

ARTICLE XIII

AIRPORT OVERLAY ZONING DISTRICT

SECTION 8. 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 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 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 zone.
 - (b) In the area lying within the limits of the instrument and non-instrument approach zones but at a horizontal distance or not less than five thousand two hundred (5,200) feet from each end of the runways, 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 would extend above the height limit prescribed for such instrument of 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 seventy-five (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 or any structure or tree in excess of any of the height limits established by this Ordinance except as set forth in Section 6.

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 Ordinance or any amendments thereto 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. **NONCONFORMING USES ABANDONED OR DESTROYED:** Whenever the Board of Zoning Appeals determines that a nonconforming structure or tree has been abandoned or more than fifty (50) 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 Ordinance, may apply to the Board of Zoning Appeals 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 Ordinance.
5. **HAZARD MARKING AND LIGHTING:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree, at the owner's expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of flying hazard.