

First Reading: September 12, 2017
Second Reading: September 19, 2017

ORDINANCE NO. 13218

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,
PART II, CHAPTER 8, AVIATION, KNOWN AS THE
AIRPORT ZONING ORDINANCE FOR THE CITY OF
CHATTANOOGA.

WHEREAS, the City of Chattanooga adopted the “Airport Zoning Ordinance” known as Chapter 8, Aviation; and

WHEREAS, Chapter 8, Aviation adopted regulations establishing height limitations and use restrictions for properties located within the established area adjacent to the airport, identified as airport approach zones, airports transition zones, and airport turning zones; and

WHEREAS, the boundaries of the areas identified as airport approach zones, airport transition zones, and airport turning zones were designated as such on a map dated January 1950; and

WHEREAS, the regulations and restrictions in Chapter 8, Aviation, have not been updated or amended to reflect changes and updates to Federal Aviation Administration (FAA) rules and regulations or to advancements in air-traffic or airplane technology and equipment; and

WHEREAS, the proposed amendments do not add additional requirements to private property owners or change the permitted uses for such owners, but simply clarify the process by which property owners must comply with the federal requirements already in place; and

WHEREAS, the proposed amendments to Chapter 8, Aviation, include a revised and updated map showing the area that is subject to FAA height restrictions, titled “FAA Aviation Overlay District”, and a map showing the "Airport Use District," which describes where airport uses are allowed for property, and the "Direct Airport Property," which describes the area that makes up the Chattanooga Metropolitan Airport as of today; and

WHEREAS, the amendments to Chapter 8, Aviation, are intended to simplify the process by which property owners within the “FAA Aviation Overlay District” and within the jurisdictional limits of the City of Chattanooga must comply with the federal height restrictions applicable to the properties, update the requirements for consistency with the current applicable federal regulations and processes, and clearly define the permitted uses and requirements for all properties located within the three districts described above;

SECTION 1. NOW THEREFORE, BE IT RESOLVED, that the City of Chattanooga City Code, Part II, Chapter 8, Aviation be amended as follows:

Delete in its entirety Chapter 8, Aviation and replace with the following:

Chapter 8 – AIRPORT ZONING ORDINANCE

Footnotes:

--- (1) ---

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

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

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

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

ARTICLE I. - GENERAL^[2]

Footnotes:

--- (2) ---

Cross reference— Zoning regulations generally, Ch. 38.

Sec. 8-1. - Short title.

This article shall be known, and may be cited as the "Airport Zoning Ordinance of the City of Chattanooga."

(Code 1986, § 8-91)

Sec. 8-2. - Definitions.

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

Airport means the Chattanooga Metropolitan Airport.

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

Airport Use District means that portion of property including the Direct Airport Property and the property located in the areas immediately surrounding the Direct Airport Property, which is indicated as the "Airport Use District" on the Airport Use District Map.

AOD Map means the Map, maintained by the City, included on the Hamilton County Geographical Information System (GIS) website, and attached as **Appendix A** to this Chapter 8. The City shall have the authority to update the AOD Map on the GIS website from time to time to reflect changes to the AOD based on FAA Regulations.

Airport Use District Map means the Map, maintained by the City and attached as **Appendix B** to this Chapter 8, showing the Airport Use District and the Direct Airport Property as of the date of adoption of this revised Chapter 8.

Authority means the Chattanooga Metropolitan Airport Authority.

Authority Designee means the person designated by the Mayor to handle all matters related to a metropolitan authority or property impacting the operation of a metropolitan authority, as further described in Section 8-9.

Direct Airport Property means the real property owned by the Authority and contiguous to the Airport as of the date of adoption of this revised Chapter 8, and shown on the Airport Use District Map.

FAA means the Federal Aviation Administration.

FAA Aviation Overlay District or *AOD* means that portion of the area indicated as the "FAA Aviation Overlay District" on the AOD Map, which is located within the jurisdictional limits of the City of Chattanooga.

FAA Regulation or Regulations, as applicable, means any regulation or other binding requirement of the FAA.

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

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

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

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

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

Tree means any object of natural growth.

Zoning Ordinance means Chapter 38 of the City Code.

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

Sec. 8-3. - Applicability.

(a) *General*. Properties subject to the provisions of this Chapter 8 shall be referenced on the AOD Map and Airport Use District Map.

