

Chapter 163

Airport Approach Regulations

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163.01 Short Title: These regulations shall be known and may be cited as the Airport Approach Regulations.

163.02 Purpose and Intent: The Airport Approach Regulations is established pursuant to the Authority conferred by Chapter 329 of the *Code of Iowa*. It is hereby found that an airport approach obstruction has the potential for endangering the lives and property of users of the Southeast Iowa Regional Airport (BRL) and property or occupants of land in its vicinity. An obstruction may affect existing and future instrument approach minimums of the Airport and an obstruction may reduce the size of the areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Airport and the public investment therein. Accordingly, this Ordinance is established in order to:

1. Prevent the establishment of hazards to air navigation and incompatible land uses in public airport approach areas and surrounding areas in the interest of public health, safety, and general welfare of the community.
2. Minimize potential dangers from, and conflicts with, the use of aircraft at the Southeast Iowa Regional Airport, and
3. Address Federal Aviation Regulation (FAR) Part 77 and all other applicable federal and state laws regulating hazards to air navigation.

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 marking and lighting of otherwise would-be hazards to airport navigation are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

163.03 Definitions: For the purpose of this chapter, unless otherwise expressly stated, the following terms shall have the meanings indicated in this section:

1. Administrative Agency - The incorporated city or unincorporated county underlying the Airport Zones as defined in this Ordinance.
2. Airport – The Southeast Iowa Regional Airport (BRL).
3. Airport Elevation – Refers to the ground surface elevation of the runways at the Southeast Iowa Regional Airport (BRL) – six hundred ninety-eight feet (698') above mean sea level.

4. Airport Hazard- Any structure or tree or use of land which would exceed the Federal obstruction standards as contained in 14 CFR FAR, Part 77, and which obstructs or is otherwise hazardous to the landing and take-off of any aircraft at the Airport, or hazardous to persons or property on the ground.
5. Approach Area – Any area on the ground extending the length of the runways and the two-mile area measured from the centerline of the runways in all directions.
6. Federal Aviation Administration (FAA) – An agency of the United States government that administers federal regulations that relate to the use and flight of aircraft, and related regulations.
7. Hazard to Air Navigation – An object which, as a result of an aeronautical study, the FAA determines will have a substantial adverse effect upon the safe and efficient use of navigable airspace by aircraft, operation of air navigation facilities, or existing or potential airport capacity.
8. Height – For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Southeast Iowa Regional Airport Approach Zones Map, the datum shall be mean sea level elevation unless otherwise specified.
9. Horizontal Surface Plane – The invisible surface plane located one hundred fifty (150) feet above the airport elevation.
10. Landscaping – Any object of natural or artificial growth including, but not limited to trees, shrubs or similar objects.
11. Nonconforming Use – Any structure, landscaping or use that does not conform to the regulations prescribed in this chapter or an amendment thereto.
12. Non-Precision Instrument Runway – A runway having an existing instrument approach procedure providing course guidance without vertical path guidance utilizing VOR, NDB, LDA, GPS, or other authorized RNAV system, for which a straight-in non-precision instrument approach procedure has been approved or planned. This includes Runway 12 and Runway 30 at the time of this Ordinance's adoption.
13. Notice to the FAA of Proposed Construction or Alteration – 14 CFR Part 77, Objects Affecting Navigable Airspace, requires persons proposing any construction or alteration described in 14 CFR Section 77.13 (A) to give 45-day notice to the FAA of their intent. This includes:
 - a) any construction or alteration exceeding 200 ft. above ground level;
 - b) any construction or alterations within 20,000 ft of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with at least one runway more than 3,200 ft.;
 - c) any highway, railroad or other traverse way whose prescribed adjusted height would exceed the above noted standards; and
 - d) when requested by the FAA, for reasons in addition to items 13(a-c) above;
14. Obstruction – Any structure or tree, the height of which exceeds that which is allowed by this ordinance.
15. Person – An individual, firm, partnership, corporation, stakeholder, company, association, joint stock association, government entity or similar representative; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
16. Precision Instrument Runway – A runway that utilizes an instrument approach procedure providing course and vertical path guidance conforming to Instrument Landing System (ILS) or Microwave Landing System (MLS), precision system performance standards, utilizing ILS, LAAS, WAAS, MLS, and other precision systems. 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 documents. This includes Runway 36 at the time of this Ordinance's adoption.

