

ROSTRAVER AIRPORT  
ZONING ORDINANCE  
Ordinance 1229 (1 of 1987)

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DRAFT AIRPORT ZONING REGULATIONS TO LIMIT HEIGHT  
OF OBJECTS AROUND THE ROSTRAVER AIRPORT<sup>1</sup>

SECTION I: SHORT TITLE AND DESCRIPTION

- (1) This Ordinance shall be known and may be cited as the Rostraver Airport Zoning Ordinance.
- (2) AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE ROSTRAVER AIRPORT. BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE ROSTRAVER AIRPORT HEIGHT LIMITATION AND ZONING DISTRICT MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

SECTION II: DECLARATION OF POLICY

This Ordinance is adopted pursuant to the authority conferred by 1984 Pa. Laws 164, codified at 74 Pa. Cons. Stat. §§ 5101 et. seq. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Rostraver Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Rostraver Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Rostraver Airport and the public investment therein.

Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Rostraver Airport;
- (2) that it is necessary in the interest of the public health safety, morals and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- (3) that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

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<sup>1</sup>The preparation of these regulations was guided by A Model Zoning Ordinance To Limit Height Of Objects Around Airports; published by the Federal Aviation Administration (FAA) of the U.S. Department of Transportation, Advisory Circular No. 150/5190-4 (August 1977), and, 1984 Pa. Laws 164, codified at 74 Pa. Cons. Stat. §§ 5101 et. seq.

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 the 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.

IT IS HEREBY ORDAINED AND ENACTED BY THE BOROUGH OFFICIALS OF DONORA BOROUGH, WASHINGTON COUNTY, PENNSYLVANIA, as follows:

### SECTION III: GENERAL DEFINITIONS

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ORDINANCE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

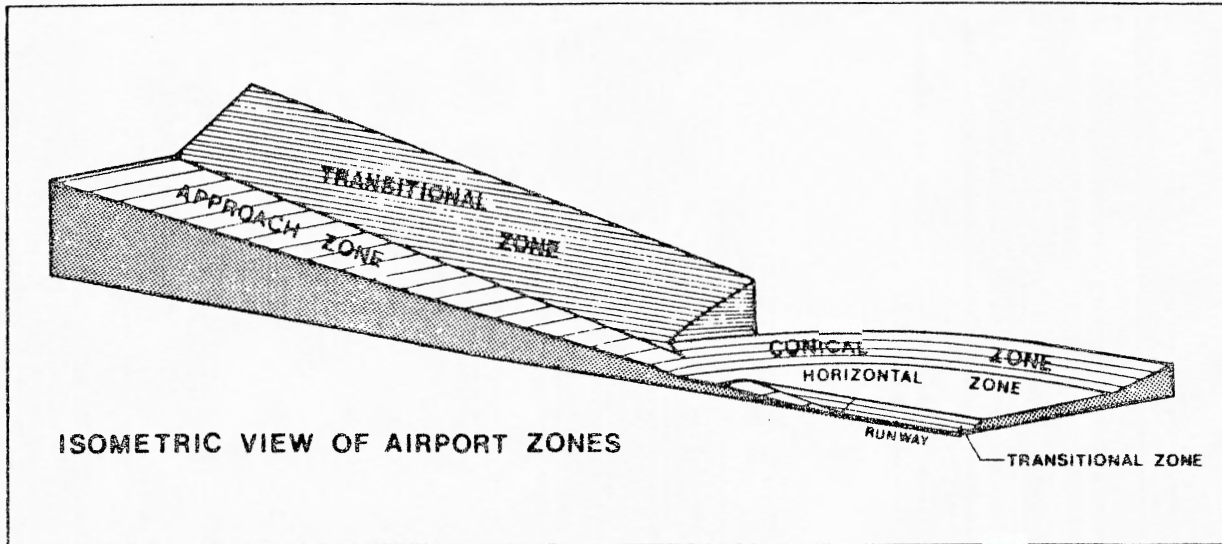
1. AIRCRAFT - Any contrivance, except an empowered hang-glider or parachute, used, for manned ascent into or flight through the air. See 74 Pa. Cons. Stat § 5102.
2. AIRPORT - Refers to the Rostraver Airport. Defined as: Any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings on air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon. See 74 Pa. Cons. Stat. § 5102. As used herein the term "Airport" shall not include heliports. Private and public airports are defined separately in this section.
3. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from sea level. Here: 1,230 feet above mean sea level.
4. AIRPORT HAZARD AREA - Any area of land or water upon which a hazard to air navigation (an airport hazard) might be established if not prevented as provided by these regulations and the 1984 Pa. Laws 164.
5. APPROACH SURFACE - 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 V of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
6. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are shown in the illustration (Isometric View of Airport Zones) on page 5 and set forth in Section IV of this Ordinance.
7. BOARD OF APPEALS OR ADJUSTMENT - A Board appointed by the authority adopting these regulations. The number of members, powers, governing rules, etc. of the Board are set forth in Section IX of this Ordinance. Joint airport zoning board is defined in Section X.

