

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of June 23, 2020

ORDINANCE NO. 2644

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT REPEALING SECTIONS 333-1 THROUGH 333-13 OF CHAPTER 3 OF DIVISION 3 OF TITLE III OF HUMBOLDT COUNTY CODE RELATING TO AIRPORT APPROACH ZONE BUILDING HEIGHT REGULATIONS AND ADDING SECTIONS 333-1 THROUGH 333-13 TO CHAPTER 3 OF DIVISION 3 OF TITLE III RELATING TO AIRPORT APPROACH ZONE BUILDING HEIGHT REGULATIONS.

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Sections 333-1 through 333-13 of Chapter 3 of Division 3 of Title III of the Humboldt County Code are hereby repealed as shown on the attached pages

SECTION 2. Sections 333-1 through 333-13 of Chapter 3 of Division 3 of Title III of the Humboldt County Code are hereby added as shown on the attached pages.

SECTION 3. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this 23rd day of June 2020, by the following vote, to wit:

AYES: Supervisors: Bass, Fennell, Bohn, Madrone, Wilson

NOES: Supervisors:

ABSENT: Supervisors:

ABSTAIN: Supervisors:



Estelle Fennell, Chair
Board of Supervisors of the County of Humboldt
State of California

(SEAL)

ATTEST:

Kathy Hayes

Clerk of the Board of Supervisors of the
County of Humboldt, State of California



By: Ryan Sharp, Deputy

Del- TITLE III – LAND USE AND DEVELOPMENT

DIVISION 3 – BUILDING REGULATIONS

CHAPTER 3

AIRPORT APPROACH ZONE BUILDING HEIGHT REGULATIONS

Sections:

- ~~§ 333-1. Purpose.~~
- ~~§ 333-2. Scope.~~
- ~~§ 333-3. Definitions.~~
- ~~§ 333-4. Height Limits.~~
- ~~§ 333-5. Use Restrictions.~~
- ~~§ 333-6. Nonconforming Uses.~~
- ~~§ 333-7. Administration.~~
- ~~§ 333-8. Variances.~~
- ~~§ 333-9. Permits.~~
- ~~§ 333-10. Hazard Marking and Lighting.~~
- ~~§ 333-11. Appeals.~~
- ~~§ 333-12. Conflicting Regulation.~~
- ~~§ 333-13. Penalty.~~

~~333-1.~~

~~Purpose.~~

~~This chapter is adopted pursuant to the authority conferred by Article 6.5 of Chapter 2, Part 1, Division 1, Title 5 of the Government Code of the State of California, otherwise known as the "Airport Approaches Zoning Law," for the purpose of promoting the public health, safety and general welfare of the inhabitants of the County. (Ord. 331, 8/29/1955)~~

~~333-2.~~**Scope.**

~~This chapter regulates and restricts the height of structures and objects of natural growth, and otherwise regulates the use of property in the vicinity of airports, by creating airport approach, turning and transition zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms and used herein; providing for enforcement; and imposing penalties. (Ord. 331, 8/29/1955)~~

~~333-3.~~**Definitions.**

~~As used in this chapter, unless the context otherwise requires, the following words and terms shall have the meaning ascribed to them:~~

- ~~(a) *Airport.* "Airport" means any publicly owned or administered airport.~~
- ~~(b) *Airport Hazard.* "Airport hazard" means any structure or tree or use of land which obstructs the airspace for the flight of aircraft in landing or taking off from any airport or is otherwise hazardous to such landing or taking off of aircraft.~~
- ~~(c) *Airport Hazard Area.* "Airport hazard area" means any area of land or water upon which an airport might be established if not prevented as provided in this chapter. The zones described in this chapter are hereby designated as the airport hazard areas of all airports subject to the provisions of this chapter.~~
- ~~(d) *Nonconforming Use.* "Nonconforming use" means any structure, tree or use of land which does not conform to a regulation prescribed in this chapter or any amendment thereto as of the effective date of such regulations.~~
- ~~(e) *Structure.* "Structure" means any object constructed or installed by man, including but not limited to buildings, towers, smokestacks, mill burners and overhead transmission lines.~~
- ~~(f) *Tree.* "Tree" means any object of natural growth.~~
- ~~(g) *Landing Area.* "Landing area" means the area of an airport used for the landing, taking off or taxiing of aircraft, consisting of the areas more particularly described in other sections of this chapter.~~