17. Runway – A defined area of an airport with the land surface prepared for landing and takeoff of aircraft along its length.
18. Structure – 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. Refers to anything constructed or erected, whether intended to be permanent or temporary, which requires location on the ground or attached to something having location on the ground, including signs and billboards.
19. Visual Runway – A runway without an existing or planned straight-in instrument approach procedure. This includes Runway 18 at the time of this Ordinance’s adoption.

163.04 Airport Approach Zones Established: In order to carry out the provisions of this section, there are hereby created and established certain zones which are described herein and depicted on the Southeast Iowa Regional Airport Approach Zones Map, which is hereby made a part of this Ordinance. Any structure or tree located at or above more than one zone is considered to be only in the zone with the more restrictive height and use limitation. **The various zones hereby established and defined are as follows:**

Zones highlighted in green would be within the West Burlington city limits

1. **Approach Overlay Zone (AOZ)** – The airspace above a sloping plane extending outward from each end of each runway, rising uniformly at a fixed ratio, and of a fixed size, through which aircraft commonly operate when arriving at, and departing from, the Airport. AO zones vary in size and slope based on the present or future use that can be expected for each runway. The AO Zones at the Airport are as follows:
 - a. **Runway 36 (AOZ36)** – Beginning 200 feet (200’) beyond the paved portion at the end of the runway and centered on the extended centerline of the runway, the inner edge of the zone is 1,000 feet (1,000’) wide, expanding uniformly to an outer edge of 16,000 feet (16,000’) wide. The altitude of the inner edge is the same as the altitude of the runway threshold at the centerline. For each 50 feet of horizontal distance from the floor of the zone rises from the inner edge one foot (50:1 slope) for a horizontal distance of 10,000 feet, and for an additional 40,000 horizontal feet, for each 40 feet of horizontal distance, rising at a rate of one foot (40:1).
 - b. **Runway 12 (AO12)** – Beginning 200 feet (200’) beyond the paved portion at the end of the runway and centered on the extended centerline of the runway, the inner edge of the zone is 500 feet (500’) wide, expanding uniformly to an outer edge of 3,500 feet wide (3,500’). The altitude of the inner edge is the same as the altitude of the runway threshold at the centerline. The floor of the zone rises from the inner edge one foot for each 34 feet of horizontal distance (34:1 slope) for a distance of 10,000 feet (10,000’).
 - c. **Runway 30 (AO30)** – Beginning 200 feet (200’) beyond the paved portion at the end of the runway and centered on the extended centerline of the runway, the inner edge of the zone is 500 feet (500’) wide, expanding uniformly to an outer edge of 3,500 feet wide (3,500’). The altitude of the inner edge is the same as the altitude of the runway threshold at the centerline. The floor of the zone rises from the inner edge one foot for each 34 feet of horizontal distance (34:1 slope) for a distance of 10,000 feet (10,000’).
 - d. **Runway 18 (AO18)** – Beginning 200 feet (200’) beyond the paved portion at the end of the runway and centered on the extended centerline of the runway, the inner edge of the zone is 500 feet (500’) wide, expanding uniformly to an outer edge of 1,500 feet (1,500’) wide. The altitude of the inner edge is the same as the altitude of the runway threshold at the centerline. For each 20 feet of horizontal distance from the floor of the zone rises from the inner edge one foot (20:1) for a horizontal distance of 5,000 feet (5,000’).

