

Chapter 14

AVIATION*

Article I. In General

- Sec. 14-1. Aviation advisory board.
- Secs. 14-2-14-25. Reserved.

Article II. Municipal Airport

- Sec. 14-26. Definitions.
- Sec. 14-27. Airport authority-Acceptance of beneficial interest in trust.
- Sec. 14-28. Same-Lease of airport and facilities.
- Sec. 14-29. Operations manual adopted.
- Sec. 14-30. Exclusive rights not permitted.
- Sec. 14-31. Aeronautical activity-Application procedure.
- Sec. 14-32. Same-Lease or contract required.
- Sec. 14-33. Standards for specific aeronautical activities.
- Sec. 14-34. Combinations of aeronautical activities.
- Sec. 14-35. Fees for aeronautical activities.
- Sec. 14-36. Landing or taking off of aircraft prohibited except at approved airports or areas; landing area permits; flight regulations observed.
- Sec. 14-37. Exemption of aircraft owned by federal or state government.
- Sec. 14-38. Authorization for exhibitions.
- Secs. 14-39-14-60. Reserved.

Article III. Airport Zoning

- Sec. 14-61. Short title.
- Sec. 14-62. Definitions.
- Sec. 14-63. Penalty.
- Sec. 14-64. Airport zones established.
- Sec. 14-65. Airport zone height limitations.
- Sec. 14-66. Use restriction.
- Sec. 14-67. Nonconforming uses.
- Sec. 14-68. Permits.
- Sec. 14-69. Enforcement.
- Sec. 14-70. Board of adjustment.
- Sec. 14-71. Appeals.
- Sec. 14-72. Judicial review.
- Sec. 14-73. Conflicting regulations.

.State law references-Aircraft and airports, 3 O.S.; municipal airports, 3 O.S. §§ 61, 62, 65.1 et seq.

ARTICLE I. IN GENERAL

Sec. 14-1. Aviation advisory board.

(a) There is hereby created an aviation advisory board, which shall consist of nine members. One member shall be the city manager or his designated representative. Five members shall be residents of the city, and three members may be non-residents but must own a business or be property owners in the city, appointed by and serving at the pleasure of the mayor, with the consent of the city council.

(b) The members of the board shall serve for terms of two years, except as otherwise provided herein.

(c) The members of the board shall serve without compensation.

(d) As soon as practicable after January 1 of each year, the board shall elect a chairman, vice-chairman and secretary. The secretary need not be a member of the board.

(e) The board shall meet at the call of its chairman, or any five of its members, and at such times and places as the members shall determine.

(f) The board shall advise and make recommendations to the city council and the city manager on all aeronautical matters of interest to the city. (Code 1974, § 6-3)

Cross reference-Boards and commissions, § 2-166 et seq.

Secs. 14.2-14-25. Reserved.

ARTICLE II. MUNICIPAL AIRPORT

Sec. 14-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aeronautical activity means any activity which involves, makes possible, or is required for the operation of aircraft or which contributes to, or is required for, the safety of such operations and shall include, but not by way of limitation, all activities commonly conducted on airports, such as charter

operations, pilot training, aircraft rental and sight-seeing, aerial photography, crop dusting, flying clubs, aerial advertising and surveying, air carrier operations, air rescue operations, aircraft sales and services, sale of aviation petroleum products, whether or not conducted in conjunction with other included activities, repair and maintenance of aircraft, sale of aircraft, parts, sale and maintenance of aircraft accessories, radio, communication and navigation equipment and any other activity which, because of its direct relationship to the operation of aircraft, can appropriately be regarded as an aeronautical activity.

Standards means the qualifications established in this article, as amended from time to time by the city council upon recommendation of the airport advisory board, setting forth the minimum requirements to be met as a condition for the right to conduct an aeronautical activity on the municipal airport.

(Code 1974, § 6-6)

Cross reference-Definitions generally, § 1-2.

Sec. 14-27. Airport authority-Acceptance of beneficial interest in trust.

The city council does accept, for the city, the beneficial interest in a certain public trust designated as McAlester Airport Authority, dated March 1, 1963, for the comprehensive purpose of furnishing and supplying airport services and facilities to the city, and for purposes collateral thereto, in all respects in accordance with the declaration of trust of the authority, as filed on March 1, 1963, in the office of the city clerk; and the mayor of the city is hereby directed to endorse the acceptance of beneficial interest on the declaration of trust for and on behalf of the city council. (Code 1974, § 6-1)

Sec. 14-28. Same-Lease of airport and facilities.

