

# ARTICLE XVI

## AIRPORT HAZARD ZONING PROVISIONS

### Section 1601. RUNWAY TYPE AND DIMENSION FOR THE WIDTH OF THE PRIMARY SURFACE

Appropriate runway type and dimension for the width of the primary surface is set forth in Federal Aviation Regulation Part 77, Objects Affecting Navigable Airspace, Dimensional Standards table, page 19, January, 1975.

### Section 1602. ESTABLISHMENT OF AIRPORT SURFACE ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all lands lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Towanda Airport. Such zones are shown on the Towanda Airport Height Limitation and Zoning District Map prepared by the Pennsylvania Department of Transportation, Bureau of Aviation, and dated Spring 1989, which by reference is made a part a part of this Ordinance. 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 250 feet wide. The 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. 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 500 feet wide. The zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 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 500 feet wide. The zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 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

Nonprecision 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 500 feet wide. The zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

#### E. Runway Larger Than 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 1,000 feet wide. The zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 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 1,000 feet wide? The 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.

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.

H. Horizontal Surface Zone

Established beneath the horizontal surface, 150 feet above the established airport elevation, the perimeter of which is constructed in accordance with the provisions contained within the Model Airport Zoning Ordinance to limit the Height of Objects Around Airports, prepared by

L. Robert Kimball and Associates, for the Pennsylvania Department of Transportation, Bureau of Aviation, 1989. 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 4,000 feet.

**Section 1603. AIRPORT SURFACE ZONE HEIGHT LIMITATIONS**

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance 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 elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

B. Utility Runway Non-precision 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 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 5,000 feet along the extended runway centerline.

D. Runway Larger Than Utility With A Visibility Minimum Greater than 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 10,000 feet along the extended runway centerline.

E. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Non-precision Instrument Approach Surface Zone

Slopes thirty-four (34') feet 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.

#### F. Precision Instrument Runway Approach Surface 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.

#### G. Transitional Surface Zone

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 725 feet above 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 5,000 feet measured at 90 degree angles to the extended runway centerline.

#### H. Horizontal Surface Zone

Established at 150 feet above the established airport elevation or at a height of 725 feet above mean sea level.

#### I. Conical Surface Zone

Slopes twenty (20') feet outward for each foot upward beginning at the periphery of the horizontal surface and at 150 feet above the established airport elevation and extending to a height of 350 feet above the established airport elevation or at a height of 725 feet above the mean sea level.

#### J. Excepted Height Limitations

Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree in accordance with provisions contained within the Model Airport Zoning Ordinance to Limit the Height of Objects Around Airports, prepared by L. Robert Kimball and Associates, for the Pennsylvania Department of Transportation, Bureau of Aviation, 1989.

### Section 1604. **AIRPORT ZONING REQUIREMENTS**

#### A. Reasonableness

All airport zoning regulations adopted under this Article shall be reasonable. None shall

impose any requirement or restriction unless it is reasonably necessary to effectuate the purpose of this Article. In determining what regulations it may adopt, each municipality and, if existing, joint airport zoning board 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 Ordinance, no use may be made of land or water within any zone established by this Ordinance 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 Ordinance shall not be construed to require the removal, lowering, or other change or alternation of any structure of tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any 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 Ordinance, 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 Zoning Officer to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction.

## Section 1605. **PERMITS AND VARIANCES**

### A. Future Uses

Except as specifically provided 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 Ordinance shall be granted unless a variance has been approved in accordance with this Section 1605.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 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, 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 Ordinance, 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 nonconforming 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 Ordinance 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 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 Ordinance.

#### D. Variance

For purposes of this Article, 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 Section 1606 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 Ordinance. Any variance may be granted subject to any reasonable conditions that the Zoning Hearing Board may deem necessary to effectuate the purposes of this Ordinance.

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 Ordinance may be considered by the Zoning Hearing Board unless a copy of the application has been furnished to the Airport Manager (or person or 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 permits or variance under this section, the Board shall, if it deems the action advisable, to effectuate the purpose of this Ordinance 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, at 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.

#### F. Approval from the FAA and the Pennsylvania Bureau of Aviation

Pursuant to 14 Code of Federal Regulations Part 77.13 and 67 Pa. C.S. § 479, whenever a person who plans to erect a new structure, to add to an existing structure, or to erect or maintain any object (natural or man-made), as defined in 14 Code of Federal Regulations Part 77.13(a), the applicant, at the applicant's expense, shall first obtain approval from the FAA and the Pennsylvania Bureau of Aviation using forms FAA Form 7460-1 (or any other form the FAA may hereafter require) and PA Form AV-57 (or any other form the Bureau may hereafter require). Further, if any proposed construction is known, believed, or suspected to penetrate or obstruct the protected airspace of a public airport, or a heliport, as defined by and Federal, State or local law, ordinance or regulation, including, but not limited to the airspace above the horizontal surface or conical surface or any of the height limitations set forth in section 1603 of the Wysox Township Airport Zoning Ordinance, the applicant, at the applicant's expense, shall first submit notice to the Federal Aviation Administration using FAA Form 7460-1 (or any other form the FAA may hereafter require) and to the Pennsylvania Department of Transportation, Bureau of Aviation using PA Form AV-57 (or any other form the Bureau may hereafter require). Finally, the applicant, at the applicant's expense, shall first obtain approval from the FAA and the Pennsylvania Bureau of Aviation using forms FAA Form 7460-1 (or any other form the FAA may hereafter require) and PA Form AV-57 (or any other form the Bureau may hereafter require) for any construction or alteration which meets the following criteria:

