

BOROUGH OF AVALON

AN ORDINANCE OF THE BOROUGH OF AVALON, AMENDING THE AVALON-BELLEVUE-BEN AVON JOINT ZONING ORDINANCE ADOPTED BY ORDINANCE NO. 09-07, ARTICLE V, SUPPLEMENTAL REGULATIONS, TO ADD REGULATIONS GOVERNING THE HEIGHT OF STRUCTURES WITHIN A DEFINED PROXIMITY TO THE PITTSBURGH INTERNATIONAL AIRPORT TO CONFORM WITH ACT 164, THE AIRPORT ZONING ACT

WHEREAS, certain airport hazards, as defined, in effect reduce the size of the area available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of *The Pittsburgh International Airport* and the public investment therein; and

WHEREAS, the creation or establishment of an airport hazard, as defined, is a public nuisance and may injure the region served by the *Pittsburgh International Airport*; and

WHEREAS, it is necessary in the interest of public health, public safety and general welfare that the creation or establishment of airport hazards, as defined, be prevented in accordance with Act 164, the Airport Zoning Act; and

WHEREAS, the prevention of these airport hazards, as defined, should be accomplished, to the extent legally possible, by the exercise of police power without compensation; and

WHEREAS, both the prevention of the creation or establishment of airport hazards, as defined, and the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards, as defined, are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land; and

WHEREAS, The Council of the Borough of Avalon did hold a public hearing on the 10th day of April, 2012; and

WHEREAS, the Joint Planning Commission and Allegheny County Economic Development have had the opportunity to review the proposed amendment.

I. NOW, THEREFORE BE IT ORDAINED by the Council of the Borough of Avalon, pursuant to the authority conferred by 1984 Pa. Laws 164 codified at 74 Pa. Cons. Stat. §§5912 *et. seq.* and the Pennsylvania Municipalities Planning Code, that Chapter 27, Article V, Supplemental Regulations, is amended by adding thereto a new Section 27-500, Airport Zoning, to read as follows:

SECTION 27-500. AIRPORT ZONING

Section 27-500. A: Purpose. The purpose of this ordinance is to create airport zoning height regulations with respect to the *Pittsburgh International Airport*.

Section 27-500. B: Definitions. The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise.

Airport Elevation: The highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the *Pittsburgh International Airport* is 1,204 feet above mean sea level.

Airport Hazard: Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

Airport Hazard Area: Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

Approach Surface (Zone): An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on Figure 1, is derived from the approach surface.

Conical Surface (Zone): An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on Figure 1, is based on the conical surface.

Department: Pennsylvania Department of Transportation.

FAA: Federal Aviation Administration of the United States Department of Transportation.

Height: For the purpose of determining the height limits in all zones set forth in this Ordinance, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface (Zone): An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various

radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on Figure 1, is derived from the horizontal surface.

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 pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

Non-Precision 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 non-precision 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 by this Ordinance.

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 (Zone): An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on Figure 1, is derived from the primary surface.

Runway: A defined area of 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 Surface (Zone): An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on Figure 1, is derived from the transitional surface.

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 or less.

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

Section 27-500. C: Applicability. The regulations in this Section shall apply to uses and structures located within areas illustrated on *The Pittsburgh International Airport (PIT) Airspace Plan* (Drawing 7b of 19 of the PIT Airport Master Plan, as amended), which PIT Airspace Plan is incorporated hereby by reference, which include the following zones as described in Figure 1 of this ordinance.

1. **Approach Surface Zone**
2. **Conical Surface Zone**
3. **Horizontal Surface Zone**
4. **Primary Surface Zone**
5. **Transitional Surface Zone**

Said Drawing referenced in this Section 27-500.C is attached as Figure 2, and shall be applied as may be amended in the future.

Section 27-500. D: Permit Applications. As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in the vicinity of the airport, *shall first notify the Department's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof.* The Department's BOA response must be included with this permit application for it to be considered complete. If the Department's BOA returns a determination of no penetration of airspace, the permit request should be considered to be in compliance with the intent of this Section. If the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in Section 27-500. E - Variance.