(b) *Construction with Zoning Ordinance*. This Chapter 8 is intended to govern the properties within the AOD that fall within the jurisdictional limits of the City for purposes of addressing certain requirements unique to properties in the AOD. Only to the extent this Chapter 8 does not address certain requirements or procedures, the requirements or procedures of the underlying base zone, as described in the Zoning Ordinance, shall apply; however to the extent there is a conflict between this Chapter and the Zoning Ordinance as to any properties that lie within the AOD, the provisions of this Chapter shall prevail. In the event of a discrepancy about

the applicability of other portions of the City Code, the Authority Designee shall determine the appropriate application of the Code.

(c) *Purpose.* The aviation industry is unique among transportation industries, and therefore regulation of real property used for aviation purposes is unique, because the aviation industry's operations are almost wholly within federal, rather than state or local, jurisdiction. For this reason, many items related to use of real property, which are normally regulated by the City Code, are preempted by federal law when the real property in question is an airport or land adjacent to an airport, which may impact the safety of aviation operations at the airport. Therefore, this Chapter 8 (i) provides certain regulation of property that is not preempted by federal law, and (ii) makes property owners' compliance with applicable federal law a condition of the City's issuance of certain approvals or permits.

(d) *No Conflict with FAA Regulation or Other Federal Law.* Nothing in this Chapter 8 shall be deemed to in any manner waive or modify the requirements of any FAA Regulation or other federal law. Where the application of any requirement set forth in this Chapter 8 to a particular scenario would result in non-compliance with an FAA Regulation or other federal law, the City shall grant a variance from such requirement in accordance with Section 8-11.

ARTICLE II—OVERLAY ZONES

Sec. 8-4. - Identification of Zones.

(a) *FAA Aviation Overlay District and AOD Map.* The land lying within the AOD is governed by certain federal requirements implemented by the FAA. The AOD Map designates the land within the AOD. This Chapter 8 does not add any City regulation to the AOD, but notes the FAA Regulations applicable to such land.

(b) *Airport Use District and Airport Use District Map.* The Airport Use District is identified on the Airport Use District Map. The Airport Use District provides an overlay zone, applicable only to the Authority's use of land, as described in Sec. 8-6. The Airport Use District is a portion of property within the AOD.

Sec. 8-5. - Height limits.

FAA Regulations may restrict the height of all structures and trees within the AOD. All property owners must comply with the FAA Regulations, and the City shall have no authority to grant permits or otherwise approve structures if the same are restricted by the FAA. Within the AOD, the maximum permitted height of structures shall be as prescribed by this Chapter 8, or the applicable standard of the base zone district or land use, whichever is less.

No structure may be erected within the AOD that will exceed thirty-five feet (35') in height from ground level at the site, unless the property owner or developer first obtains a special permit from the Board of Appeals for Variances and Special Permits in accordance with this Sec. 8-5 and Sec. 8-12.

Any proposed structures within the AOD that would exceed thirty-five feet (35') in height from ground level at the site requires submission of a Notice of Proposed Construction or Alteration, via FAA Form 7460-1 (as such form may be in the future amended or altered by the FAA) ("FAA 7460"). Property owners may determine whether such notice is required, using the "Notice Criteria Tool" on the FAA website.

Sec. 8-6. - Uses Permitted by Right Within the Airport Use District.

(a) *Airport Uses Allowed.* Except as provided in subsection (b), below, the Authority may, by right, use any Authority-owned property located within the Airport Use District for any use related to operation of the Airport, such as terminal operations, maintenance or storage of aircraft, parking, other facilities used for aeronautical activities, or office space related to any of the same ("Airport Use"); provided, however, that the property on which the Airport Use exists must be contiguous to the Direct Airport Property. Properties owned by a Person other than the Authority, and properties owned by the Authority but not used for an Airport Use, shall be used in accordance with the base zone of the property, as described in the Zoning Ordinance.

(b) *Limitations on Airport Uses within Airport Use District.* Within the Airport Use District, there shall be a setback of five hundred feet (500'), measured from the edge of the roadway along Airport Road and Lee Highway toward the interior of the property (the "Airport Structure Setback"). Within the Airport Structure Setback, there shall be erected no structures intended for Airport Use (provided that parking lots and other improvements that do not constitute "structures" are permitted).