2. **Transitional Overlay Zone (TO)** – The airspace above a sloping plane rising from the sides of each runway and from the sides of each AO zone at the rate of 1 foot of elevation for each 7 feet horizontally (7:1 slope). The TO zones for the Airport are as follows:
 - a. **Runway 36 (TO36)** – Along each side of the runway, beginning at a point 500 feet from the center line of the runway and at right angles to the runway center line, and from each side of the AO36 zone at the south end of the runway, at right angles to the extended runway center line. The TO zone is interrupted at the point where it intersects the HO zone and resumes at the outer edge of the CO zone, continuing out for a distance of 5,000 feet horizontally from the edge of the AO36 zone.
 - b. **Runway 12 (TO12)** – Along each side of the runway, beginning at a point 500 feet from the center line of the runway and at right angles to the runway center line, and from each side of the AO12 zone at right angles to the extended runway center line. The TO zone ends at the point where it intersects the HO zone.
 - c. **Runway 30 (TO30)** – Along each side of the runway, beginning at a point 500 feet from the center line of the runway and at right angles to the runway center line, and from each side of the AO30 zone at right angles to the extended runway center line. The TO zone ends at the point where it intersects the HO zone.
 - d. **Runway 18 (TO18)** – Along each side of the runway, beginning at a point 500 feet from the center line of the runway and at right angles to the runway center line, and from each side of the AO18 zone at right angles to the extended runway center line. The TO zone ends at the point where it intersects the HO zone.
3. **Horizontal Overlay Zone (HO)** – The airspace above the horizontal surface plane, the perimeter of which is established by swinging arcs of 10,000 feet radii from the center of the inner edge of Airport Overlay zones AO36, AO12, AO30, and AO18, and connecting adjacent arcs by lines tangent to those arcs. The floor of the HO is 150 feet (150') above the airport elevation, or 698 feet (698') above mean sea level.
4. **Conical Overlay Zone (CO)** – The airspace above a sloped horizontal plane beginning at the periphery of the HO zone and rising 1 foot in height for each 20 feet horizontally (20:1) for a distance of 4,000 feet horizontally.

163.05 Airport Approach Zones Map: There is hereby adopted and enacted the Southeast Iowa Regional Airport Approach Zones Map signed by the Mayor of the West Burlington City Council and attested by the City Clerk, which map is on file in West Burlington City Hall, and is hereby incorporated into and made a part of these regulations and that the boundaries of the various approach zones, based on the runway layout as of July 1, 2021, are herewith enacted and established as shown on said map subject to the provisions hereafter set out relating to subsequent boundary changes and amendments. The said map is intended as a method of setting forth the boundaries of the various airport approach zones as the same are now shown on said map. All modifications, references, markings and other information shown thereon are hereby enacted and established as a part of the official district map for the Southeast Iowa Regional Airport and are made a part of these regulations.

163.06 General Zone Regulations: Except as otherwise provided herein, no person shall construct or alter any structure at or above the lowest extent of any Approach Overlay Zone, Runway Protection Zone, Transitional Overlay Zone, Horizontal Overlay Zone, or Conical Overlay Zone created herein without first having submitted a FAA Form 7460-1 (Notice of Proposed Construction or Alteration) or later editions of this form to the FAA and obtained a permit from the Administrative Agency. No person shall be issued a permit from the Administrative Agency for any construction or alteration without a determination of finding from the FAA. Any conditions that the Federal Aviation Administration attached to the approval recommendation shall be adopted and administered by the Administrative Agency. A permit will not be issued if the FAA finding, or determination determines that the proposed construction or alteration:

- a. Would create a hazard to air navigation
- b. Would establish a non-compatible use
- c. Would endanger the general safety, health, and welfare of persons in the vicinity of the Airport or occupants of aircraft in flight
- d. Would result in raising the minimum instrument flight altitude of any Federal Airway, approved off-airway route, or instrument approach procedure to the Airport.