~~(h) *Approach Surface.* "Approach surface" means the inclined plane located directly above the approach area. The dimensions of the approach surface are measured horizontally.~~

~~(i) *Approach Area Length.* "Approach area length" means a length of 10,000 feet beginning 200 feet outward from the end of each runway and extended outward ending at a point of 10,200 feet from the end of the runway on the extended center line of the runway. In addition, the approach areas of all runways which are used for instrument operation shall extend outward an additional 40,000 feet. The approach area requirements for instrument runways shall apply to all runways which are used for instrument operations and to both ends of such runways.~~

~~(j) *Approach Area Width.* "Approach area width" means an area symmetrically located with respect to the extended runway center line and, for all instrument runways, has a total width of 1,000 feet at the end adjacent to the runway. The approach area flares uniformly to a total width of 4,000 feet at the end of the 10,000 foot section and to a total width of 16,000 feet at the end of the additional 40,000 foot section. For all other runways not intended for instrument operation, the approach area has a total width at the end adjacent to the runway and at the approach, respectively, as follows: for express air carrier service and larger airports, 500 feet and 2,500 feet; for trunk line air carrier service airports, 400 feet and 2,400 feet; for feeder air carrier service airports, 300 feet and 2,300 feet; and for secondary airports, 250 feet and 2,250 feet.~~

~~(k) *Approach Area Slope.* "Approach area slope" means for instrument runways the slope of the approach surface along the runway center line extended is 50:1 for the inner 10,000 foot section and 40:1 for the outer 40,000 foot section. For all other runways not intended for instrument operation which meet or exceed the minimum runway length requirements for feeder air carrier service, the approach area slope is 40:1. On airports with shorter runway lengths than those specified for feeder air carrier service, the approach area slope 20:1 for all runways.~~

~~(l) *Horizontal Surface.* "Horizontal surface" means a plane, circular in shape, with its height 150 feet above the established airport elevation and having a radius from the airport reference point as indicated in the following table, which said table also indicates the classification of each airport for the purpose of this chapter:~~

Intercontinental Express Airports	13,000 Feet
Intercontinental Airports (Arcata Airport)	11,500 Feet
Continental Airports	10,000 Feet
Express Airports	8,500 Feet

Trunk Line Airports	7,000 Feet
Feeder Airports (Rehnerville Airport)	6,000 Feet
Secondary Airports (Murray Field Airport, Eureka Municipal Airport, Garberville Airport, Shelter Cove Airport, Dinsmore Airport)	5,000 Feet

The established elevation of an airport is the elevation of the highest point of the usable landing area. The airport reference point is a point selected and marked at the approximate center of the airport landing area.

~~(m) *Conical Surface.* "Conical surface" means the conical surface extending upward and outward from the periphery of the horizontal surface with a slope of 20:1 measured in a vertical plane passing through the airport reference point. Measuring radially outward from the periphery distance of 7,000 feet for intercontinental and intercontinental express, trunk line and feeder airports; and 3,000 feet for all smaller airports.~~

~~(n) *Transitional Surface.* "Transitional surface" means an inclined plane with a slope of 7:1 measured upward and outward in a vertical plane at right angles to the center line of the runway. The transitional surfaces, symmetrically located on either side of the runway, extended upward and outward from a line on either side of the runway which is parallel to a level with the runway center line. These parallel lines are at a horizontal distance from the runway center line equal to one half (½) of the minimum width of the approach area. Transitional surfaces extend from the edges of all approach surfaces upward and outward to the intersection with the horizontal surface or conical surface. The approach surfaces for instrument runways projecting through and beyond the limits of the conical surface have a 7:1 transitional surface extending a distance of 5,000 feet measured horizontally from the edge of the approach surfaces and at right angles to the runway center line.~~

~~(o) *Airport Approach Zone.* "Airport approach zone" includes the approach area and the air space directly above it.~~

~~(p) *Airport Transition Zone.* "Airport transition zone" includes the land area directly beneath the transition surfaces and the air spaces directly above and below the transition surfaces.~~

