

TITLE 16

AVIATION

Chapters:

16.04 Airport Zoning

CHAPTER 16.04

AIRPORT ZONING

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16.04.01 Definitions. The following are to be used in this ordinance unless the context otherwise requires:

- (1) **AIRPORT:** Means Batesville Regional Airport.
- (2) **AIRPORT ELEVATION:** Means the established elevation of the highest point on the usable landing areas.
- (3) **AIRPORT HAZARD:** Means any structure, tree or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.
- (4) **AIRPORT REFERENCE POINT:** Means the point established as the approximate geographic center of the airport landing area and so designated.
- (5) **BOARD OF ADJUSTMENT:** Means the members of the Batesville Aviation Commission now or hereafter lawfully serving on said commission.
- (6) **HEIGHT:** For the purpose of determining the height limits in all zones set forth in this

ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

- (7) INSTRUMENT RUNWAY: Means a runway equipped or to be equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.
- (8) LANDING AREA: Means the area of the airport used for the landing, take-off, or taxiing of aircraft.
- (9) NON-CONFORMING USE: Means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed in the chapter or an amendment thereto becomes effective and does not then meet the requirements of said regulation.
- (10) NON-INSTRUMENT RUNWAY: Means a runway other than an instrument runway.
- (11) PERSON: Means an individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- (12) RUNWAY: Means the paved surface of an airport landing strip.
- (13) STRUCTURE: Means an object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
- (14) TREE: Means any object of natural growth. (Ord. 824, Sec. 2)

16.04.02 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 within the non-instrument approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on the Batesville Regional Airport Zoning Map consisting of one (1) sheet, prepared by Rosin, Moseley & Egan, Inc., and dated October 1, 1972, which is made a part hereof.

The various zones are hereby established and defined as follows:

- (1) INSTRUMENT APPROACH ZONES:
 - (a) Runway 7 - an instrument approach zone is established at the end of Runway 7 for instrument landings and take-offs. This instrument approach zone shall have a width of 1,000 feet at a distance of 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 16,000 feet at a distance of 50,200 feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.
 - (b) Runway 25 - an instrument approach zone is established at the end of Runway 25 for instrument landings and take-offs. This instrument approach zone shall have a

width of 1,000 feet at a distance of 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 4,000 feet at a distance of 10,200 feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

- (2) **NON-INSTRUMENT APPROACH ZONE:** A non-instrument approach zone is established at each end of all non-instrument runways for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of 500 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 1,500 feet at a distance of 5,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.
- (3) **TRANSITION ZONES:** Transition zones are hereby established adjacent to each instrument and non-instrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways, have variable widths as shown on the zoning map. Transition zones extend outward from a line 250 feet on either side of the centerline of the non-instrument runway, for the length of such runway plus 200 feet on each end, and 500 feet on either side of the centerline of the instrument runway, for the length of such runway plus 200 feet on each end, and are parallel and level with such runway center lines. The transition zones along such runways slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both instrument and non-instrument approach zones for the entire length of the approach zones. These transition zones have variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) feet horizontally to the points where they intersect the surfaces of the horizontal and conical zones. Additionally, transition zones are established adjacent to the instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distance of 5,000 feet measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the centerline of the runway.
- (4) **HORIZONTAL ZONE:** A horizontal zone is hereby established at elevation of 616 feet above mean sea level, the perimeter of which is constructed by swinging arcs of 10,000 foot radius from points on centerline and 200 feet beyond each end of Runway 7-25 and connecting the adjacent arcs by lines tangent to said arcs. The Horizontal Zone does not include the instrument and non-instrument approach zones and the transition zones.
- (5) **CONICAL ZONE:** A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of 4,000 feet. The conical zone does not include the instrument approach zones and the transition zones. (Ord. No. 824, Sec. 3)

16.04.03 Height limitations. Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this chapter to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

- (1) INSTRUMENT APPROACH ZONES:
 - (a) Runway 7 - one (1) foot in height for each fifty (50) feet in horizontal distance beginning at a point two hundred (200) feet from and at the elevation of the end of the instrument runway and extending to a distance of 10,200 feet from the end of the runway; thence one (1) foot in height for each forty (40) feet in horizontal distance to a point 50,200 feet from the end of the runway.
 - (b) Runway 25 - One (1) foot in height for, each thirty-four (34) feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the instrument runway and extending to a distance of 10,200 feet from the end of the runway.
- (2) NON-INSTRUMENT APPROACH ZONES: One (1) foot in height for each twenty (20) feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the non-instrument runway and extending to a point 5,200 feet from the end of the runway.
- (3) TRANSITION ZONES: One (1) foot in height for each seven (7) feet in horizontal distance beginning at any point 250 feet normal to and at the elevation of the centerline of non-instrument runways extending 200 feet beyond each end thereof, and 500 feet normal to and at the elevation of the centerline of the instrument runway, extending 200 feet beyond each end thereof, extending to a height of 160 feet above the airport elevation which is 616 feet above mean sea level. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the instrument approach zone projects through and beyond the conical zone, a height limit of one (1) foot for each seven (7) feet of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of 5,000 feet from the edge of the instrument approach zone measured normal to the centerline of the runway extended.
- (4) HORIZONTAL ZONE: One hundred fifty (160) feet above the airport elevation or a height of 616 feet above mean sea level.
- (5) CONICAL ZONE: One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of 350 feet above the airport elevation.

Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

Nothing in this chapter shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to forty-five (45) feet above the surface of the land. (Ord. No. 824, Sec. 4)

16.04.04 Use restrictions. Notwithstanding any other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking-off, or maneuvering of aircraft. (Ord. No. 824, Sec. 5)

14.16.05 Non-conforming uses.

- (1) **REGULATIONS NOT RETROACTIVE:** The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as to the effective date of this chapter, 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 chapter, and is diligently prosecuted.
- (2) **MARKING AND LIGHTING:** Notwithstanding the preceding provisions of this section, the owner of any non-conforming 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 Batesville Aviation Commission to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Batesville, Arkansas.

14.16.06 Permits.

- (1) **FUTURE USES:** Except as specifically provided in paragraphs (a), (b) and (c) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established 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.
 - (a) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 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 zone.

- (b) In the areas lying within the limits of the instrument and non-instrument approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument approach zone.
- (c) 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 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 shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this chapter except as set forth in Sec. 14.16.03.

- (2) **EXISTING USES:** No permit shall be granted that would allow the establishment or creation of an 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 chapter or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (3) **NON-CONFORMING USES ABANDONED OR DESTROYED:** Whenever the airport manager determines that a non-conforming 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.
- (4) **VARIANCES:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this chapter, may apply to the board of adjustment for a variance from such regulations. Such variances shall be allowed where it is duly found that 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 will do substantial justice and be in accordance with the spirit of this chapter.
- (5) **HAZARD 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 permit the Batesville Aviation Commission at its own

expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. (Ord. No. 824, Sec. 7)

16.04.07 Enforcement. It shall be the duty of the airport manager to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the airport manager upon a form furnished by him. Applications required by this chapter to be submitted to the airport manager shall be promptly considered and granted or denied by him. Applications for action by the board of adjustment shall be forthwith transmitted by the airport manager. (Ord. No. 824, Sec. 8)

16.04.08 Board of adjustment.

- (1) In addition to other authority the Batesville Aviation Commission has under the law, as the board of adjustment established by this chapter, it shall exercise the following powers:
 - (a) To hear and decide appeals from any order, requirement, decision or determination made by the airport manager in the enforcement of this chapter.
 - (b) 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.
 - (c) To hear and decide specific variances.
- (2) The members of the Batesville Aviation Commission, an existing legally constituted body, and their successors, shall constitute the board of adjustment and shall exercise all power and authority the city can designate to a board of adjustment. Nothing in this chapter is intended to restrict any of the lawful authority the Batesville Aviation Commission now has under state law.
- (3) The board of adjustment may adopt rules for its governance and procedure in harmony with the provisions of this chapter. Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board of adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings shall be public. Minutes shall be kept 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 action, which shall be a public record.
- (4) The board of adjustment shall make written findings of fact 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.
- (5) The concurring vote of a majority of the members present at any meeting shall be sufficient to reverse any order, requirement, decision or determination of the airport

manager or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in this Chapter. (Ord. No. 824, Sec. 9)

16.04.09 Appeals.

- (1) Any person aggrieved, or any taxpayer affected, by any decision of the airport manager made in his administration of this chapter, is of the opinion that a decision of the airport manager is an improper application of these regulations, may appeal to the board of adjustment.
- (2) All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the airport manager a notice of appeal specifying the grounds thereof. The airport manager shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.
- (3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the airport manager 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 his opinion, cause imminent peril of life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment on notice to the agency from which the appeal is taken and on due cause shown.
- (4) 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 agent or by attorney.
- (5) 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 or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances. (Ord. No. 824, Sec. 10)

16.04.10 Judicial review. Any person aggrieved by any decision of the board of adjustment may, within thirty (30) days thereafter, appeal to the Circuit Court of Independence County as provided in Section 6 of Act 116 of the 1941 Acts of Arkansas (Arkansas Statutes Annotated, 74-306). (Ord. No. 824, Sec. 11)

16.04.11 Penalties. Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than one Thousand (\$1,000.00) Dollars or imprisonment for not more than ninety (90) days or both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.

In order to prevent, restrain, correct or abate any violation of this chapter, the airport

manager shall institute, under the provisions of the Public Laws of Arkansas, proceedings for relief by way of injunction or other necessary relief in a court of competent jurisdiction. (Ord. No. 824, Sec. 12)