

**TOWNSHIP OF FAIRFIELD
ORDINANCE #2009-26**

**AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE CHAPTER 45 OF THE
CODE OF THE TOWNSHIP OF FAIRFIELD TO INCLUDE AIRPORT SAFETY
REGULATIONS AND A NEW AIRPORT SAFETY OVERLAY ZONE DISTRICT**

BE IT ORDAINED by the Mayor and Council of the Township of Fairfield, County of Essex, State of New Jersey, that the following amendments and revisions be made to Chapter 45 of the Code of the Township of Fairfield.

Section 1

ARTICLE II Section 45-5.1 Zones Established is hereby amended to include the following zone:

ASO Airport Safety Overlay Zone District

Section 2

ARTICLE II Section 45-5.2 Zoning Map is hereby amended to include a new Airport Safety Overlay Zone District, which consists of three subzones, including the Runway Subzone, Runway End Subzone, and Clear Zone, as delineated on the accompanying maps.

Section 3

ARTICLE III Section 45-7.1 Terms Defined is hereby amended to include the following definitions:

Airpark shall mean any area of land, adjacent to a public use airport, to be utilized as a combined single-family residence and aircraft storage facility.

Airport shall mean any area of land or water, or both, designed and set aside for the landing and taking-off of fixed wing aircraft, utilized or to be utilized by the general public for such purposes, publicly or privately owned, and licensed by the Commissioner of the Department of Transportation as a public use airport or landing strip, or a proposed facility for which an application for a license has been submitted in complete form pursuant to N.J.A.C. 16:54 and which has been determined by the Commissioner as likely to be so licensed within one year of the determination.

Airport hazard shall mean:

1. Any use of land or water, or both, which creates a dangerous condition for persons or property in or about an airport or aircraft during landing or taking off at an airport; or
2. Any structure or tree which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport.

Airport safety zone shall mean any area of land or water, or both, upon which an airport hazard might be created or established, if not prevented by this chapter.

Section 4

ARTICLE VII Section 45-41 L-3 Light Industrial Zone is hereby amended as follows (*italics* indicate an addition, ~~strikethroughs~~ indicate a deletion):

45-41.1 Permitted Uses.

~~No building, structure, premises or land in the L-3 Light Industrial Zone shall be used, arranged or designed for any use, unless enumerated hereafter:~~ *In addition to those uses permitted in the L-1 Zone, the following uses shall be permitted: helistops, heliports and airports.*

45-41.2 Accessory Uses.

Accessory uses in the L-3 Light Industrial Zone are the same as L-1 Zone except as follows:

- a. Full-service restaurants located in multistoried office buildings.
- b. *Indoor storage for aircraft and related materials and operations.*
- c. *Outdoor storage facilities for aircraft.*
- d. *Other customary accessory uses and buildings which are clearly incidental to the principal uses and buildings permitted in this zone.*

~~**45-41.3 Prohibited Uses.**~~

~~Helistops, heliports and airports of any kind are prohibited as principal and accessory uses.~~

45-41.4.3 Conditional Uses.

Conditional uses shall be as specified for the L-1 Zone.

~~**45-41.5.4 Area, Yard and Building Requirements.**~~

Area, yard and building requirements are as specified in Article V except for the following:

- a. For an industrial park development, which shall consist of a minimum of three (3) lots, the lot size may be reduced to one and five-tenths (1.5) acres, provided that the average lot size of all lots within the industrial park equals or is greater than three (3) acres. In addition, the required lot frontage may be reduced to two hundred (200) feet, provided that the average frontage of all lots within the industrial park is at least two hundred fifty (250) feet in length.

- b. For that portion of the L-3 Light Industrial Zone which is bordered by Passaic Avenue on the east and extends westerly as far as Runway 1-22 (running in a northeast to southwest direction), a maximum building height of fifty (50) feet plus a maximum of ten (10) additional feet for mechanical and elevator rooftop structures shall be permitted, provided that adequate space is available to accommodate all parking spaces in accordance with subsection 45-19.2 and further provided that access to the development is limited to Passaic Avenue and that a floor area ratio of three and one-half tenths (0.35) shall not be exceeded.

45-41.6.5 Other Requirements.

Other requirements are as specified in the L-1 Zone, Section 45-39 of this chapter.

Section 5

ARTICLE VII Zones and Zone Regulations is hereby amended to include a new Section 45-42 entitled "ASO Airport Safety Overlay Zone District". This section shall read as follows:

45-42 ASO AIRPORT SAFETY OVERLAY ZONE DISTRICT.

45-42.1 Purpose.

The Airport Safety Overlay Zone is established in conformance with the general requirements and provisions of the Air Safety and Zoning Act of 1983, P.L. 1983, c. 260 (N.J.S.A. 27:1 and 6:1 et seq.) and in accordance with N.J.A.C. 16:62 (16 N.J.R. November 4, 1985 2673-2674) and N.J.A.C. 16:62 (21 N.J.R. 1378 May 15, 1989).

