

## MODEL PRIVATE USE AIRPORT SAFETY OVERLAY ZONE

**.010 Purpose.** The purpose of this overlay zone is to encourage and support the continued operation and vitality of private use airports that were the base for three or more aircraft on December 31, 1994, and certain privately-owned public use airports, by establishing safety standards to promote air navigational safety at these airports as well as the safety of those living near these airports. [ORS 836.608(8); OAR 660-013-0050; OAR 660-013-0070(1)(b); OAR 660-013-0155(1), (2)] **[NOTE: the jurisdiction may wish to identify the affected airports by name.]<sup>1</sup>**

**.020. Definitions.** [ORS 836.605; OAR 660-013-0070(1)(b)]

**Airport.** The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

**Airport Elevation.** The highest point of an airport's usable runway, measured in feet above mean sea level.

**Airport Imaginary Surfaces.** Imaginary areas in space or on the ground that are established in relation to the airport and its runways. Imaginary areas for private use airports defined by the primary surface and approach surface.

**Airport Sponsor.** The owner, manager, or other person or entity designated to represent the interests of an airport.

**Approach Surface.** A 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. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 450 feet for that end of a private use airport with only visual approaches. The approach surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for each one foot upward.

**Department of Aviation.** The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.

**Height.** The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

**Obstruction.** Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface.

**Primary Surface.** A surface longitudinally centered on a runway. The primary surface ends at each end of a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 200 feet.

**Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

**Structure.** Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks,

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<sup>1</sup> **NOTE:** The privately-owned public use airports currently subject to this rule are: Daniels Field (Linn County); Happy Valley Airport (Clackamas County); Sheridan Airport (Yamhill County); Sisters Eagle Air Airport (Deschutes County); and Skyport Airport (Washington County). A list containing the names and locations of private use airports that, on December 31, 1994, were the base for three or more aircraft as shown in the records of the Department of Transportation may be obtained from the Oregon Department of Aviation. The local government may wish to identify the affected airports by name

fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

**.030 Imaginary Surface Delineation.** The airport elevation and the location and dimensions of the runway, primary surface and approach surface shall be delineated for each private use airport subject to this overlay zone and shall be made part of the Official Zoning Map. All lands, waters and airspace, or portions thereof, that are located within these surfaces shall be subject to the requirements of this overlay zone. [ORS 836.608(2), (8); OAR 660-013-0050; OAR 660-013-0070(1)(b); OAR 660-013-0155(2)]

**.040 Notice of Land Use and Permit Applications within Overlay Zone Area.**

A. Written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, shall be provided to the airport sponsor and the Department of Aviation in the same manner and within the same timelines as notice is provided to property owners entitled by law to written notice of land use or limited land use applications. Where the application does not involve a public hearing, such notice shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use application. [ORS 215.416(6); ORS 227.175(6); OAR 738-100-010]

B. Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Department of Aviation within the same timelines that such notice is provided to parties to a land use or limited land use proceeding.

**.050 Height Limitations on Allowed Uses in Underlying Zone.** All uses permitted by the underlying zone shall comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control. [ORS 836.608(8); OAR 660-013-0155(1), (3); OAR 660-013-0070(1)(b)]

A. Except as provided in subsection B of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface. [OAR 660-013-0070(1)(b)]

B. Height variances may be permitted when supported in writing by the airport sponsor and the Department of Aviation. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation.

**.060 Procedures.** An applicant seeking a land use or limited land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

A. A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The Planning Department shall provide the applicant with appropriate base maps upon which to locate the property.

B. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.

C. If a height variance is requested, letters of support from the airport sponsor and the Department of Aviation.

**.070 Nonconforming Uses.**

A. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations shall not 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 overlay zone.

B. Notwithstanding subsection A. of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

C. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.

**.080 Avigation Easement.** Within this overlay zone, the owners of properties that are the subject of applications for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor. The avigation easement shall be in a form acceptable to the airport sponsor and shall be signed and recorded in the deed records of the County. The avigation easement shall allow unobstructed passage for aircraft. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.