The city does hereby consent and agree to the lease of all of the city's airport and facilities, and all future additions thereto, to the McAlester Airport Authority, as authorized by statute, to be effective at the time and upon the terms and conditions specified in a certain lease, prepared under the direction of the city council and filed in the office of the city clerk on March 1, 1963; and the

mayor of the city is authorized and directed, on behalf of the city, to execute and deliver such lease to the McAlester Airport Authority.
(Code 1974, § 6-2)

Sec. 14.29. Operations manual adopted.

(a) It being necessary to protect the safety of the citizens of the city and of the aviation public, to ensure the efficient operation of the municipal airport and to effect compliance with the requirements of Part 139 of the Federal Aviation Regulations, the McAlester Municipal Airport Operations Manual, a copy of which is on file in the office of the city clerk, is hereby adopted.

(b) Whenever, within parts 01.101 through 01.06 of the airport operations manual, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such parts the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of such parts shall be punishable as provided in section 1-8.
(Code 1974, § 6-5)

Sec. 14-30. Exclusive rights not permitted.

No person shall be granted an exclusive right to conduct any aeronautical activity upon the airport; provided, however, that no person shall be permitted to use any land or conduct any aeronautical activity or the solicitation of business in connection therewith unless such aeronautical activity is conducted in accordance with the standards established in this article.
(Code 1974, § 6-7)

Sec. 14-31. Aeronautical activity-Application procedure.

(a) *Application.* Any person wishing to acquire the use of land or establish or use any facility on the airport for an aeronautical activity shall make written application to the city manager, which application shall set forth in detail the following:

- (1) The name and address of the applicant.
- (2) The proposed land use, facility and/or activity sought.

- (3) The names and qualifications, including evidence of such certificates as may be required by the Federal Aviation Administration, of the personnel to be involved in conducting such activity.
- (4) Evidence of financial responsibility and ability of the applicant and operator to carry out the activity sought.
- (5) The tools, equipment, services and inventory, if any, proposed to be furnished in connection with such activity.
- (6) The proposed date for commencement of the activity.
- (7) The estimated cost of any structure or facility to be furnished, the proposed specifications for same, and the means or methods of financing such construction or acquisition of facilities.
- (8) Evidence that the applicant has in force or can furnish insurance of such types and amounts as to protect, defend and hold harmless the city from any and all liability in connection with the conduct of such activity.

(b) *Action on application.* Upon receipt of a properly completed application, the city manager shall forward such application to the aviation advisory board for consideration at its next regular meeting. It shall be the responsibility of the board to determine if the applicant meets the standards and qualifications as set out in this article. Upon making such determination, the board shall recommend approval, modification or rejection of the application to the city council. The city council shall consider the recommendation of the board at the next regularly scheduled council meeting.

(c) *Application for temporary/transient activity.* The airport manager shall approve and generally supervise any temporary/transient commercial activity wherein the aircraft and/or organization is not permanently based at the McAlester Municipal Airport.
(Code 1974, § 6-8)

Sec. 14-32. Same-Lease or contract required.

Upon the approval of any application for aeronautical activity under this article, the city man-

ager shall cause to be prepared a lease or contract agreement setting forth the terms and conditions of the land and/or facility use.
(Code 1974, § 6-9)

Sec. 14-33. Standards for specific aeronautical activities.

(a) *Fuel and oil sales.* Persons conducting aviation fuel and oil sales shall be required to provide:

- (1) Standard grade aviation fuel and a standard jet fuel.
- (2) An adequate inventory of at least two brands of generally accepted grades of aviation engine oil and lubricants.
- (3) Proper mobile fuel-dispensing equipment to service all types of aircraft.
- (4) Properly trained line personnel on duty at least eight hours of every calendar day, seven days a week, on-call and readily accessible by telephone at other hours during the day or night.
- (5) Adequate parking and tiedown hardware to safely store aircraft in all reasonable expected weather conditions.
- (6) Adequate grounding facilities at fueling locations and approved types of fire extinguishers or other equipment commensurate with the hazard involved in refueling and servicing aircraft.