8. CONICAL SURFACE - 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.
9. DEPARTMENT - Pennsylvania Department of Transportation.
10. FAA - Means Federal Aviation Administration of the United States Department of Transportation.
11. HAZARD TO AIR NAVIGATION - 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 by "Airport Hazard" in 74 Pa. Cons. Stat. § 5102.
12. 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.
13. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
14. 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.
15. 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.
16. NONPRECISION 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 nonprecision instrument approach procedure has been approved or planned.
17. OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section V of this Ordinance.
18. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of the above.
19. 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.

20. PRIMARY SURFACE - 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; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section IV of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
21. PRIVATE AIRPORT - An airport which is privately owned and which is not open or intended to be open to the public as defined in 74 Pa. Cons. Stat. § 5102.
22. PUBLIC AIRPORT - An airport which is either publicly or privately owned and which is open to the public as defined in 74 Pa. Cons. Stat. § 5102.
23. RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length.
24. STRUCTURE<sup>2</sup> - 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.
25. 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 edge of the approach surface and at 90 degree angles to the extended runway centerline.
26. TREE - Any object of natural growth.
27. UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
28. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

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<sup>2</sup>The definition of "Structure" under 74 Pa. Cons. Stat. § 5102 does not include mobile objects such as cranes or immobile objects such as earth formations. However, 74 Pa. Cons. Stat. § 5913(b) provides that, if adopted, a "more stringent limitation or requirement shall prevail". See also Section XIII, Item 2 of this Ordinance.



SECTION IV: AIRPORT ZONING DISTRICTS

In order to carry out the provisions of this Ordinance, there are hereby created and established certain Airport Zoning Districts (AZD's) which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Rostraver Airport. Such zones are visually depicted on the Height Limitation And Airport Zoning District Map prepared by the Southwestern Pennsylvania Regional Planning Commission, and dated Spring of 1986, which is attached to this Ordinance and made a part hereof. 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 FOLLOWING AZD'S ARE ESTABLISHED FOR THE ROSTRAVER AIRPORT.

AIRPORT ZONING DISTRICTS

- Primary Surface Zoning District..... AZD-1
- Utility Runway Visual  
Approach Zoning District..... AZD-2
- Transitional Zoning District (adjacent  
to approach zoning districts)..... AZD-3
- Horizontal Zoning District..... AZD-4
- Conical Zoning District..... AZD-5



The Airport Zoning Districts for the Rostraver Airport are defined as follows:

1. PRIMARY SURFACE ZONE (AZD-1) - 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, for each runway, in the following definitions.
2. UTILITY RUNWAY VISUAL APPROACH ZONE (AZD-2) - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide.<sup>3</sup> 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.
3. TRANSITIONAL ZONES (AZD-3) - The transitional zones are the areas beneath the transitional surfaces. (See definition of Transitional Surfaces in Section III.)
4. HORIZONTAL ZONE (AZD-4) - The horizontal zone is established by swinging arcs of 5,000 feet radii<sup>4</sup> 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.
5. CONICAL ZONE (AZD-5) - 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. Established here by swinging arcs of 9,000 feet from the center of each end of the primary surface of each runway.

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<sup>3</sup>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.

<sup>4</sup>The radius of the Arc is:

- a) 5,000 feet for all runways designated utility or visual,
- b) 10,000 feet for all others.

The radius of the arcs for each end of the runway shall be the same. The radius used shall be the longest determined for either end. See A Model Zoning Ordinance To Limit Height of Objects Around Airports: published by the FAA, AC No. 150/5190-4 (August 1977) Appendix 1, page 6, Footnote 9.

