

ARTICLE 1360

Airport Zoning Ordinance

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CROSS REFERENCES

Airport Zoning Act (April 17, 1945, P.L. 237) Zoning Ordinance - Art. 1325

1360.01 TITLE.

This Ordinance shall be known and may be cited as the Airport Zoning Ordinance of the City of Bethlehem. (Ord. 2826 §1. Passed 3/2/82.)

1360.02 PURPOSE.

This Ordinance is adopted pursuant to the Authority conferred by the Airport Zoning Act (April 17, 1945, P.L. 237, as amended). It is hereby found that an obstruction has the potential for endangering the lives and property of users of Allentown-Bethlehem-Easton Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Allentown-Bethlehem-Easton Airport; and that an obstruction may reduce the size of areas available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Allentown-Bethlehem-Easton Airport and the public investment therein. Accordingly, it is declared:

(a) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Allentown-Bethlehem-Easton Airport:

(b) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and

(c) that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or 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. (Ord. 2826. Passed 3/2/82.)

1360.03 DEFINITIONS.

As used in this Article, the following words and phrases shall have the meanings herein indicated, unless the context otherwise requires:

(a) "Airport" means Allentown-Bethlehem-Easton Airport, located in Hanover Township, Lehigh County, Pennsylvania.

(b) "Airport Elevation" is 394.3 feet above mean sea level.
(Ord. 3285. Passed 9/19/89.)

(c) "Approach Surface" is 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 1360.05 of this Article. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

(d) "Approach, Transitional, Horizontal, and Conical Zones"- These zones are set forth in Section 1360.04 of this Article.

(e) "Board or Board of Adjustment" means the Board of Adjustment created under Section 1360.10 hereof.

(f) "Conical Surface" is 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 feet.

(g) "Hazard to Air Navigation" is an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

(h) "Height" - For the purpose of determining the height limits in all zones set forth in this Article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(i) "Horizontal Surface" is a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

(j) "Larger Than Utility Runway" is 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.

(k) "Nonconforming Use" means any structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto and which is in existence as of the effective date of this Article or of such amendment hereto, as the case may be.

(l) "Municipality" means the City of Bethlehem, Lehigh-Northampton Counties, Pennsylvania.

(m) "Nonprecision Instrument Runway" is 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.

(n) "Obstruction" is any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 1360.05 of this Article.

(o) "Person" means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; it includes a trustee, a receiver, an assignee, or a similar representative of any of them.

(p) "Precision Instrument Runway" means 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.

(q) "Primary Surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 1360.04 of this Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(r) "Runway" is a defined area on an airport prepared for landing and takeoff of aircraft along its length.

(s) "Structure" is 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.

(t) "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 end of the approach surface and at 90 degree angles to the extended runway centerline.

(u) "Tree" means any object of natural growth.

(v) "Utility Runway", is a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

(w) "Visual Runway" is a runway intended solely for the operation of aircraft using visual approach procedures.

(x) "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 Article. (Ord. 2826 §2. Passed 3/2/82.)

1360.04 AIRPORT ZONES.

In order to carry out the provisions of this Article, 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 Allentown-Bethlehem-Easton Airport. Such zones are shown on the Airport Zoning Map consisting of one sheet (Sheet 2 of 2, S-5766), prepared by G. Edwin Pidcock Co., Consulting Engineers, Allentown, PA. (Note: The map is on file in the offices of the Zoning Officer and the City Clerk. It may be amended from time to time.) An area located in more than one 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 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 is the continuation of the centerline of the runway.

(b) Precision Instrument Runway Approach 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 is the continuation of the centerline of the runway.

(c) Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.

(d) Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others 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.

(e) Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. (Ord. 2826 §3. Passed 3/2/82.)

1360.05 AIRPORT ZONE 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 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) 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; then slopes upward forty (40') feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

(c) 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 feet above the airport elevation which is 403 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 sides of and 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.

(d) Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 553 feet above mean sea level.

(e) 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.

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

1360.06 USE RESTRICTION.

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article 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.

1360.07 NONCONFORMING USES.

(a) Regulations Not Retroactive - The regulations prescribed in 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 at the effective date of this Article, 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 Article, 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 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 property owner.

1360.08 PERMITS.

(a) Future Uses - Except as specifically provided in 1, 2 and 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 therefor 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 consistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with subsection 1360.08 (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 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 (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.
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 (75') 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 should 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 Article except as set forth in subsection 1360.05 (f).

(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 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 or Abandoned or Destroyed - In general, 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 Article, 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 shall be allowed where it is duly found that a literal application or 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 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 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 Article.

(e) Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable 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 install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the airport at its own expense, to install, operate and maintain the necessary markings and lights.

1360.09 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 Article 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, correct or abate any violation of this Article, or of any order or ruling made in connection with its administration or enforcement.

1360.10 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 Article; (2) to hear and decide special exceptions to the terms of this Article 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 Article. 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 the Board 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 Article.

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

1360.11 APPEALS.

(a) Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Officer, made in the administration of the Article, 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 or 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 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 provisions of this Article.

(e) The Board of Adjustment may, in conformity with the provisions of this Article, 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.

1360.12 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 Lehigh or Northampton County, according to the provisions of the Act of Assembly by virtue of which this Article was adopted.

1360.13 CONFLICTING REGULATIONS.

Where there exists a conflict between any of the regulations or limitations prescribed in this Article 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 land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

1360.14 SEVERABILITY.

If any of the provisions of this Article or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provisions or application, and to this end, the provisions of this Article are declared to be severable.

1360.15 EFFECTIVE DATE.

This ordinance shall take effect five (5) days after the date of enactment.

1360.99 PENALTIES.

Each violation of this Article or of any regulation, order, or ruling promulgated hereunder shall constitute a summary offense and be punishable by the following penalties:

- (a) First violation - A fine of \$50.00, or thirty days imprisonment, or both;
- (b) Second violation - A fine of \$150.00, or sixty days imprisonment, or both;
- (c) Third and each subsequent violation - A fine of \$300.00, or ninety days imprisonment, or both.

Each day a violation continues to exist shall constitute a separate offense.
(Ord. 3038. Passed 10/22/85.)