril to life on property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment or notice to the Zoning Officer and on due cause shown.

(D) The Board of Adjustment 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 attorney. The Board shall schedule, advertise, and conduct the hearing in the manner and procedure as outlined in the Zoning Ordinance (Chapter XXXII) of the municipality for the conducting of other similar hearings before the Board, which procedure is herein incorporated by reference to the extent that it does not conflict with the provision of this Chapter.

(E) The Board of Adjustment may, in conformity with the provisions of this Chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, on determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

(Ordinance No. 165, October 26, 1981, Section X)

Section 110. Judicial Review. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal within thirty (30) days after the decision is filed in the Office of the Board, to the Court of Common Pleas of Perks County, according to the provisions of the Act of Assembly by virtue of which this Chapter was adopted. (Ordinance No. 165, October 26, 1981, Section XI)

Section 111. Penalties. Each violation of this Chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a summary offense and be punishable by a fine of not more than Three Hundred Dollars (\$300.00) or imprisonment for not more than thirty (30) days or both; and each day a violation continues to exist shall constitute a separate offense. (Ordinance No. 165, October 26, 1981, Section XII)

Section 112. Conflicting Regulations. Where there exists a conflict between any of the regulations on limitations prescribed in this Chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures on and the use of land, or any other matter, the more stringent limitation on requirement shall govern and prevail. (Ordinance No. 165, October 26, 1981, Section XIII)

Section 113. Severability. If any of the provisions of this Chapter on the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect

without the invalid provisions or application, and to this end, the provisions of this Chapter are declared to be severable. (Ordinance No. 165, October 26, 1981, Section XIV)