## SECTION V: AIRPORT 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:

1. 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.
  
2. TRANSITIONAL ZONES - Slope 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 1,230 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 at the same elevation as the approach surface, and extending to where they intersect the conical surface.
  
3. HORIZONTAL ZONE - Established at 150 feet above the airport elevation or at a height of 1,380 feet above mean sea level.
  
4. 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. Here: 1,580 feet.

SECTION VI: AIRPORT ZONING REQUIREMENTS

1. REASONABLENESS<sup>3</sup> - All airport zoning regulations adopted under this Ordinance shall be reasonable; none shall impose any requirement or restriction unless it is reasonably necessary to effectuate the purpose of this Ordinance. In determining what regulations it may adopt, each municipality and 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.
2. 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.
3. NONCONFORMING USES:
  - (a) Regulations Not Retroactive - 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 any nonconforming use, except as provided in Section VIII (relating to permits and variances).<sup>4</sup> 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 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

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<sup>3</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5915(a)).

<sup>4</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5915(b)).

necessary by the Airport Manager 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 Westmoreland County Airport Authority.

## SECTION VII: PERMITS AND VARIANCES

1. FUTURE USES<sup>7</sup> - Except as specifically provided in a, b, and c 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 inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section VII, Item 4.
  - (a) 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 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.
  - (b) 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 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  - (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 seventy-five 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.

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<sup>7</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5916(a)).

2. EXISTING USES<sup>7</sup> - A permit shall be obtained before any existing use or structure may be substantially changed, but no permit may be 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. However, all regulations shall provide that 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. Applications for permits shall only be granted unless to do so would allow the establishment or creation of an airport hazard or permit a nonconforming structure or object of natural growth or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted, or than it is when the application for a permit is made.
  
3. NONCONFORMING USES ABANDONED OR DESTROYED - Whenever 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.
  
4. VARIANCES<sup>8</sup> - Any person desiring to erect 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 this Ordinance, may apply to the Board of Adjustment for a variance from such regulations. A variance shall only be granted after the requirements of Section VIII 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, would not create a hazard to air navigation, but would do substantial justice, and would be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance 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 fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

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<sup>8</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5916(b)).

5. HAZARD MARKING AND LIGHTING<sup>7</sup> - In granting any permit 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.

#### SECTION VIII: ENFORCEMENT/NOTICE

1. LOCAL ENFORCEMENT - 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 Ordinance 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.
2. NOTICE TO DEPARTMENT<sup>10</sup> - Notwithstanding any other provision of law, a municipality or Board which decides to grant a permit or variance under this Ordinance shall notify the Department of Transportation of its decision. This notice shall be in writing and shall be sent so as to reach the department at least ten days before the date upon which the decision is to issue.

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<sup>7</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5916(c)).

<sup>10</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5919).

## SECTION IX: BOARD OF ADJUSTMENT

1. POWERS - There is hereby created a Board of Adjustment to 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 Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.
  
2. CREATION/MEMBERS/REMOVAL - Where a zoning board of appeals or adjustment already exists, it may be appointed as the Board of Adjustment. Otherwise, the Board shall consist of five members, each to be appointed for a term of three (3) years by the authority adopting the regulations and to be removable by the appointing authority, for cause, upon written charges and after a public hearing.<sup>11</sup>
  
3. GOVERNING RULES - The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Ordinance. 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 Zoning Officer and on due cause shown.
  
4. FINDINGS OF FACT/CONCLUSIONS OF LAW - 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 Ordinance.
  
5. VOTING - 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 Ordinance, or to effect variation to this Ordinance.

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<sup>11</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B. (74 Pa. Cons. Stat. § 5917(c)).

## SECTION X: JOINT AIRPORT ZONING BOARD

Where any airport hazard area appertaining to an airport is located outside the territorial limits of the municipality encompassing the airport, all of the municipalities involved may, by ordinance or resolution, create a joint airport zoning board which shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested (by the police power)<sup>13</sup> in the municipality within which the area is located. Each joint airport zoning board shall have as members two representatives appointed by each municipality participating in its creation and, in addition, a chairman elected by a majority of the members so appointed.<sup>13</sup>

## SECTION XI: APPEALS

1. RIGHT TO APPEAL - Any person aggrieved, or any taxpayer affected, during the administration of this Ordinance, by any decision of the municipality or joint zoning hearing board, may appeal to the Board of Adjustment.<sup>14</sup>
2. REASONABLE TIME REQUIREMENT:
  - (a) 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 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 upon which the action appealed from was taken.
  - (b) 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.
3. STAY OF PROCEEDINGS - An appeal shall stay all proceedings in furtherance of the action appealed from unless the municipality or joint zoning hearing board 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

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<sup>12</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5912 (a)).

