

**385 PRIVATE USE AIRPORT OVERLAY DISTRICT**

**385-1 Purpose**

The purpose of the Private Use Airport Overlay District is to recognize the locations of certain private use and privately owned public use airports and heliports and to provide for their continued operation and vitality consistent with state law. This Overlay District also recognizes the locations of and provides for the continued operation and vitality of public use airports not protected under ORS 836.610(1).

**385-2 Applicability**

This Overlay District applies to the following private use airports: Apple Valley AP, Meyer's Riverside AP, North Plains Gliderport, Olinger Strip, Sunset Airstrip, and to the life flight heliport at Providence St. Vincent Medical Center, pursuant to ORS 836.608(2). This Overlay District additionally applies to Skyport, a public use airport.

**385-3 Continued Operation and Determination of Existing Uses**

Operation of the following uses may be continued at their current levels as of the effective date of this ordinance (November 27, 2003) upon demonstration that the use existed at the airport at any time during 1996.

In response to requests for building permits or other expansions pursuant to Section 385-4 which may or may not otherwise require a Type II or Type III procedure, or in response to citizen complaints, the Review Authority may require a determination regarding the existence and level of a particular listed use in 1996. This determination of an existing use shall be based upon a review of evidence provided by the airport sponsor, and shall be processed via a Type II Procedure. This determination may be processed independently or concurrently with another Type II or Type III procedure.

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; a residence for an airport caretaker or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing and other uses.
- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.

- D. Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.
- E. Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.
- F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.
- G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.
- H. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.
- I. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.
- J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
- K. Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 308A.056.
- L. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying

parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving.

#### **385-4 Expansion of Existing Uses**

The expansion of uses identified in Section 385-3 of this Overlay District that existed at any time during 1996 is permitted as provided in this section.

##### **A. Expansions Permitted Through a Type I Procedure**

The following expansions of existing uses are permitted subject to the general standards of this Overlay District, the Development Standards of Article IV and all other applicable standards of the Code.

- (1) Construction of additional hangars and tie-downs.
- (2) Basing additional aircraft at the airport.
- (3) Increases in flight activity.

##### **B. Expansions Permitted Through a Type II Procedure**

The expansions of existing uses listed in Section 385-3 are permitted subject to the specific standards for the use set forth below as well as the general standards of this Overlay District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5 and as described in Section 385-8.

- (1) Growth of existing uses that require building permits, other than those existing uses identified in subsection A. of this Section, shall be permitted through a Type II procedure, provided the growth:
  - (a) Can be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals;
  - (b) Does not force a significant change or significantly increases the costs of conducting existing uses on surrounding lands; and
  - (c) Does not exceeds the standards of ORS 215.296(1) if the airport is adjacent to land zoned for exclusive farm use.

#### **385-5 Uses Which May be Permitted Through a Type III Procedure**

Airport related uses identified in Section 385-3 of this Overlay District shall be permitted via a Type III public hearing process upon demonstration of compliance with the following standards. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions, and/or additional requirements may be conditioned pursuant to Section 385-8.

- A. The use is or will be supported by adequate types and levels of facilities and services and transportation systems consistent with the County's adopted and acknowledged 2020 Transportation Plan;
- B. The use does not seriously interfere with existing land uses in areas surrounding the airport; and
- C. For airports adjacent to land zoned for exclusive farm use, the use complies with the requirements in ORS 215.296.

**385-6 Limitations on Height of Structures**

All uses, activities, facilities and structures allowed in the Private Use Airport Overlay District shall comply with the requirements of Section 386, Private Use Airport Safety Overlay District.

**385-7 Dimensional Requirements**

The minimum dimensional requirements shall be that of the underlying land use district except where further restricted by applicable Conditions of Approval.

**385-8 Additional Requirements**

As a condition of approval of any conditional use proposed within the Private Use Airport Overlay District, the Review Authority may require:

- A. An increase in required setbacks.
- B. Additional off-street parking and loading facilities and building standards.
- C. Limitations on signs or lighting, hours of operation, points of ingress and egress, and building heights.
- D. Additional landscaping, screening and other improvements.
- E. Glare-resistant materials in the construction or other methods likely to reduce operating hazards.
- F. Other conditions considered necessary to achieve compliance and policies of the Comprehensive Plan.

**386 PRIVATE USE AIRPORT SAFETY OVERLAY DISTRICT**

**386-1 Intent and Purpose**

The intent of the Private Use Airport Safety Overlay District 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.