Notwithstanding any other provision of this Ordinance, no person shall, in any zone created by this Ordinance, or upon any land or water underlying such zones:

- a. Establish any putrescible waste landfill, or open-air composting facility one (1) acre in size or larger.
- b. Create alter or maintain any structure or use that would create a bird strike hazard.
- c. Create, alter, or maintain any structure or use in such a manner as to create electrical or radio interference with aviation navigational signals or aircraft communications.
- d. Install, align, or use any lighting devices that make it difficult for pilots to distinguish between airport lights and others, create glare in the eyes of pilots, or otherwise impair visibility.
- e. Create, alter, or maintain any structure or use that would endanger or interfere with landing, takeoff, or maneuvering of aircraft.
- f. Plant, or allow the growth of, any tree, which, during the normal lifecycle of such tree, can be expected to grow into any zone created herein.
- g. Establish or maintain any private roadway in any location that would result in the penetration of any zone created herein.

163.07 Lighting and Markings: Notwithstanding any other provision of this Ordinance, any person constructing or altering any structure located in any zone created by this Ordinance shall install all lighting or markings upon said structure as shall be recommended by the FAA as a part of its review of the applicant's Notice of Proposed Construction or Alteration. Such lighting or markings shall be made in a manner consistent with FAA Regulations and Advisories.

Any permit or variance granted under the provisions of the Ordinance may be so conditioned as to require the owner of the land, structure, or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as the Airport or County deems necessary to indicate to operators of aircraft the presence of any obstruction.

Any permit or variance granted under the provisions of the Ordinance may be so conditioned so as to require the owner of the land, structure, or tree in question to permit the Airport, City, or County, at its own expense, to install, operate, and maintain such lighting and/or markings as the Airport, City, or County deems necessary to indicate to operators of aircraft the presence of an obstruction.

163.08 Existing and Future Uses:

1. **Existing Uses** – No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater airport hazard than it was on the effective date of this Ordinance or any amendment thereto or than it is when the application for a permit is made.
2. **Future Uses** – Except as specifically provided hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established whether it is intended to be permanent or temporary, and no tree shall be planted in any zone hereby created unless a permit or variance therefore shall have been applied for and granted. Each application for a permit or variance shall indicate the purpose for which the permit or variance is desired, with sufficient particularity to permit or variance 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 or variance shall be granted. No permit or variance for a use inconsistent with the provisions of this Ordinance shall be granted.

163.09 Nonconforming Uses and Structures: The regulations prescribed shall not be construed to require the removal or alteration of any structure or landscaping not conforming to the regulations as of the effective date of this Ordinance or otherwise to interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, in which the construction or alteration has begun prior to the effective date of this chapter.

1. **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 necessary through an FAA Airspace Analysis to indicate to the operators of aircraft in the vicinity of the airport the presence of such potential airport hazard.
2. **Alteration or Change of Nonconforming Use.** No permit shall be granted that would allow a nonconforming use or structure to become a greater airport hazard 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.
3. **Nonconforming Uses Abandoned or Damaged.** Whenever the Administrative Agency or its designee determines that a nonconforming structure is idle, unoccupied, vacant, discontinued, or abandoned for one (1) year or damaged, by any means, to the extent of more than sixty (60) percent of the assessed value at the time of destruction, no permit shall be granted that would allow the nonconforming use or structure to become a greater airport hazard 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.

163.10 Variances: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply for a variance from such regulations. The application for variance shall be accompanied by a determination from the FAA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will 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 Airport Zoning Board of Adjustment unless a copy of the application has been furnished to the Southeast Iowa Regional Airport Authority for advice as to the aeronautical effects of the variance. If the Southeast Iowa Regional Airport Authority does not respond to the application within ninety (90) days after receipt, the Airport Zoning Board of Adjustment may act on its own to grant or deny said application.

