

Airport Approaches Zoning

(Excerpts from the California Government Code Sections 50485-50485.14)

Chapter 2. Public Property

Article 6.5. Airport Approaches Zoning Law

50485. This article shall be known and may be cited as the "Airport Approaches Zoning Law."

(Added by Stats. 1953, Ch. 1741.)

50485.1. As used in this article, unless the context otherwise requires:

"Airport" means any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

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

"Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this article.

"City or county" means any city, county, or city and county.

"Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, city or county, or district, and includes any trustee, receiver, or assignee.

"Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead lines.

"Tree" means any object of natural growth.

(Added by Stats. 1953, Ch. 1741.)

50485.2. It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of the aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; and (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented by appropriate exercise of the police power or the authority conferred by Article 2.6 (commencing with Section 21652) of Part 1 of Division 9 of the Public Utilities Code. It is further declared that both the prevention of the

creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which a city or county may raise and expend public funds and acquire land or property interests therein.

(Added by Stats. 1953, Ch. 1741; Amended by Stats. 1975, Ch. 1240, operative July 1, 1976.)

50485.3 In order to prevent the creation or establishment of airport hazards, every city or county having an airport hazard area within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(Added by Stats. 1953, Ch. 1741.)

50485.4. In the event that a city or county has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

In the event of conflict between any airport zoning regulations adopted under this article and any other regulations applicable to the same area whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the city or county which adopted the airport zoning regulations or by some other city or county, the more stringent limitation or requirement shall govern and prevail.

(Added by Stats. 1953, Ch. 1741.)

50485.5. No airport zoning regulations shall be adopted, amended or changed under this article except by action of the legislative body of the city or county in question after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the hearing shall be published pursuant to Section 6066 in an official paper, or a paper of general circulation, in the city or county in which is located the airport hazard area to be zoned.

(Added by Stats. 1953, Ch. 1741; Amended by Stats. 1957, Ch. 357.)

50485.6. Prior to the initial zoning of any airport hazard area under this article, the city or county which is to adopt the regulations shall appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the city or county shall not hold its public hearings or take other action until it has received the final report of such commission. Where a city or county planning commission already exists, it shall be appointed as the airport zoning commission.

(Added by Stats. 1953, Ch. 1741.)

50485.7. All airport zoning regulations adopted under this article shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this article. In determining what regulations it may adopt, each city or county shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(Added by Stats. 1953, Ch. 1741.)

50485.8. No airport zoning regulations adopted under this article shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in Section 50485.10.

(Added by Stats. 1953, Ch. 1741.)

50485.9. All airport zoning regulations adopted under this article shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of the city or county adopting the regulations, if satisfactory to that city or county. The duties of any administrative agency designated pursuant to this article shall include that of hearing and deciding all applications for permits and variances under Section 50485.10.

(Added by Stats. 1953, Ch. 1741.)

50485.10. Any airport zoning regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted. No such permit shall be required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of the existing structure.

Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under this article, may apply to the administrative agency for a variance from the zoning regulations in question. Such variances 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 do substantial justice and be in accordance with the spirit of the regulations and this article; provided, that any variance may be

allowed subject to any reasonable conditions that the administrative agency may deem necessary to effectuate the purpose of this article.

In granting any permit or variance under this section, the administrative agency may, if it deems such action advisable to effectuate the purposes of this article and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the city and county, 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.

(Added by Stats. 1953, Ch. 1741.)

50485.11. Any person aggrieved or taxpayer affected by any decision of the administrative agency or of any governing body of a city or county, may petition a court for a review of the matter in accordance with law.

The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the administrative agency. The findings of fact of the administrative agency, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a decision of the administrative agency shall be considered by the court unless such objection shall have been urged before the administrative agency, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

In any case in which airport zoning regulations adopted under this article, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Constitution of this State or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land.

(Added by Stats. 1953, Ch. 1741.)

50485.12. Each violation of this article or of any regulations, orders, or rulings promulgated or made pursuant to this article, shall constitute a misdemeanor. In addition, the city or county adopting zoning regulations under this article may institute in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this article, or of airport zoning regulations adopted under this article, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purpose of this article and of the regulations adopted and orders and rulings made pursuant thereto.

(Added by Stats. 1953, Ch. 1741.)

50485.13. Repealed by Stats. 1975, Ch. 1240, Operative July 1, 1976.

50485.14. Neither this article nor anything expressed in it is intended to be or is to be construed as a denial of the power of local governing bodies and agencies to provide for zoning regulations pursuant to Article XI, Section 11, of the Constitution.

(Added by Stats. 1953, Ch. 1741.)