**386-2 Applicability**

The Private Use Airport Safety Overlay District shall apply to Apple Valley AP, Meyer's Riverside AP, North Plains Gliderport, Olinger Strip AP, Skyport AP, Providence St. Vincent Medical Center HP, and Sunset Airstrip, pursuant to ORS 836.608(2) and OAR 660-013-0155(1).

This Overlay District applies certain height restrictions to new development in underlying land use districts according to those described in the definition for Approach Surface, as outlined under Section 106-10.7.

**386-3 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 district and shall be made part of the Airport Safety and Land Use Compatibility Element of the Rural/Natural Resource Plan Map.

The helipad elevation and the location and dimensions of the primary surface, transitional surface and approach surface shall be delineated for the Providence St. Vincent Medical Center Heliport and shall be made part of the Airport Safety and Land Use Compatibility Element of the Cedar Hills-Cedar Mill Community Plan Map.

All lands, waters and airspace, or portions thereof, that are located within these surfaces shall be subject to the requirements of this Overlay District.

**386-4 Notice of Land Use and Permit Applications within Overlay District Area**

Written notice of applications and decisions for land use decisions, including Comprehensive Plan or Map amendments, shall be provided to the airport sponsor and the Department of Aviation as provided pursuant to Section 204.

**386-5 Height Limitations on Allowed Uses in Underlying District**

All uses permitted by the underlying district shall comply with the height limitations in this Section. When height limitations of the underlying district are more restrictive than those of this Overlay District, the underlying district height limitations shall control.

- A. Except as provided in subsection B. of this Section, no structure or appurtenance shall be constructed to penetrate, nor tree, plant or other object of natural growth shall be planted which within ten years of growth can be expected to penetrate, an airport imaginary surface.
- 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.

### **386-6 Procedures**

An applicant seeking a Type II or Type III approval in an area within this Overlay District 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 Land Development Services Division 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 in order to compare absolute height relative to that of the nearby airport runway; and
- C. If a height variance is requested, letters of “support” or “no impact” from the airport sponsor and the Department of Aviation are required.

### **386-7 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 District.
- 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 Type II or Type III 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 District.

**387 PUBLIC USE AIRPORT OVERLAY DISTRICT**

**387-1 Purpose**

The purpose of the Public Use Airport Overlay District is to encourage and support the continued operation and vitality of certain public use airports by allowing airport-related commercial and recreational uses in accordance with state law.

**387-2 Applicability**

This Overlay District applies to Stark’s Twin Oaks Airpark, pursuant to ORS 836.610(1).

**387-3 Conformance with Public Use Airport Safety and Compatibility Overlay District**

All uses, activities, facilities and structures allowed in the Public Use Airport Overlay District shall comply with the requirements of Section 388, Public Use Airport Safety and Compatibility Overlay District. In the event of a conflict between the requirements of this land use overlay district and those of the Public Use Airport Safety and Compatibility Overlay District, the requirements of the latter shall control.

**387-4 Uses Permitted Through at Type I Procedure**

The following uses and activities are permitted subject to the general standards of this Overlay District, the Development Standards of Article IV and all other applicable standards of the Code. In addition, the Twin Oaks Airpark is located within an area identified by the Oregon Water Resources Department as the Bull Mountain-Cooper Mountain Critical Groundwater Area. Pursuant to this, groundwater consumption and activities on site that impact groundwater resources may be limited, as described in ORS Ch. 537 and OAR Ch. 690.

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; a residence for an airport caretaker or security officer; pilots’ lounge and associated eating establishment; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, “customary and usual aviation-related activities” do not include residential, commercial, industrial, manufacturing and other uses.
- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.

- D. Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.
- E. Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.
- F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.
- G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.
- H. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.
- I. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.
- J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
- K. Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 308A.056.

**387-5 Uses Permitted Subject to the Acceptance of the Airport Sponsor**

The following uses and activities and their associated facilities and accessory structures are permitted in the Public Use Airport Overlay District upon demonstration of acceptance by the airport sponsor.

- A. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and



sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; and gyrocopter flights, but do not include flights carrying parachutists or parachute drops (including all forms of skydiving).

- B. Flights carrying parachutists, and parachute drops (including all forms of skydiving) onto an airport, but only upon demonstration that the parachutist business has secured approval to use a drop zone that is at least 10 contiguous acres. The configuration of the drop zone shall roughly approximate a square or a circle and may contain structures, trees, or other obstacles only if the remainder of the drop zone provides adequate areas for parachutists to land safely.

