

ARTICLE 6

AIRPORT APPROACH ZONING REGULATIONS

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ARTICLE 6

AIRPORT APPROACH ZONING REGULATIONS

SEC. 10-6.00 PURPOSE. Pursuant to the authority conferred by the Conservation and Planning Act of the State of California and in conformity with the regulations and standards of the Federal Aviation Agency of the United States Department of Commerce, the City Council of the City of Hayward deems it necessary to create an "Airport Approach Zoning Ordinance" for the purpose of promoting the health, safety and general welfare of the inhabitants of the City of Hayward by preventing the creation or establishment of airport hazards, thereby protecting the lives and property of the users of the Hayward Air Terminal and of the occupants of the land in its vicinity, and preventing destruction or impairment of the utility of the airport and the public investment therein.

SEC. 10-6.01 SHORT TITLE. This Article shall be known and may be cited as "The Airport Approach Zoning Ordinance of the City of Hayward".

SEC. 10-6.10 DEFINITIONS. As used in this Article, certain words and phrases are defined and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

SEC. 10-6.11 AIRPORT. "Airport" means the Hayward Air Terminal.

SEC. 10-6.12 AIRPORT HAZARD. "Airport Hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

SEC. 10-6.13 NON-CONFORMING USE. "Non-Conforming Use" means any structure, tree or use of land which does not conform to a regulation prescribed in this Article or an amendment thereto, as of the effective date of such regulation.

SEC. 10-6.14 STRUCTURE. "Structure" means any object constructed or installed by man, including (but without limitation) buildings, towers, smokestacks and overhead transmission lines.

SEC. 10-6.15 LANDING AREA. "Landing Area" means the area of the airport used for the landing, take off or taxiing of aircraft.

SEC. 10-6.16 TREE. "Tree" means any object of natural growth.

SEC. 10-6.17 POINT ZERO. "Point Zero" means a point two hundred feet (200') beyond and at the same elevation as the designated threshold of Runway 10R-8L and the threshold of Runway 10L-8R.

SEC. 10-6.20 AIRPORT ZONES. In order to carry out the purposes of this Article, all of the land outside the boundaries of the Hayward Air Terminal and within approximately two (2) miles of the landing area of the airport is hereby divided into airport approach zones, airport turning zones, airport transition zones and airport clear zones, the boundaries of which are shown on a map designated as "The Airport Approach Zoning Plan for Hayward Air Terminal, Hayward, Alameda

County, California", on file in the office of the City Clerk and hereby referred to, incorporated herein and made a part of this Article as though set forth in full herein.

SEC. 10-6.30 HEIGHT LIMITS. Except as otherwise provided in this Article, no structure or tree shall be erected, altered, allowed to grow or maintained in any airport approach zone, airport turning zone or airport transition zone to a height in excess of the height limit herein established for such zone. For the purpose of this regulation, the following height limits are hereby established for each of the zones in question:

- (1) Approach Zones Nos. One (1) and Two (2) shall have a maximum height limit of twenty-five feet (25') at a distance of one thousand feet (1000') from Point Zero. The maximum allowable height shall be increased in step-ups of five feet (5') each for every two hundred foot (200') segment added to the one thousand foot (1000') distance from Point Zero to a maximum height of one hundred fifty feet (150').
- (2) Approach Zones Nos. Three (3) and Four (4) shall have a maximum height limit of twenty-five feet (25') at a distance of five hundred feet (500') from Point Zero. The maximum allowable height shall be increased in step-ups of five feet (5') each for every one hundred foot (100') segment added to the five hundred foot (500') distance from Point Zero to a maximum height of one hundred fifty feet (150').
- (3) All turning zones shall have a maximum height limit of one hundred fifty feet (150').
- (4) All transition zone areas shall have a maximum height limit as indicated on "The Airport Approach Zoning Plan for Hayward Air Terminal, Hayward, Alameda County, California".

SEC. 10-6.35 USE RESTRICTIONS. Notwithstanding any other provisions of this Article, no use may be made of land within any airport approach zone, airport turning zone or airport transition zone in such a manner as to create harmful electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and other lights, result in harmful glare in the eyes of the flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, take off or maneuvering of aircraft.

SEC. 10-6.40 NON-CONFORMING USES. The regulations prescribed in Sections 10-6.30 and 10-6.35 of 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 hereof or otherwise interfere with the continuance of any non-conforming 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 and completed within two (2) years thereof.

Before any non-conforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured from the Planning Commission authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming structure or tree or non-conforming use 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 than it was when the application for permit is

made. Except as provided herein, all applications for permits shall be granted. No such permit shall be required to make maintenance repairs to or to replace parts of existing structures or electrical distribution or telephone poles or lines which do not enlarge or increase the height of existing structures, poles or lines.

In case of an emergency, any non-conforming structure may be replaced or rebuilt without first obtaining a permit, provided that application for a permit shall be filed with the Planning Commission within twenty-four (24) hours after such office is first opened subsequent to the emergency.

SEC. 10-6.45 VARIANCES. Any person desiring to erect any structure or increase the height of any structure or permit the growth of any tree or otherwise use his property than is required in this Article, may apply to the Planning Commission for a variance from the regulation in question. Such variance shall 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 do substantial justice and be in accordance with the spirit of the regulations and this Article; provided that any variance may be allowed, subject to any reasonable condition that the administrative agency may deem necessary to effectuate the purpose of this Article.

SEC. 10-6.50 SPECIFIC POWERS. In addition to the powers delegated in Section 10-6.45 hereof, the Planning Commission shall have the following powers.

- (1) To make changes in the restrictions and boundaries of such zones as are herein established, in accordance with the procedure prescribed for amendments and reclassification of the Zoning Ordinance of the City.

SEC. 10-6.55 HAZARD MARKING AND LIGHTING. Any variance granted under Sections 10-6.40 or 10-6.45 of this Article may, if such action is deemed advisable to effectuate the purpose of this Article and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit City of Hayward 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.

SEC. 10-6.60 ADMINISTRATIVE AGENCY. The Building Official of the City of Hayward is hereby designated the administrator charged with the duty of administering and enforcing the regulations herein described. The duties of the Building Official shall include that of reviewing all applications for building permits within the approach zones, turning zones and transition zones of the Hayward Air Terminal, but the Building Official shall not have or exercise any of the powers or duties delegated to the Planning Commission.

SEC. 10-6.65 VIOLATION. A PUBLIC NUISANCE. In the event that any person should erect, construct, move, alter or attempt to erect, construct, move or alter any structure or allow any tree to grow to a height in violation of the provisions of this Article, the same is hereby declared a public nuisance. It shall be the duty of the City Attorney, when ordered by the City Council, to bring and prosecute an action in any court of competent jurisdiction to enjoin such person from continuing such erection, construction, moving, alteration or growth or if such erection, construction, moving, alteration or growth is being or has been accomplished, the City Attorney, when ordered by the City Council, shall enjoin such person from maintaining the same.

SEC. 10-6.70 LIMITATION OF JURISDICTION. The provisions of this Article shall only apply and be in force on areas within the airport approach zones, the turning zones and the

transition zones within the limits of the City of Hayward.

SEC. 10-6.75 CONFLICTING REGULATIONS. In the event of conflict between this Article and any other regulations applicable to the same area or parcel of land, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter and whether such other regulations were adopted by the City of Hayward or by some other public agency, the more stringent limitations or requirements shall govern and prevail.