~~(q) *Airport Turning Zone.* "Airport turning zone" includes the land area directly beneath the conical surface and the horizontal surface and the air spaces directly above and below the horizontal surface and the conical surface. (Ord. 331, § 2, 8/29/1955)~~

~~333-4.~~**Height Limits.**

~~(a) Except as otherwise provided in this chapter, no structure shall be erected or altered, or tree maintained in any airport approach zone, airport turning zone or airport transition zone to a height which would project above the approach surface, the horizontal surface, the conical surface or the transitional surfaces as defined in this chapter.~~

~~(b) Whenever and wherever any of the aforesaid surfaces overlap, the most highly restrictive requirement shall govern and control; provided, however, that the foregoing descriptions shall not impose upon the County of Humboldt any duty of maintenance or care. (Ord. 331, § 3, 8/29/1955)~~

~~333-5.~~**Use Restrictions.**

~~Notwithstanding any other provisions of this chapter, no use may be made of land within any airport approach zone, airport turning zone or airport transition zone in such 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 other lights, 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. 331, § 4, 8/29/1955)~~

~~333-6.~~**Nonconforming Uses.**

~~The regulations prescribed in Section 333-5 of this chapter 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 nonconforming use. (Ord. 331, § 5, 8/29/1955)~~

~~333-7.~~**Administration.**

~~The Division of Aviation is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations prescribed by this chapter. The duties of said Division of Aviation shall include that of hearing and deciding all permits, except variances. The Division of Aviation shall not have or exercise any of the powers or duties herein retained by the Board of Supervisors. The Division of Aviation shall prepare and make available maps to the public showing the approximate elevation of all property affected by this chapter in order to aid property owners in complying with this chapter. Copies of the maps shall also be available in the Planning Commission Office for public use. (Ord. 331, § 6, 8/29/1955)~~

~~333-8.~~**Variances.**

~~Any person desiring to erect any structure 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 Planning Commission for a variance therefrom. The variance may be granted by the Board of Supervisors following receipt of a report of the findings made by the Planning Commission. 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 would do substantial justice and would be in accordance with the spirit of this chapter; provided, however, that any variance may be subject to such reasonable conditions and restrictions as the Board of Supervisors may deem necessary. (Ord. 331, § 7, 8/29/1955)~~

~~333-9.~~**Permits.**

~~Before any nonconforming structure may be replaced, substantially altered or rebuilt within any airport approach zone, airport turning zone or airport transition zone, a permit must be secured authorizing such replacement or change. Such permit shall be granted except where the granting thereof would allow the establishment or creation of an airport hazard, or permit a nonconforming~~

~~use or structure to be made or become higher or become a greater hazard to air navigation than existed on the effective date of the applicable regulation thereunder. In case of emergencies affecting the public welfare or safety or the preservation of property, any nonconforming structure may be replaced or repaired without first obtaining a permit provided that an application for a permit is filed with the Humboldt County Division of Aviation within twenty-four (24) hours after such Division is first opened subsequent to the emergency. (Ord. 331, § 8, 8/29/1955)~~

~~333-10.~~

~~Hazard Marking and Lighting.~~

~~Any permit or variance granted under this chapter may, if such action is deemed advisable to effectuate the purposes of this chapter and is reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of any airport hazard. The provisions of this section shall apply only to any new nonconforming structure or tree, and to any nonconforming structure or tree that is replaced, altered or rebuilt in such a way as to create a greater hazard than existed before said replacement, alteration or rebuilding commenced. (Ord. 331, § 9, 8/29/1955)~~

~~333-11.~~

~~Appeals.~~

~~(a) Any person aggrieved or affected by any decision of the Humboldt County Division of Aviation made in the administration of this chapter, if the opinion that a decision of said Division of Aviation is an improper application of this chapter, must appeal to the Board of Supervisors prior to introducing any litigation forming the subject matter of the heretofore mentioned grievance.~~

~~(b) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the Board of Supervisors, by filing with the Division of Aviation and with the Board of Supervisors a notice of appeal specifying the grounds thereof. The Division of Aviation shall forthwith transmit to the Board of Supervisors all the papers constituting the record upon which the action appealed from was taken.~~