**387-6 Dimensional Requirements**

The minimum dimensional requirements shall be that of the underlying land use district except where further restricted by applicable Conditions of Approval.

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**388 PUBLIC USE AIRPORT SAFETY AND COMPATIBILITY OVERLAY DISTRICT**

**388-1 Intent and Purpose**

The purpose of the Public Use Airport Safety and Compatibility Overlay District is to encourage and support the continued operation and vitality of public use airports with visual only approaches by establishing compatibility and safety standards to promote air navigational safety at such public use airports and to reduce potential safety hazards for persons living, working or recreating near such public use airports.

**388-2 Applicability**

The Public Use Airport Safety and Compatibility Overlay District shall be applied to the area surrounding Stark's Twin Oaks Airpark. In the future, this overlay district may apply to new or existing public use airports with visual approaches that have been identified by the Oregon Department of Aviation as requiring this level of protection, pursuant to ORS 836.600; ORS 836.619; OAR 660-013-0070; OAR 660-013-0080.

**388-3 Imaginary Surface and Noise Impact Boundary Delineation**

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface, transitional surface and direct impact boundary shall be delineated for each airport subject to this overlay district and shall be made part of the Airport Land Use and Safety Overlay District Element of the Rural/Natural Resource Plan Map. All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this overlay district.

**388-4 Notice of Land Use and Permit Applications within Overlay District Area**

Except as otherwise provided herein, written notice of applications for land use decisions, including comprehensive plan amendments, in an area within this overlay district, shall be provided to the airport sponsor and the Department of Aviation as provided pursuant to Section 204.

**388-5 Height Limitations on Allowed Uses in Underlying Districts**

All uses permitted by the underlying district shall comply with the height limitations in this Section. When height limitations of the underlying district are more restrictive than those of this overlay district, the underlying district height limitations shall control.

- A. Except as provided in subsections B. and C. of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.
- B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport

runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, the Review Authority may authorize structures up to thirty-five (35) feet in height.

- C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. 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 and the FAA.

### **388-6 Procedures**

An applicant seeking a Type II or a Type III approval in an area within this Overlay District 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 Land Development Services Division 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; and
- C. If a height variance is requested, letters of “support” or “no impact” from the airport sponsor, the Department of Aviation, and the FAA are required.

### **388-7 Land Use Compatibility Requirements**

Applications for land use or building permits for properties within the boundaries of this Overlay District shall comply with the requirements of this chapter as provided herein.

#### **A. Noise**

Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within identified airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 LDN, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 LDN.

#### **B. Outdoor lighting**

Any new or expanded industrial, commercial or recreational use shall submit an outdoor lighting plan to determine that the new use will not project lighting directly

onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

C. Glare

No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

D. Industrial emissions

No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

E. Communications Facilities and Electrical Interference

No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio-communication towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.

F. Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas

The land uses identified in Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in this section, a limited use means a use that is allowed subject to special standards specific to that use.

**TABLE 1**

Location	Public	Residential	Commercial	Industrial	Institutional	Farm Use	Roads/ Parking	Utilities	Parks/Open Space	Golf Courses	Athletic Fields	Sanitary Landfills	Water Treat- ment Plants	Mining	Water Impoundments	Wetland Mitigation
RPZ <sup>1</sup>	L <sup>2</sup>	N	N	N	N	P <sup>3</sup>	L <sup>4</sup>	L <sup>5</sup>	L <sup>6</sup>	L <sup>7</sup>	N	N	N	N	N	N
Approach Surface <sup>8</sup>	L <sup>9</sup>	L <sup>10</sup>	L <sup>9</sup>	L <sup>9</sup>	L <sup>9</sup>	P <sup>3</sup>	P	L <sup>5</sup>	P	L <sup>7,9</sup>	L <sup>9</sup>	N	N	L <sup>11</sup>	N <sup>1</sup> 2	L <sup>13</sup>
Direct Impact Area	P	L <sup>14</sup>	L <sup>15</sup>	P	L <sup>15</sup>	P <sup>3</sup>	P	L <sup>5</sup>	P	L <sup>7</sup>	L <sup>14</sup>	N	N	L <sup>11</sup>	L <sup>16</sup>	L <sup>13</sup>

P = Use is Permitted

L = Use is Allowed Under Limited Circumstances (See Footnotes)

