

Chapter 8

AVIATION¹

Art. I. Zoning, §§ 8-91--8-105

ARTICLE I. ZONING²

Sec. 8-1. Short title.

This article shall be known, and may be cited as the "Airport Zoning Ordinance of the City of Chattanooga".
(Code 1986, § 8-91)

Sec. 8-2. Definitions.

As used in this article, unless the context otherwise requires:

Airport means Lovell Field, the Chattanooga Municipal Airport.

Airport hazard means any structure, or tree, or use of land which obstructs the air space for the flight of aircraft in landing or taking off at the airport, or is otherwise hazardous to such landing or taking off of aircraft.

Approach zones means the area extending from the runways as now designated on the map attached to this article.

Glide angle. As used herein "glide angle" shall mean the angle made with the horizontal by aircraft approaching or taking off from the airport, and may be expressed in degrees or by a ratio of a number of feet of vertical rise from the horizontal as related to the number of feet or horizontal travel from a designated point.

Landing area means the area of the airport used for the landing, take-off, or taxiing of aircraft.

¹ **Editor's Note** – Former Article I, In General, and Article II, Municipal Airport, were repealed by Ord. No. 12422, § 1, 8-17-10. Therefore, former Article III was renumbered to Article I and former Secs. 8-91 through 8-105 were renumbered to Secs. 8-1 through 8-15.

Cross reference--Dropping litter from aircraft, § 18-156.

State law reference--Aeronautics generally, T.C.A. § 42-1-101 et seq.

Annotation--Jurisdiction of city over airport operated by city outside city limits sustained, Silverman v. Chattanooga, 165 (Tenn. (1 Beeler) 642, 57 S.W.2d 552 (1933).

² **Cross reference**--Zoning regulations generally, Ch. 38.

CHATTANOOGA CITY CODE

Non-conforming use means any structure, tree or use of land which does not conform to a regulation prescribed in this article or an amendment thereto, as of the effective date of such regulations.

Person means any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Structure means any object constructed or installed by man, including, but without limitation, building, towers, smoke-stacks and overhead transmission lines.

Transition zone means the area designated outside of approach zones, adjacent to the glide angles, as designated on the map hereto attached.

Tree means any object of natural growth.

Turning zone means the area outside of the approach zone and transition zone, as designated on the map hereto attached.

(Code 1986, § 8-92)

Cross reference-Definitions and rules of construction generally, § 1-2.

Sec. 8-3. Zones.

In order to carry out the purposes of this article all of the land within the boundary of the airport proper and within the area as designated on the map or plan hereinafter mentioned, is hereby divided into airport approach zones, airport transition zones, and airport turning zones, the boundaries of which are shown on the Chattanooga Airport Approach Plan or Map dated January, 1950, which is attached hereto and made a part hereof.

(Code 1986, § 8-93)

Sec. 8-4. Height limits.

Except as otherwise provided in this article, no structure, or tree, shall be erected, allowed to grow, or maintained in any airport approach zone, or any airport transition zone, or any airport turning zone, to a height in excess of the height limit herein established for such zone. For purposes of this regulation, the following height limits are hereby established for each of the zones in question:

- (1) *Approach zone.* A vertical height which does not intersect the glide angle of one (1) foot vertically to fifty (50) feet horizontally, beginning two hundred (200)

AVIATION

feet from either end of the north northeast-south southwest runway, which does not intersect the glide angle of one (1) foot vertically to forty (40) feet horizontally, beginning two hundred (200) feet from the northwest-southeast runway, and designated on the Airport Layout Plan, Approach and Clear Zone Plan, dated July, 1966. Drawing No. 866-3.0, approved by the Federal Aviation Agency January 16, 1967, hereto attached, or as may hereafter be laid out or designated by valid rule or regulation of the Federal Aviation Administration.

- (2) *Transition zone.* A vertical height which does not intersect the glide angle of one foot vertically to seven (7) feet horizontally, from the edge of the approach zone to the intersection of the turning zone, as designated on the map or plan of the runways as now laid out or designated by valid rule or regulation of the Civil Aeronautics Authority.
- (3) *Turning zone.* Any structure or tree not in excess of 50 feet may be erected, or permitted to grow within the Turning Zone, with permit; provided, however, than any such structure, or tree, shall not be erected or permitted to grow, regardless of its net height, which will exceed in height the number of feet above sea level of the elevation of the nearest airport obstruction light, or will obscure or otherwise interfere with the operation of any of said obstruction lights.

(Code 1986, § 8-94)

Sec. 8-5. Use restrictions.

Notwithstanding any other provisions of this article, no use may be made of land within any airport approach zone, transition zone, or airport turning zone, in such a manner as to create electrical interference with radio communication between the airport and aircraft, create smoke, fumes, etc., make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impairing visibility in the vicinity of the airport, or otherwise endanger the landing, taking-off or maneuvering of aircraft.