<sup>13</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5912 (b)).

<sup>14</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5917 (a)).



certificate, a stay would in its opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of the Board of Adjustment on notice to the municipality or joint zoning appeal board.<sup>15</sup>

4. POWER TO REVERSE, AFFIRM OR MODIFY ORDERS - The Board of Adjustment may, in conformity with the provisions of this Ordinance, 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.

#### SECTION XII: ACQUISITION OF AIR RIGHTS

In any case in which it is desired to remove, lower or otherwise terminate a nonconforming structure or use, or the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations, or it appears advisable that the necessary approach protection be provided by acquisition of property rights, rather than by airport zoning regulations, the municipality within which the property or nonconforming use is located, or the municipality or municipal authority owning the airport or served by it, may acquire by purchase, grant or condemnation, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such air right, aviation easement or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purpose of this Ordinance. In the case of the purchase of any property or any easement or estate, or interest therein, or the acquisition thereof by the power of eminent domain, the municipality making the purchase of exercising the power shall, in addition to the damages for the taking, injury or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.<sup>16</sup>

#### SECTION XIII: RELATION TO OTHER ZONING REGULATIONS<sup>17</sup>

1. INCORPORATION - In the event that a municipality has adopted or hereafter adopts a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of the comprehensive zoning regulations and be administered and enforced in connection therewith.

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<sup>15</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5917 (b)).

<sup>16</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5920).

<sup>17</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5913 (a) & (b)).

2. CONFLICTS - In the event of conflict between any airport zoning regulations adopted under this Ordinance 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, and whether the other regulations were adopted by the municipality which adopted the airport zoning regulations or by some other municipality or otherwise, the more stringent limitation or requirement shall govern and prevail.

#### SECTION XIV: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Common Pleas as provided by law. In cases where applicable law does not provide an appeal from a municipality to a Board, a person or taxpayer may appeal from a decision of a municipality or joint airport zoning board, as provided by law for similar zoning proceedings.<sup>16</sup>

#### SECTION XV: SEVERABILITY

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

#### SECTION XVI: INTERPRETATION OF LANGUAGE AND CAPTIONS

1. USE OF LANGUAGE - Words of any gender used in this Ordinance shall be held and construed to include any other gender, and words in the singular shall be used to include the plural, unless the context otherwise requires.
2. USE OF CAPTIONS - The captions or headings of sections in this Ordinance are inserted for convenience only, and shall not be considered in construing the provisions herein if any question of intent should arise.

#### SECTION XVII: PENALTIES

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than 500 dollars or imprisonment for not more than 60 days or both; and each day a violation continues to exist shall constitute a separate offense.<sup>17</sup>

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<sup>16</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5918).

<sup>17</sup>As set forth in Section 616 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10616.

SECTION XVIII: ADOPTION AND AMENDMENT OF ORDINANCE

1. NOTICE AND HEARING - No airport zoning regulations shall be adopted, amended or changed except by action of the municipality or the joint airport zoning board after a public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard. The notice shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality or municipalities affected. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days or less than 14 days from the date of the hearing.<sup>20</sup>
  
2. EFFECTIVE DATE - WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, safety, morals and general welfare, an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the municipality and publication and posting as required by Section XVIII, Item 1.

THESE REGULATIONS SHALL BECOME EFFECTIVE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 198\_\_.

ORDAINED AND ENACTED THIS: \_\_\_\_\_ DAY OF \_\_\_\_\_, 198\_\_.

BOROUGH OFFICIALS  
DONORA BOROUGH  
WASHINGTON COUNTY, PENNSYLVANIA

By: \_\_\_\_\_  
President of Council

EXAMINED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 198\_\_

ATTEST: \_\_\_\_\_  
Secretary

\_\_\_\_\_  
MAYOR

<sup>20</sup>See 1984 Pa. Laws 164, Chapter 59, Subchapter B (74 Pa. Cons. Stat. § 5914 (a)).