45-42.2 Delineation of Overlay Zone Boundaries.

- a. The Airport Safety Overlay Zone shall consist of three subzones, including a Runway Subzone, Runway End Subzone, and Clear Zone, as delineated on the accompanying maps.
- b. The boundaries of the Airport Safety Overlay Zone and Subzones shall be interpreted and applied in accordance with N.J.A.C. 16:62 et seq.

45-42.3 Permitted Uses.

Pursuant to N.J.A.C. 16:62-5.1(a)1, the following uses are permitted in the Airport Safety Overlay Zone:

- a. Residential single-family dwelling units which are situated on a lot at least three (3) acres in size and not located in a Clear Zone. Residential zoning is permitted in the Clear Zone as long as all dwellings are physically located outside of the Clear Zone.
- b. Airparks which are situated on a lot at least three (3) acres in size and not located in a Clear Zone.

- c. Open space.
- d. Agricultural.
- e. Transportation.
- f. Airport.
- g. Commercial, provided it is not located within a Clear Zone.
- h. Industrial, provided it is not located within a Clear Zone.

45-42.4 Prohibited Uses.

Pursuant to N.J.A.C. 16:62-5.1(a)2, the following uses are specifically prohibited in the Airport Safety Overlay Zone:

- a. Residential dwelling units not situated on a lot of at least three (3) acres in size.
- b. Planned unit developments and multi-family dwellings.
- c. Hospitals.
- d. Schools.
- e. Above ground bulk tank of compressed flammable or compressed toxic gases and liquids.
- f. Within the Runway End Subzones only, the above ground bulk tank storage of flammable or toxic gases and liquids.
- g. Uses that may attract massing birds, including land fills.
- h. Above grade major utility transmission lines and/or mains.

45-42.5 Vertical Development (Height) Standards for Permitted Uses.

Pursuant to N.J.A.C. 16:62-1.1 et seq., the following vertical (height) limits are established as maximum height limits for any vertical development, including any structure, road or tree or other object of natural growth, in the Airport Safety Overlay Zone, except where other sections of this chapter shall establish lesser height restrictions.

- a. For purposes of this section, interstate highways shall be considered a 17-foot vertical development, other public roads shall be considered a 15-foot vertical development, private roads shall be considered a 10-foot vertical development, and railroads shall be considered a 23-foot vertical development.

b. Vertical development standards are height standards measured in respect to elevations whose datum is the horizontal plane established by runway elevations. For example, if a point in an Airport Safety Overlay Zone permits at a specific point development up to "X" feet, that means "X" feet above the runway horizontal plane and not "X" feet above the natural grade of the land at that point in the Airport Safety Overlay Zone. This provision is further graphically depicted in Figure 1.

c. *Runway Subzone.*

1. The vertical standards within the Runway Subzone of an Airport Safety Overlay Zone are determined first by establishing the elevations at the runway centerlines at the ends of the Runway Subzone. From those elevations at the Runway Subzone ends, a line is run 90 degrees outward from each side of the runway centerline for a distance of 125 feet. Within the area defined by these four points, no development is allowed above the natural grade of the soil except for runway and flight safety equipment.
2. The vertical standards within the remainder of the Runway Subzone are determined by establishing planes from the edges of the longitudinal zero-foot development restriction line established in c.1. above, which slope upward and outward at a rate of seven (7) feet horizontally to one (1) foot vertically. This upward plane ceases when it reaches the outer longitudinal borders of the Runway Subzone at the elevation of 150 feet above its starting point at the longitudinal zero-foot development line.
3. The methodology used to establish the vertical standards within the Runway Subzone of an Airport Safety Overlay Zone is further graphically depicted in Figure 2.

d. *Runway End Subzone.*

1. The vertical standards within the Runway End Subzone of an Airport Safety Overlay Zone are determined first by establishing a plane with a rising slope of one (1) foot upward to 20 feet outward from the end of the Runway Subzone to the outermost end of the Runway End Subzone. This plane is bisected by the extended runway centerline and is 250 feet in total width at its innermost dimension and widens uniformly along its 3,000 feet of length so as to have a total width of 850 feet at its outermost dimension where it intersects with the outermost portion of the Runway End Subzone at the elevation of 150 feet above its starting point at the zero-foot development line.
2. The vertical standards within the remainder of the Runway End Subzone are determined by establishing sloping planes from the outermost longitudinal edges of the plane established in d.1. above. These planes rise upward at a rate of one (1) foot upward to seven (7) feet outward from the plane established in d.1. above to where they meet the outermost longitudinal boundaries of the Runway End Subzone at the elevation of 150 feet.

3. The methodology used to establish the vertical standards within the Runway End Subzone of an Airport Safety Overlay Zone is further graphically depicted in Figure 3.

45-42.6 Additional Requirements.