N = Use is Not Allowed

**Table 1 Footnotes:**

1. No structures shall be allowed within the RPZ. Exceptions shall be made only for structures accessory to airport operations whose location within the RPZ has been approved by the FAA.
2. In the RPZ, public airport uses are restricted to those uses and facilities that require location in the RPZ.
3. Farming practices that minimize wildlife attractants are encouraged.
4. Roads and parking areas are permitted in the RPZ only upon demonstration that there are no practicable alternatives. Lights, guardrails and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.
5. In the RPZ, utilities, powerlines and pipelines must be underground. In approach surfaces and in airport direct and secondary impact areas, the proposed height of utilities shall be coordinated with the airport sponsor and the Department of Aviation.
6. Public assembly facilities are prohibited within the RPZ.
7. Golf courses may be permitted only upon demonstration, supported by substantial evidence, that management techniques will be utilized to reduce existing wildlife attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of approval. Structures are not permitted within the RPZ. For purposes of this Chapter, tee markers, tee signs, pin cups and pins are not considered to be structures.
8. Within 10,000 feet from the end of the primary surface of a nonprecision instrument runway, and within 50,000 feet from the end of the primary surface of a precision instrument runway.
9. Public assembly facilities may be allowed in an approach surface only if the potential danger to public safety is minimal. In determining whether a proposed use is appropriate, consideration shall be given to: proximity to the RPZ; density of people per acre; frequency of use; level of activity at the airport; and other factors relevant to public safety. In general, high density uses should not be permitted within airport approach surfaces, and non-residential structures should be located outside approach surfaces unless no practicable alternatives exist.

10. Residential densities within approach surfaces should not exceed the following densities: (1) within 500 feet of the outer edge of the RPZ, 1 unit/acre; (2) within 500 to 1,500 feet of the outer edge of the RPZ, 2 units/acre; (3) within 1,500 to 3,000 feet of the outer edge of the RPZ, 4 units/acre.
11. Mining operations involving the creation or expansion of water impoundments shall comply with the requirements of this Chapter regulating water impoundments.
12. Water impoundments are prohibited within 5,000 feet from the end of a runway. See Section 388-8 regulating water impoundments beyond 5,000 feet from the edge or end of a runway.
13. Wetland mitigation required for projects located within an approach surface or airport direct or secondary impact area shall be authorized only upon demonstration, supported by substantial evidence, that it is impracticable to provide mitigation outside of these areas. Proposals for wetland mitigation shall be coordinated with the airport sponsor, the Department of Aviation, the FAA, and wetland permitting agencies prior to the issuance of required permits. Wetland mitigation shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways and approach surfaces. Conditions shall be imposed as are appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces. See Section 388-9 for best management practices for airports located near significant wetlands or wildlife habitat areas.
14. Within the transition surface, residential uses and athletic fields are not permitted.
15. Within the transition surface, overnight accommodations, such as hotels, motels, hospitals and dormitories, are not permitted.
16. See Section 388-8 prohibiting or regulating water impoundments beyond 5,000 feet from the edge or end of a runway.

**388-8 Water Impoundments within Approach Surface Areas and Airport Direct Impact Boundaries**

Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of this Section.

- A. No new or expanded water impoundments of one-quarter acre in size or larger are permitted:
  - (1) Within an approach surface and within 5,000 feet from the end of a runway;  
or
  - (2) On land owned by the airport sponsor that is necessary for airport operations.

**388-9 Wetland Mitigation, Creation, Enhancement and Restoration within Approach Surface Areas and Airport Direct Impact Boundaries**

- A. Notwithstanding the requirements of Section 388-8, wetland mitigation, creation, enhancement or restoration projects located within areas regulated under Section 388-8 shall be allowed upon demonstration of compliance with the requirements of this Section.
- B. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within areas regulated under Section 388-8 are recognized as lawfully existing uses.
- C. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but

outside approach surfaces and areas regulated under Section 388-8 is encouraged.

- D. Applications to expand wetland mitigation projects in existence as of the effective date of this ordinance (November 27, 2003), and new wetland mitigation projects, that are proposed within areas regulated under Section 388-8 shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:
- (1) It is not practicable to provide off-site mitigation; or
  - (2) The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.
- E. Wetland mitigation permitted under subsection D. of this Section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.
- F. Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces or within areas regulated under Section 388-8, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered through a Type II review process and shall be permitted upon demonstration that:
- (1) The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and
  - (2) The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.
- G. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this Section shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish & Wildlife (ODFW), the Oregon Division of State Lands (DSL), the US Fish & Wildlife Service (USFWS), and the US Army Corps of Engineers (Corps) as part of the permit application.
- H. A decision approving an application under this Section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

### **388-10 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 District.
- 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 District.

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