(b) *Aircraft charter and taxi service.* Persons conducting aircraft charter and/or taxi service shall be required to provide:

- (1) Properly certified aircraft with properly certificated and qualified operating crews.
- (2) Evidence of registration with the United States Department of Transportation for provision of such commercial category of air service.

(c) *Aircraft engine, airframe and accessory maintenance.* Persons conducting aircraft engine, airframe and accessory maintenance shall be required to provide:

- (1) Sufficient hangar space to house any aircraft upon which airframe or engine repair is being performed.

(2) Sufficient inside and outside storage space for aircraft awaiting repair or maintenance or delivery after repair and maintenance have been completed.

(3) Adequate equipment and machine tools, jacks, lifts and testing equipment to perform overhauls as required for FAA certification and repair of parts not needing replacement on all single-engine land and light multiengine land general aviation aircraft.

(4) Facilities for washing and cleaning aircraft.

(5) At least one FAA-certificated airframe and engine mechanic available during eight hours of the day, five days per week.

(d) *Aircraft rental and/or sales.* Persons conducting aircraft rental and/or sales activity shall be required to provide:

(1) Hangar space for at least one aircraft to be used for sales or rentals.

(2) For rental activity, at least two properly maintained and certificated aircraft.

(3) For sales activity, an adequate arrangement for securing new and used aircraft for sale.

(4) For sales activity, an adequate stock of readily expendable spare parts or adequate arrangements for securing spare parts for the type and models of aircraft sold.

(5) Adequate facilities for servicing and repairing the sales and/or rental aircraft or satisfactory arrangements with other operators on the airport for such service and repair.

(6) A properly certificated pilot capable of demonstrating aircraft for sale or for checking out rental aircraft, which said pilot shall be on duty at least eight hours of every calendar day, seven days a week.

(e) *Flight training.* Persons conducting flight training shall be required to provide a properly certificated flight instructor with appropriate ratings for the type of training offered, with services

available during eight hours of the day, five days per week.

(£) *Crop dusting and spraying.* Persons conducting crop dusting or other chemical spraying shall be required to provide:

- (1) Adequate storage for the safe containment of all poisonous or inflammable materials.
- (2) Properly certificated aircraft suitably equipped for the specific spraying operation undertaken.
- (3) An Oklahoma state operating permit.
(Code 1974, § 6-10)

Sec. 14-34. Combinations of aeronautical activities.

Any person conducting a combination of the specific aeronautical activities enumerated herein shall not be required to duplicate the requirements of the individual activities in those instances in which the requirements of one activity are sufficient to meet the requirements of a separate activity.
(Code 1974, § 6-11)

Sec. 14-35. Fees for aeronautical activities.

(a) *Specific activities.* Persons conducting aeronautical activities shall be assessed fees as established by the city council upon recommendation of the aviation advisory board and reviewed on an annual basis.

(b) *Fees.* Fees shall be paid at the office of the city treasurer on the first working day of each calendar month.

(c) *Combination activities.* The aviation advisory board shall recommend and the council shall cause to be adopted appropriate fees for combinations of aeronautical activities enumerated in this article.

(d) *Fees for temporary/transient commercial activities.* Fees for temporary/transient commercial aeronautical activity shall be paid upon departure, or within ten days thereof, except that when activity is recurring, subsection (b) of this section shall apply.
(Code 1974, § 6-12)

Sec. 14-36. Landing or taking off of aircraft prohibited except at approved airports or areas; landing area permits; flight regulations observed.

(a) No person shall land or take off in any aircraft of any type, whether fixed wing, helicopter or lighter-than-air such as a balloon or dirigible, except at an airport or area within the city approved for such operation by the Federal Aviation Administration and the city council, unless such action is necessary in an emergency.

(b) The aviation advisory board shall establish procedures to review each request for an additional landing area within the city and shall submit its recommendation to the city council for approval. The airport manager, in coordination with the chairman of the aviation advisory board, or his designee, shall have authority to approve temporary landing areas. Duration of permits for temporary landing areas shall be limited to the next meeting of the aviation advisory board.

(c) Permits issued for landing areas will be subject to an annual review by the aviation advisory board. Permits can be revoked at any time, with 30 days' notice, for any condition which is considered in the public interest. Permits are subject to immediate revocation if the aviation advisory board determines an unsafe condition develops which did not exist or was not established to exist prior to issuance.