In addition, all applications for height variance within the airport zones shall be accompanied by Federal Aviation Administration Form 7460-1 (Notice of Proposed Construction or Alteration), or later equivalent editions of this form, which has been completed by the applicant and processed by the FAA regional office or otherwise appropriate FAA office.

Any permit or variance granted may, if such action is deemed advisable to advance the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Southeast Iowa Regional Airport Authority, this condition may be modified to require the owner to permit the Southeast Iowa Regional Airport Authority at its own expense, to install, operate, and maintain the necessary markings and lights.

163.11 Administrative Procedures: It shall be the duty of the Administrative Agency or its designee to administer and enforce the regulations prescribed therein. Applications for permits and variances shall be made to the Administrative Agency or its designee upon a furnished form. Applications required by this Ordinance to be submitted to the Administrative Agency shall be promptly considered and granted or denied. Application for action by the Airport Zoning Commission and Airport Board of Adjustment shall be forthwith transmitted by the Administrative Agency as necessary.

163.12 Airport Zoning Commission: Pursuant to the provisions of Section 329.9 of the Iowa Code, there shall be a Southeast Iowa Regional Airport Zoning Commission, consisting of 7 members, two of whom shall be appointed by the City of Burlington, two of whom shall be appointed by the City of West Burlington, two of whom shall be appointed by the Board of Supervisors of Des Moines County, and one additional member whom shall be selected by a majority vote of the City and County appointed members, and who shall serve as Chairperson of the commission. The terms of such members shall be as provided by Section 329.9 of the Iowa Code. The purpose of the Airport Zoning Commission is to recommend amendments to the current Airport Zoning Regulations, including the repeal thereof.

163.13 Airport Zoning Board of Adjustment: Pursuant to the provisions of Section 329.12 of the Iowa Code, there shall be a Southeast Iowa Regional Airport Zoning Board of Adjustment, consisting of 7 members, two of who shall be appointed by the City of Burlington, two of whom shall be appointed by the City of West Burlington, two of whom shall be appointed by the Board of Supervisors of Des Moines County, and one additional member whom shall be selected by a majority vote of the City and County appointed members, and who shall serve as Chairperson of the said commission. The terms of such members shall be as provided by Section 329.9 of the Iowa Code. The Airport Zoning Board of Adjustment shall have the duties and powers established by the Iowa Code. The purpose of the Airport Zoning Board of Adjustment is to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative office in the enforcement of the regulations within, and to hear and decide requests for variance from the terms of the regulations (See Section 163.10).

163.14 Prohibited Acts: Except as herein provided, it shall be unlawful for any person to construct or alter any structure, use any land, or grow any tree in violation of the provisions of this Ordinance.

163.15 Conflicting Regulations: In the event of any conflict between regulations contained in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height of structures or trees, use of structures or land, or any other matter, the more stringent limitation or requirement shall prevail.

163.16 Equitable Remedies: The municipality, as defined in Section 329.1 of the Iowa Code, owning or controlling the Airport may, pursuant to Section 329.5 of the Iowa Code, maintain an action in equity to restrain and abate as a nuisance the creation, establishment or maintenance of an airport hazard, in violation of any provision established by this Ordinance, on any property, whether within or without the territorial limits of said municipality.

163.17 Severability: If any section, provision, or part of this Ordinance shall be adjudged to be invalid, such adjudication shall not affect the validity of this Ordinance as a whole, nor any section, provision or part thereof not adjudged invalid.

163.18 Penalties: Any person violating any provision of this Ordinance shall be guilty of a municipal infraction, as defined by *Section 3.01* of this Code of Ordinances, and such person shall be deemed guilty of a separate offense for each and every day, or portion of a day, during which such violation is committed, continued, or permitted, and upon finding that a municipal infraction has occurred, shall be fined in accordance with Section 364.22(1) of the *Code of Iowa*, for this and subsequent or continuing violations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of the provisions of this Ordinance, the City Attorney, in addition to other remedies under the *Code of Iowa*, is hereby authorized to institute an action to enjoin, or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.