

Sec. 2.5-4. Height limitations.

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

(1) *Approach zones.*

- a. *Runway 17:* One (1) foot in height for every thirty-four (34) feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point ten thousand (10,000) feet from the end of the primary surface.
- b. *Runway 35:* One (1) foot in height for every twenty (20) feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point five thousand (5,000) feet from the end of the primary surface.

(2) *Transition zones* slope 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 one thousand thirty-six (1,036) feet above mean sea level.

(3) *Horizontal zone* established at one hundred fifty (150) feet above the airport elevation or a height of one thousand one hundred eighty-six (1,186) feet above mean sea level.

(4) *Conical zone* slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.

(5) *Excepted height limitations.* Nothing in this article shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to fifty (50) feet above the surface of the land.

(Ord. No. 15-90, § 4, 5-29-90)

Sec. 2.5-6. Nonconforming uses.

- (a) *Regulations not retroactive.* The regulations prescribed by this article 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

article or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained 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 article and is diligently prosecuted.

- (b) *Marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any 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 city secretary to indicate to the operators of aircraft in the vicinity of the airport about the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the city.

(Ord. No. 15-90, § 6, 5-29-90)

Sec. 2.5-7. Permits.

- (a) *Future uses.* Except as specifically provided in (1) and (2) 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 article shall be granted unless a variance has been approved in accordance with subsection (d) herein.

(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 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 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 when such tree or structure would extend above the height limit prescribed for such approach zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitted or intending to permit any construction or alteration of any structure or growth of any tree in excess of any height limits established by this article except as set forth in subsection (e) herein.

- (b) *Existing uses.* No permit shall be granted that would allow the establishment or creation of any airport hazard or permit a nonconforming use, structure or tree to be made or become higher or become a greater hazard to air navigation than it was on the effective date of this article 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 city secretary determines that a nonconforming structure or tree 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 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 his property in violation of the regulations prescribed in this article may apply to the board of adjustment for a variance from such regulations in question. 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 shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in 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 this article. Additionally, no application for variance to the requirements of this article may be considered by the board of adjustment unless a copy of the application has been furnished to the municipal airport advisory board for advice as to the aeronautical effects of the variance. If the municipal airport advisory board does not respond to the application within fifteen (15) days after receipt, the board of adjustment may act on its own to grant or deny said application.
- (e) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable by the city secretary or the board of adjustment to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to allow the city secretary to install, operate and maintain at the expense of the city such marks and lights as may be necessary.

(Ord. No. 15-90, § 7, 5-29-90)

Sec. 12-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage shall mean all putrescible wastes, except sewage and body wastes, including but not limited to all meat, fruit and vegetable refuse, kitchen wastes, and like substances.

Health officer shall mean the health officer of the city, or his duly authorized agent or representative.

Premises shall mean business houses, offices, theaters, hotels, motels, restaurants, apartments, hospitals and convalescent homes, private residences, vacant lots, acreage, and all other places within the city where garbage, refuse, or rubbish accumulates.

Refuse shall mean all solid wastes, including garbage and rubbish.

Rubbish shall mean tin cans, metal scraps, bottles, paper, cardboard, wood scraps, grass, weeds, tree limbs, rocks, glass, leaves and like substances.

(Code 1975, § 8-1)

Cross references: Definitions and rules of construction generally, § 1-2