- (1) 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.
- (2) No notice or review under this section is required for any of the following construction or alteration:
 - (a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested

area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

(b) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

(c) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator, or an appropriate military service on military airports, the location and height of which is fixed by functional purpose.

(d) Any construction or alteration for which notice is required by any other FAA regulation.

Section 27-500. E: Variance. Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

1. No Objection - The subject construction is determined to not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.
2. Conditional Determination - The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in Section 27-500. H - Obstruction Marking and Lighting.
3. Objectionable - The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.

Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that 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 intent of this ordinance.

Section 27-500. F: Use Restrictions. Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water within those portions of the Borough lying within the areas illustrated on PIT Airspace Plan (Drawing 7b of 19 of the PIT Airport Master Plan, as amended), in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport

lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the *Pittsburgh International Airport*.

Section 27-500. G: Pre-Existing Non-Conforming Uses: The regulations prescribed by this Ordinance 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 Ordinance, or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated (subject to the underlying zoning ordinance,) may only be reestablished consistent with the provisions herein.

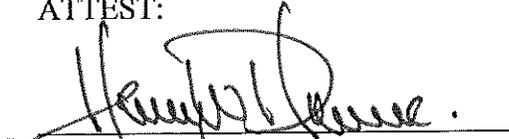
Section 27-500. H: Obstruction Marking and Lighting. Any permit or variance granted pursuant to the provisions of this ordinance may be conditioned according to the conditional determination process described in Section 27-500. E. to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

Section 27-500. I: Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

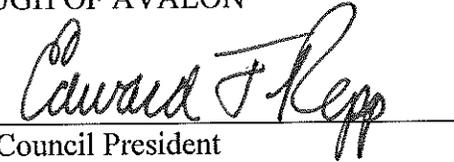
- II. This Ordinance repeals any inconsistent prior ordinances or portion thereof to the extent of such inconsistency.
- III. This Ordinance shall be effective upon recordation in the Borough ordinance book, or upon the thirtieth day after passage by the Council, whichever comes first, provided further, the foregoing notwithstanding, that this amendment will not be effective until such time as it has also been approved by all of the Boroughs participating in the Joint Zoning Ordinance.
- IV. The provisions of this Ordinance are severable. Should any part of this Ordinance be invalidated by a court of law, it is the intention of the Council that the remainder of the Ordinance be in full force and effect.

DULY ORDAINED AND ENACTED at a public meeting of the Council of the Borough of Avalon, this 20th day of March, 2012.

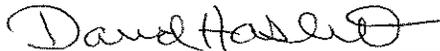
ATTEST:


Borough Secretary

BOROUGH OF AVALON

By: 
Council President

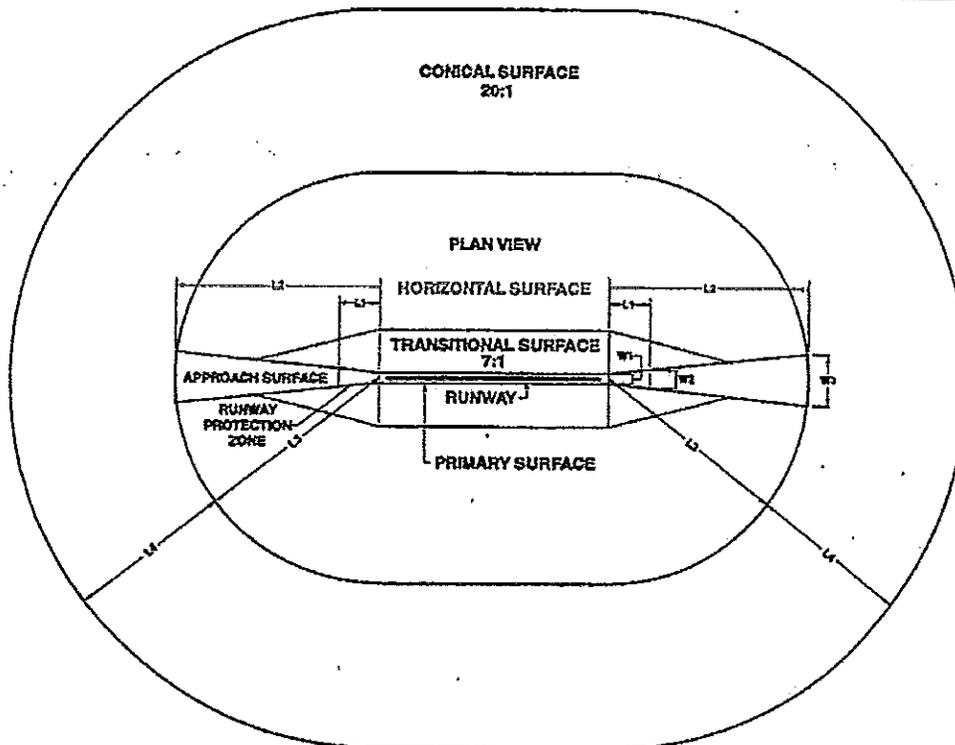
APPROVED:

 3/28/12
Mayor Date

This Ordinance recorded in the Borough Ordinance book on March 20, 2012 by the undersigned.


Borough Secretary

Figure 1: Part 77 Surface Areas



FAR PART 77 "IMAGINARY SURFACES" DIMENSION REQUIREMENTS

Runway Type	Runway End		Conical Surface (L4)	Horizontal Surface (L3)	Approach Surface			Approach Slope	Primary Surface Width	Transitional Surface
	Approach	Other			Length (L2)	Inner Width (W1)	Outer Width (W3)			
Small Airplanes ¹	V	V	4,000	5,000	5,000	250	1,250	20:1	250	7:1
		NP	4,000	5,000	5,000	500	1,250	20:1	500	7:1
		NP 3/4	4,000	5,000	5,000	1,000	1,250	20:1	1,000	7:1
		P	4,000	5,000	5,000	1,000	1,250	20:1	1,000	7:1
	NP	V	4,000	5,000	5,000	500	2,000	20:1	500	7:1
		NP	4,000	5,000	5,000	500	2,000	20:1	500	7:1
		NP 3/4	4,000	5,000	5,000	1,000	2,000	20:1	1,000	7:1
		P	4,000	5,000	5,000	1,000	2,000	20:1	1,000	7:1
Large Airplanes ²	V	V	4,000	5,000	5,000	500	1,500	20:1	500	7:1
		NP	4,000	10,000	5,000	500	1,500	20:1	500	7:1
		NP 3/4	4,000	10,000	5,000	1,000	1,500	20:1	1,000	7:1
		P	4,000	10,000	5,000	1,000	1,500	20:1	1,000	7:1
	NP	V	4,000	10,000	10,000	500	3,500	34:1	500	7:1
		NP	4,000	10,000	10,000	500	3,500	34:1	500	7:1
		NP 3/4	4,000	10,000	10,000	1,000	3,500	34:1	1,000	7:1
		P	4,000	10,000	10,000	1,000	3,500	34:1	1,000	7:1
Large and Small Airplanes ³	NP 3/4	V	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		NP	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		NP 3/4	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		P	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
	P	V	4,000	10,000	10,000/40,000	1,000	4,000/15,000	50:1/40:1	1,000	7:1
		NP	4,000	10,000	10,000/40,000	1,000	4,000/15,000	50:1/40:1	1,000	7:1
		NP 3/4	4,000	10,000	10,000/40,000	1,000	4,000/15,000	50:1/40:1	1,000	7:1
		P	4,000	10,000	10,000/40,000	1,000	4,000/15,000	50:1/40:1	1,000	7:1

1 - In Feet
 2 - Less than 12,500 lbs maximum certified takeoff weight
 3 - Greater than 12,500 lbs maximum certified takeoff weight
 V = Visual approach 20:1
 NP = Nonprecision approach 34:1
 NP 3/4 = Nonprecision approach with visibility minimums as low as 3/4 statute miles 34:1
 P = Precision approach 50:1
 Note: L1 is the length of the RPZ and W2 is the outer width of the RPZ as defined by approach visibility minimums

Source: Federal Aviation Administration