- (1) Any construction of more than 200 feet in height above the ground level at its site;
- (2) Any construction or alteration of greater height than the imaginary surface extending outwards and upwards at one of the following slopes:
  - (a) 100 to 1 for a horizontal distance of Twenty Thousand (20,000) feet from the nearest point of the nearest runway of each airport with at least one runway more than 3200 feet in actual length, excluding heliports;
  - (b) 50 to 1 for a horizontal distance of Ten Thousand (10,000) feet from the nearest point of the nearest runway of each airport with all runways being 3200 feet, or less, in actual length, excluding heliports;
  - (c) 25 to 1 for a horizontal distance of Five Thousand (5,000) feet from the nearest point of the nearest landing and takeoff area of each heliport; or
  - (d) which is higher than the conical surface, horizontal surface or other height limitation set forth in the Airport Zoning portion of the Wysox Zoning Code.
- (3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an interstate Highway that is part of the National System of Military and Interstate Highways where over-crossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater for a private road, 23 feet for a rail road, and for a water way and any other traverseway not previously mentioned, an amount equal to the height of the

highest mobile object that would normally traverse it, would exceed the height limits of sections Section 1605(F)(1) and 1605(F)(2) of the Wysox Township Airport Zoning Ordinance;

(4) Whenever requested by the FAA, Bureau of Aviation, or the Zoning Officer, any construction or alteration which would be in an instrument approach area as defined in the FAA standards governing instrument approach procedures; and

(5) Any construction on an airport that is available for public use or an airport under construction that is the subject of a notice or proposal on file with the FAA indicating that the airport will be available for public use or any airport operated by any armed forces of the United States. Forms FAA Form 7460-1 (or any other form the FAA may hereafter require) and PA Form AV-57 (or any other form the Bureau may hereafter require) must be submitted to the appropriate agency at least 30 days before the applicant may apply for a permit from the township and proof of said Agency Notification must be presented with the application to the Township for a permit. Forms FAA Form 7460-1 (or any other form the FAA may hereafter require) shall be mailed to the FAA Eastern Regional Office, Air Traffic Division, AEA-530, One Aviation Plaza, Springfield Gardens, NY, 11434. PA Form AV-57 (or any other form the Bureau may hereafter require) shall be mailed to PA Department of Transportation, Bureau of Aviation, 555 Walnut Street, 8<sup>th</sup> Floor, Harrisburg, PA 17101-1900. The zoning officer shall withhold the decision regarding whether to issue a permit until the FAA and PennDOT determine whether the suspected obstruction is a hazard or incompatible with airport operations. The Zoning officer may contact the FAA, Bureau of Aviation, the effected airport, airport authority, heliport, or other appropriate entity regarding the application for the permit. Proposed construction will also be reviewed for compatibility with Airport Operations using the Pennsylvania Airport Land Use Compatibility Guidelines. Projects may be disapproved if found to be incompatible with airport operations.

The permit must be denied if the FAA, Pennsylvania Department of Transportation, Bureau of Aviation **or** the zoning officer determine that the proposed construction is incompatible with the Pennsylvania Airport Land Use Compatibility Guidelines. If the FAA, Pennsylvania Department of Transportation, Bureau of Aviation **or** the zoning officer identify the proposed construction as a hazard the zoning officer shall deny the permit. Any proposed structure, or alteration to an existing structure which exceeds Two Hundred (200) feet in height above the ground is presumed to be a hazard to air navigation and the applicant has the burden of overcoming this presumption before a permit may be issued.

Approval of the project by “**both**” the FAA and the Bureau of Aviation will create a rebuttable presumption that the proposed construction is not a hazard and is compatible with existing and planned airport operations. If both the FAA **and** PENNDOT determine, either expressly or by operation of the above presumption, that the proposed construction is **not a hazard and not incompatible with airport operations**, even if it penetrates and obstructs, the protected airspace as previously defined herein, the zoning officer may issue the permit if the proposed construction is also not incompatible with airport operations.

## Section 1606. **ENFORCEMENT/NOTICE**

### A. Notice to Department

Notwithstanding any other provision of law, a municipality or board which decides to grant a permit or variance under this Ordinance shall notify the Pennsylvania Department of Transportation, Bureau of Aviation, 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 be issued.