~~(c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Director of the Division of Aviation certifies to the Board of Supervisors, after the notice of appeal has been filed, that by reason of the facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of the Board of Supervisors on notice to the Division of Aviation and on due cause shown.~~

~~(d) The Board of Supervisors shall fix a reasonable time for the hearing of the appeal, 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.~~

~~(e) The Board of Supervisors may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may seem meet or proper.~~

~~(f) The concurring vote of a majority of the members of the Board of Supervisors shall be sufficient to reverse, affirm or modify any order, requirement, decision or determination of the Division of Aviation, 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. 331, § 10, 8/29/1955)~~

~~333-12.~~

~~Conflicting Regulation.~~

~~Where this chapter imposes a greater or more stringent restriction upon the use of land than is imposed or required by any other, the provisions of this chapter shall govern. (Ord. 331, § 12, 8/29/1955)~~

~~333-13.~~

~~Penalty.~~

~~Each violation of this chapter or any regulation, order or ruling promulgated or made hereunder shall constitute a misdemeanor. (Ord. 331, § 11, 8/29/1955)~~

Sections:

- § 333-1. Purpose.
- § 333-2. Scope.
- § 333-3. Definitions.
- § 333-4. Height Limits.
- § 333-5. Use Restrictions.
- § 333-6. Nonconforming Uses.
- § 333-7. Administration.
- § 333-8. Variances.
- § 333-9. Permits.
- § 333-10. Hazard Marking and Lighting.
- § 333-11. Appeals.
- § 333-12. Conflicting Regulation.
- § 333-13. Penalty.

333-1.**Purpose.**

This chapter is adopted pursuant to the authority conferred by Article 6.5 of Chapter 2, Part 1, Division 1, Title 5 of the Government Code of the State of California, otherwise known as the "Airport Approaches Zoning Law," for the purpose of promoting the public health, safety and general welfare of the inhabitants of the County. (Ord. __, § __, __/2020)

333-2.**Scope.**

This chapter regulates and restricts the height of structures and objects of natural growth, and otherwise regulates the use of property in the vicinity of airports, by Airport Protected Airspace and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms and used herein; providing for enforcement; and imposing penalties. (Ord. __, § __, __/2020)

333-3.**Definitions.**

As used in this chapter, unless the context otherwise requires, the following words and terms shall have the meaning ascribed to them:

(a) *Airport*. "Airport" means any publicly owned or administered airport.

(b) *Airport Hazard*. "Airport hazard" means any structure or tree or use of land which obstructs the airspace for the flight of aircraft in landing or taking off from any airport or is otherwise hazardous to such landing or taking off of aircraft.

(c) *Airport Protected Airspace*. "Airport Protected Airspace" means the airspace surfaces defined by Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace of Subpart C of Subchapter E of Chapter I of Title 14 of the Code of Federal Regulations (14 C.F.R. § 77.13 et seq.).

(d) *Nonconforming Use*. "Nonconforming use" means any structure, tree or use of land which does not conform to a regulation prescribed in this chapter or any amendment thereto as of the effective date of such regulations.

(e) *Structure*. "Structure" means any object constructed or installed by man, including but not limited to buildings, towers, smokestacks, mill burners and overhead transmission lines.

(f) *Tree*. "Tree" means any object of natural growth.

(Ord. __, § __, __/__/2020)

333-4.

Height Limits.

Except as otherwise provided in this chapter, no Structure shall be erected or altered, or Tree maintained in any Airport Protected Airspace as defined in this chapter. (Ord. __, § __, __/__/2020)

333-5.

Use Restrictions.

Notwithstanding any other provisions of this chapter, no use may be made of land within any Airport Protected Airspace as to create 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 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. __, § __, __/__/2020)

333-6.

Nonconforming Uses.

The regulations prescribed in Section 333-5 of this chapter 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 August 29, 1955, or otherwise interfere with the continuance of any Nonconforming Use. (Ord. __, § __, __/__/2020)

333-7.

Administration.