(d) Approval of a landing area may require conditions of use. Any conditions of use will be set forth in the landing area permit.

(e) No person shall operate an aircraft of any type within the airspace of the city without observing Federal Aviation Administration regulations, part 91.97.
(Code 1974, § 6-13)

Sec. 14-37. Exemption of aircraft owned by federal or state government.

Section 14-36 shall not apply to aircraft owned by the federal or state government wherein the operations involve any of the activities prohibited by that section and are incident to and in aid of national defense or security.
(Code 1974, § 6-14)

Sec. 14-38. Authorization for exhibitions.

On special occasions and for the purpose of exhibition, educational purposes or for photographer's work, the airport manager may authorize such flights to be conducted under his general supervision. No person shall perform any aerobic maneuvers or stunts while flying in or on any aircraft giving any exhibition, or otherwise, unless specifically authorized by the airport manager.

(Code 1974, § 6-15)

Secs. 14-39-14-60. Reserved.

ARTICLE III. AIRPORT ZONING*

Sec. 14-61. Short title.

This article shall be known and may be cited as the McAlester Airport zoning ordinance. (Ord. No. 1687, § I, 11-23-82)

Sec. 14-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport means the McAlester Municipal Airport.

Airport elevation means 770 feet above mean sea level.

Approach surface means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 14-65. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal and conical zones. These zones are set forth in section 14-64 of this chapter.

*Cross references-Buildings and building regulations, ch. 18; land development code, ch. 62.

State law references-Airport Zoning Act, 3 O.S. § 100 et seq.; airport zoning required, 3 O.S. § 103.

Board of adjustment means a board consisting of five members appointed by the mayor and approved by the city council.

Conical surface means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

Hazard to air navigation means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger than utility runway means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

Nonconforming use means any preexisting structures, object of natural growth, or use of land which is inconsistent with the provisions of this article or an amendment thereto.

Nonprecision instrument runway means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction means any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in section 14-65.

Person means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

Primary surface means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in section 14-64. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway means a defined area on an airport prepared for the landing and takeoff of aircraft along its length.

Structure means 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.

Transitional surfaces means surfaces that extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Tree means any object of natural growth.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures.

(Ord. No. 1687, § II, 11-23-82)

Crossreference-Definitions generally, § 1-2.

Sec. 14-63. Penalty.

Each violation of this article or of any regulation, order or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine not more than \$500.00 or imprisonment for not more than one year in the county jail, or both; and each day a violation continues to exist shall constitute a separate offense.

(Ord. No. 1687, § XII, 11-23-82)

State law reference-Similar provisions, 3 O.S. § 112.

Sec. 14-64. Airport zones established.

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all the land lying beneath the approach surfaces, transitional surfaces,

horizontal surfaces and conical surfaces as they apply to McAlester Municipal Airport. Such zones are shown on the McAlester Municipal Airport zoning map, consisting of one sheet, prepared by the city engineering department, dated August 15, 1983, which is made a part of this section and is on file in the office of the city manager. An area located in more than one of the following zones is considered to be only in that zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- (1) *Runway larger than utility, with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone (RW-19):* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (2) *Runway larger than utility, with a visibility minimum as low as three-fourths mile nonprecision instrument approach zone (RW-1):* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (3) *Transitional zones:* The transitional zones are the areas beneath the transitional surfaces.
- (4) *Horizontal zone:* The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (5) *Conical zone:* The conical zone is established as the area that commences at the periphery

of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
 (Ord. No. 1687, § III, 11-23-82; Ord. No. 1706, § 1, 9-27-83)

Sec. 14-65. Airport zone height limitations.

Except as otherwise provided in this article, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this article to a height in excess of the applicable height limit established for such zone. Such applicable height limitations are hereby established for each of the zones in question, as follows:

- (1) *Runway larger than utility, with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone.* Slopes 34 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (2) *Runway larger than utility, with a visibility minimum as low as three-fourths mile nonprecision instrument approach zone:* Slopes 34 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (3) *Transitional zones:* Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 770 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
- (4) *Horizontal zone:* Established at 150 feet above the airport elevation or at a height of 920 feet above mean sea level.

(5) *Conical zone:* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(6) *Excepted height limitations:* Nothing in this article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.
 (Ord. No. 1687, § IV, 11-23-82; Ord. No. 1706, § 2, 9-27-83)

Sec. 14-66. Use restriction.

Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights, and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.
 (Ord. No. 1687, § V, 11-23-82)

Sec. 14-67. Nonconforming uses.

(a) *Regulations not retroactive.* The regulations prescribed in this article shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of November 23, 1992, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this article shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which has begun prior to November 23, 1992, and is diligently prosecuted.

(b) *Marking and lighting.* Notwithstanding the preceding provisions 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 by the

city manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the city.

(Ord. No. 1687, § VI, 11-23-82)

Sec. 14-68. Permits.

(a) *Future uses.* Except as specifically provided in subsections (1) and (2) below, no material change shall be made in the use of land, no structure shall be erected or otherwise established and no tree shall be planted in any zone hereby created unless a permit therefor has been applied for and granted. Each application for a permit 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 prescribed in this article. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with subsection (d) of this section.

- (1) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- (2) In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet in vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this article except as set forth in section 14-65.

(b) *Existing uses.* No permit, or any amendments thereto, 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 hazard to air navigation, than it was on November 23, 1992, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) *Nonconforming uses abandoned or destroyed.* Whenever the city manager determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) *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 article, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration 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 relief 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 article. Additionally, no application for variance to the requirements of this article may be considered by the board of adjustment unless a copy of the application has been furnished to the airport manager for advice as to the aeronautical effects of the variance. If the airport manager does not respond to the application within 15 days after receipt, the board of adjustment may act on its own to grant or deny the application.

(e) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the struc-

ture 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 board of adjustment, this condition may be modified to require the owner to permit the city, at its own expense, to install, operate and maintain the necessary markings and lights.
(Ord. No. 1687, § VII, 11-23-82)

State law reference- Permits and variances, 3 O.S. § 107.

Sec. 14-69. Enforcement.

It shall be the duty of the city manager to administer and enforce the regulations prescribed in this article. Applications for permits and variances shall be made to the city manager upon a form published for that purpose. Applications required by this article to be submitted to the city manager shall be promptly considered and granted or denied. Application for action by the board of adjustment shall be forthwith transmitted by the city manager.

(Ord. No. 1687, § VIII, 11-23-82)

State law reference-Administration of airport zoning ordinances, 3 O.S. § 109.

Sec. 14-70. Board of adjustment.

(a) There is hereby created an airport zoning board of adjustment, referred to in this article as the board of adjustment, to have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the city manager in the enforcement of this article.
- (2) To hear and decide special exceptions to the terms of this article upon which such board of adjustment under such regulations may be required to pass.
- (3) To hear and decide specific variances.

(b) The board of adjustment shall be composed of five members, each appointed by the mayor with the approval of the council for a term of three years; provided, however, that for the first appointment under the provisions of this section one member shall be appointed for a term of one year; two shall be appointed for a term of two years; and two shall be appointed for a term of three

years. Two alternate members shall be appointed for overlapping terms of two years. All appointments thereafter shall be for a term of three years. Not less than two members shall be appointed for the McAlester Airport advisory committee. The board shall elect a chairman from its membership to serve for a term of two years.

(c) The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this article. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson or, in the absence of the chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or of its examinations and other official actions, all of which shall immediately be filed in the office of the city clerk and on due cause shown.

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

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

(Ord. No. 1687, § IX, 11-23-82)

Cross reference-Boards and commissions, § 2-166 et seq.
State law reference-Board of adjustment, 3 O.S. § 110.

Sec. 14-71. Appeals.

(a) Any person aggrieved, or any taxpayer affected, by any decision of the city manager made in the administration of this article may appeal to the board of adjustment.

(b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the city man-

ager a notice of appeal specifying the grounds thereof. The city manager shall forthwith transmit to the board of adjustment 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 city manager certifies to the board of adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the city manager cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment on notice to the city manager and on due cause shown.

(d) The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(e) The board of adjustment may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

(Ord. No. 1687, § X, 11-23-82)

Sec. 14-72. Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment may appeal the same, as provided in the Airport Zoning Act (3 O.S. § 100 et seq.).

(Ord. No. 1687, § XI, 11-23-82)

State law reference-Appeals, 3 O.S. § 111.

Sec. 14-73. Conflicting regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land or any other matter, the more stringent limitation or requirement shall govern and prevail.

(Ord. No. 1687, § XIII, 11-23-82)

Chapters 15-17

RESERVED