(Code 1986, § 8-95)

Sec. 8-6. Non-conforming uses.

The regulation prescribed in sections 8-94 and 8-95 of this article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree which did not conform to the regulations as of the effective date of Ordinance No. 4180, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained 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 Ordinance No. 4180, and which was diligently prosecuted and completed within two years thereof.

CHATTANOOGA CITY CODE

(Code 1986, § 8-96)

Sec. 8-7. 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 article, may apply for a variance therefrom. Such 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 could not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this article.

(Code 1986, § 8-97)

Sec. 8-8. Permits.

(a) *Future uses.* No material change shall be made in the use of the land, and no structure or tree shall be erected, altered, planted, or otherwise established in any airport approach zone or airport turning zone which exceeds the height limits hereinbefore provided in section 8-94 hereof, unless a permit therefor shall have been applied for and granted. Each such application 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 applied for shall be granted.

(b) *Existing uses.* Before any existing use, structure or tree may be replaced, substantially altered, or repaired, rebuilt, allowed to grow higher, or replaced within any airport approach zone or airport turning zone, a permit must be secured authorizing such replacement, change or repair which exceeds the height limits. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming 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 Ordinance No. 4180, or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement, change or repair of existing use, structure, or tree, shall be granted.

(Code 1986, § 8-98)

Sec. 8-9. Hazard marking and lighting.

Any permit or variance granted under section 8-97 or 8-98 may, if such action is deemed advisable to effectuate the purposes of this article, and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the city, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

AVIATION

(Code 1986, § 8-99)

Sec. 8-10. Appeals.

(a) Any person aggrieved, or taxpayer affected by any decision of the city and county building inspectors made in their administration of this article, if of the opinion that a decision of the building inspectors is an improper application of this article may appeal to the board of adjustment, for which provision is made in section 8-102.

(b) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspectors, and with the board, a notice of appeal, specifying the grounds thereof. The building inspectors shall forthwith transmit to the board 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 building inspectors certify to the board, after notice of appeal has been filed with them, 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 on notice, and on due cause shown.

(d) The board 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 may, in conformity with the provisions of this article, 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 ought to be made, and to that end shall have all the powers of the Chattanooga-Hamilton County Planning Commission.

Editor's note-Sections 2-401 et seq. provide for a metropolitan planning commission, the same apparently being successor to the Chattanooga-Hamilton County Planning Commission.

(f) The board shall make written findings of fact and conclusions of law, giving the facts upon which it acted and its legal conclusions from such facts, in reversing or affirming or modifying any order, requirement, decision, or determination which comes before it under the provisions of this article.

(g) The concurring vote of a majority of the members of the board shall be sufficient to reverse any order, requirement, decision or determination of the building inspectors, or to decide in favor of the applicant on any matter upon which it is required to pass under this article or to effect any variation in this article.

(Code 1986, § 8-100)

CHATTANOOGA CITY CODE

Sec. 8-11. Administrative agency.

The building inspectors are hereby designated the administrative agency, with the duty of administering and enforcing the regulations herein prescribed. The duties of the building inspectors shall include that of hearing and deciding all permits under section 8-98, but the building inspectors shall not have or exercise any of the powers or duties herein delegated to the board of adjustment.

(Code 1986, § 8-101)

Sec. 8-12. Board of adjustment.

(a) There is hereby created a board of adjustment, composed of mayor and city council and the county commission, to have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by the building inspectors in the enforcement of this article;
- (2) To hear and decide special exceptions to the terms of this article upon which such Board may be required to pass by subsequent ordinance;
- (3) To hear and decide specific variances under section 8-98.

(b) The board shall adopt rules for its governance and procedure in harmony with the provisions of this article. Meetings of the board shall be held at the call of the chairman, who shall be the mayor of the city and at such other times as the board may determine. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent, or failing to vote, indicating each fact; and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

(Code 1986, § 8-102; Ord. No. 9654, § 76, 1-6-92)

Sec. 8-13. Judicial review.

(a) Any person aggrieved, or taxpayer affected by any decision of the board of adjustment may appeal its decision as provided in section 27-9-101 et seq., Tennessee Code Annotated.

(b) No provision of this article shall be construed to modify or repeal any provision of the county zoning ordinance.

(Code 1986, § 8-103)

AVIATION

Sec. 8-14. Penalties.

Each violation of this article or of any regulation, order or ruling promulgated hereunder shall be punishable by a fine of not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00).

(Code 1986, § 8-104)

Sec. 8-15. Conflicting regulations.

Where this article imposes a greater or more stringent restriction upon the use of land than is imposed or required by any other ordinance or regulation the provisions of this article shall govern.

(Code 1986, § 8-105)