The Department of Aviation is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations prescribed by this chapter. The duties of said Department of Aviation shall include that of hearing and deciding all permits, except variances. The Department of Aviation shall not have or exercise any of the powers or duties herein retained by the Board of Supervisors. The Department of Aviation shall prepare and make available maps to the public showing the approximate elevation of all property affected by this chapter in order to aid property owners in complying with this chapter. Copies of the maps shall also be available in the Planning & Building Department for public use. (Ord. __, § __, __/__/2020)

333-8.

Variances.

(a) Any person desiring to erect any Structure or increase the height of any Structure, or permit the growth of any Tree, or use their property not in accordance with the regulations prescribed in this chapter, may apply to the Department of Aviation for a variance therefrom. The variance may be granted by the Board of Supervisors following receipt of a report of the findings made by the Department of Aviation. 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 would do substantial justice and would be in accordance with the spirit of this chapter; provided, however, that any variance may be subject to such reasonable conditions and restrictions as the Board of Supervisors may deem necessary. (Ord. __, § __, __/__/2020)

(b) When portions of a Structure or a Tree penetrate the Airport Protected Airspace, and the Federal Aviation Administration has determined that such penetration is not a hazard to flight, a variance may be administratively approved by the Director of the Department of Aviation. (Ord. __, § __, __/__/2020)

333-9.

Permits.

Before any nonconforming structure may be replaced, substantially altered or rebuilt within any Airport Protected Airspace, a permit must be secured authorizing such replacement or change. Such

permit shall be granted except where the granting thereof would allow the establishment or creation of an Airport hazard, or permit a Nonconforming Use or Structure to be made or become higher or become a greater hazard to air navigation than existed on the effective date of the applicable regulation thereunder. In case of emergencies affecting the public welfare or safety or the preservation of property, any nonconforming Structure may be replaced or repaired without first obtaining a permit provided that an application for a permit is filed with the Department of Aviation within twenty-four (24) hours after such Department is first opened subsequent to the emergency.
(Ord. __, § __, __/__/2020)

333-10.

Hazard Marking and Lighting.

Any permit or variance granted under this chapter may, if such action is deemed advisable to effectuate the purposes of this chapter and is reasonable in the circumstances, be so conditioned as to require the owner of the Structure in question to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of any Airport hazard. The provisions of this section shall apply only to any new nonconforming structure or tree, and to any nonconforming Structure or Tree that is replaced, altered or rebuilt in such a way as to create a greater hazard than existed before said replacement, alteration or rebuilding commenced. (Ord. __, § __, __/__/2020)

333-11.

Appeals.

(a) Any person aggrieved or affected by any decision of the Department of Aviation made in the administration of this chapter, if the opinion that a decision of said Department of Aviation is an improper application of this chapter, must appeal to the Board of Supervisors prior to introducing any litigation forming the subject matter of the heretofore mentioned grievance.

(b) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the Board of Supervisors, by filing with the Department of Aviation and with the Board of Supervisors a notice of appeal specifying the grounds thereof. The Department of Aviation shall forthwith transmit to the Board of Supervisors all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Director of the Department of Aviation certifies to the Board of Supervisors, after the notice of appeal has been filed, that by reason of the facts stated in the certificate a stay would, in their

opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of the Board of Supervisors on notice to the Department of Aviation and on due cause shown.

(d) The Board of Supervisors shall fix a reasonable time for the hearing of the appeal, 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.

(e) The Board of Supervisors may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may seem meet or proper.

(f) The concurring vote of a majority of the members of the Board of Supervisors shall be sufficient to reverse, affirm or modify any order, requirement, decision or determination of the Department of Aviation, 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. __, § __, __/__/2020)

333-12.

Conflicting Regulation.

Where this chapter imposes a greater or more stringent restriction upon the use of land than is imposed or required by any other, the provisions of this chapter shall govern. (Ord. __, § __, __/__/2020)

333-13.

Penalty.

(a) Each violation of this chapter or any regulation, order or ruling promulgated or made hereunder shall constitute a misdemeanor. ()

(b) Any violation of this Chapter shall be, and the same hereby is declared to be unlawful and a public nuisance and be subject to injunction, abatement, or any other administrative, civil, or criminal remedy available to the County as provided by all applicable provisions of law, including those set forth in Chapters 1 and 2 of Division 5 of Title III. (Ord. __, § __, __/__/2020)