- a. No person shall build, rebuild, create or cause to be built, rebuilt or created any object or structure, or plant, or cause to be planted or permit to grow any tree or vegetation, which will interfere with, diminish, change or obstruct the airspace or landing and take off area available for the landing and take off of aircraft at public use airports, except that this section shall not require the removal of or lowering of, or other change or alteration of any structure or tree not conforming to the rules when this section was adopted, or otherwise interfere with the continuance of any nonconforming use.
- b. A preexisting structure or land use which is located within a Clear Zone and not in conformance with this section shall be classified as nonconforming.
- c. No variance or other relief from the standards promulgated by or under N.J.A.C. 16:62 within the Airport Safety Overlay Zone may be granted by the Township to itself or any person except upon the condition that the variance or relief is contingent upon the issuance of a permit allowing the variance or relief by the Commissioner of the Department of Transportation.

45-42.7 Permits.

- a. A developer of a project requiring creation or establishment of a prohibited land use or any vertical height development shall first apply for development approval from the governing body of the Township of Fairfield. If the governing body approves the development, that approval shall be strictly conditioned on the developer applying for and receiving a permit from the Commissioner of the Department of Transportation in accordance with the provisions of N.J.A.C. 16:62-1.1 et seq. Construction, development or creation of any prohibited land use shall not commence until a permit has been issued by the Commissioner.
- b. In review of an application, the governing body may take into consideration any factor relevant to the hardship demonstrated by the applicant and any information relevant to the public health, safety and welfare.
- c. In acting upon such an application, the governing body shall consider the following:
 1. The prohibited land use or vertical height development will not, in fact, create an additional airport hazard limiting the size of the area available for landing, taking off and maneuvering of the aircraft.
 2. The prohibited land use or vertical height development will not harm the public health, safety and welfare.

- d. Any person proposing to create or establish a prohibited land use or vertical height development in a designated airport safety zone not subject to municipal ordinances established in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D) shall present the proposed development to the governing body.

Section 6

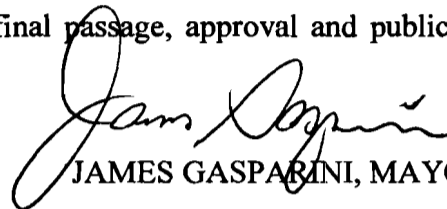
All Ordinances of the Township of Fairfield which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 7

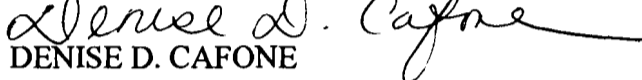
If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 8

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.


JAMES GASPARINI, MAYOR

ATTEST:


DENISE D. CAFONE
MUNICIPAL CLERK

NOTICE

Notice is hereby given that the foregoing Ordinance was submitted in writing at a meeting of the Mayor and Council of the Township of Fairfield, County of Essex, State of New Jersey, held on **July 13, 2009**, introduced and read by title and passed first reading, and that said Governing Body will further consider the same for second reading and final passage thereof at a meeting to be held on **July 27, 2009 at 7:00 p.m.**, at the Municipal Building, 230 Fairfield Road, Fairfield New Jersey, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens of interest shall have an opportunity to be heard concerning same.

Denise D. Cafone
Municipal Clerk

**ORDINANCE #2009-26, AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE
CHAPTER 45 OF THE CODE OF THE TOWNSHIP OF FAIRFIELD TO INCLUDE
AIRPORT SAFETY REGULATIONS AND A NEW AIPORT SAFETY OVERLAY
ZONE DISTRICT**

**INTRODUCED BY: COUNCIL PRESIDENT MCGLYNN
SECONDED BY: COUNCILMAN LAFORGIA
PUBLISHED: JULY 16, 2009
1st READING AND PUBLIC HEARING: JULY 13, 2009**

ROLL CALL VOTE

GOVERNING BODY	AYES	NAYS	ABSTAIN	ABSENT	NO VOTE
COUNCIL PRESIDENT MICHAEL MCGLYNN	X				
COUNCILMAN JOHN LAFORGIA	X				
COUNCILMAN WILLIAM CONNINGTON, III	X				
COUNCILMAN THOMAS MORGAN	X				
MAYOR JAMES GASPARINI	X				

2ND READING AND PUBLIC HEARING JULY 27, 2009

**INTRODUCED BY: COUNCILMAN LAFORGIA
SECONDED BY: COUNCIL PRESIDENT MCGLYNN
PUBLISHED: JULY 30, 2009**

ROLL CALL VOTE

GOVERNING BODY	AYES	NAYS	ABSTAIN	ABSENT	NO VOTE
COUNCIL PRESIDENT MICHAEL MCGLYNN	X				
COUNCILMAN JOHN LAFORGIA	X				
COUNCILMAN WILLIAM CONNINGTON, III	X				
COUNCILMAN THOMAS MORGAN	X				
MAYOR JAMES GASPARINI	X				