Sec. 8-7. - Use restrictions.

(a) *General Use Restrictions.* Notwithstanding any other provisions of this Chapter 8, no use may be made of land within the AOD in such a manner as to create electrical interference with radio communication between the airport and aircraft, create smoke, fumes, make it difficult for flyers to distinguish between airport lights and other lights, result in glare in the eyes of flyers using the airport, impairing visibility in the vicinity of the airport, or otherwise constitute a hazard to air navigation or endanger the landing, taking-off or maneuvering of aircraft.

(b) *Restrictions based on FAA Guidance.* Notwithstanding any other provisions of this Chapter 8, no use may be made of land within the AOD, which use is prohibited by, or the restriction of which is recommended by, the FAA in Title 14 of the Code of Federal Regulations or an Advisory Circular issued by the FAA.

Sec. 8-8. - Setbacks.

Any property within the AOD that is used for an Airport Use and that abuts property used for residential purposes shall have a setback of at least 25 ft. on all lot lines abutting the residential property.

Sec. 8-9. - Metropolitan Authority Designee.

From time to time, as he or she determines necessary, the Mayor, with the advice of the City Attorney's office, shall designate a City staff person to be the City representative for all municipal authorities, created by statute (for example, the Airport Authority and the Hospital Authority) (the "Authority Designee"). The Authority Designee shall be the representative of the City for all matters related to property owned by or affecting the operation of authorized business on property owned by a municipal authority. The Authority Designee shall work with the Land Development Office to uniformly apply the requirements of this Chapter 8 to properties within the AOD. The Authority Designee shall also have the authority to create, and delegate power and responsibilities to, a committee to assist the Authority Designee with its responsibilities under this Chapter 8.

Sec. 8-10. - Non-conforming Uses.

(a) *Regulations not Retroactive.* The regulation prescribed in this Chapter 8 shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree which did not conform to the regulations as of the effective date of Ordinance No. _____, or otherwise interfere with the continuance of any Non-conforming Use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure the construction or alteration of which was begun prior to the effective date of Ordinance No. _____, and which was diligently prosecuted and completed within two (2) years thereof.

(b) *Nonconforming Uses Abandoned.* Whenever the Chief Building Official determines that a nonconforming tree or structure has been (i) abandoned or not used for more than one hundred (100) days, or (ii) more than 80% destroyed, 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 regulations of this Chapter.

Sec. 8-11. - Variances to Chapter 8.

(a) *Variances.* Any person desiring to use property within the AOD, not in accordance with the regulations prescribed in this Chapter 8, may apply for a variance therefrom from the Board of Appeals for Variances and Special Permits in accordance with the procedure prescribed in Article VIII of the Zoning Ordinance. Notwithstanding the generality of the foregoing, the City is not authorized to grant a variance to the height requirements set forth in this Chapter 8 and determined by FAA Regulations, nor is the City authorized to grant a variance from any other requirement of federal law.

Sec. 8-12. - Special Permits.

(a) *Future uses.* No structure or tree shall be erected, altered, planted or otherwise established above a height of thirty-five feet (35') in the AOD unless a permit therefor shall have been applied for and granted. Each such application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit applied for shall be granted. The application for permit shall be

accompanied by a determination from the FAA, in response to the property owner's submission of an FAA 7460, as described in Sec. 8-5, as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. The City will grant permits for structures or trees in accordance with the height and other requirements or conditions approved by the FAA.

(b) *Existing uses.* Before any existing use, structure or tree within the AOD may be replaced, substantially altered, repaired, rebuilt, or allowed to grow higher, a special permit must be secured from the Board of Appeals for Variances and Special Permits authorizing such replacement, change, growth or repair, as described in Subsection (a) above.

(c) *Procedure for Permitting.* Any person seeking a permit in accordance with this Chapter 8 shall submit an application for permit to the Land Development Office for approval or denial. The Land Development Office shall then approve or deny the application in accordance with its standard procedures and the requirements of this Chapter 8.

Sec. 8-13. - Hazard marking and lighting.

Any permit granted under Section 8-12 may, if the Authority deems advisable, based on FAA notice or requirements, to effectuate the purposes of this article, and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Authority, 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 a Hazard to Air Navigation.

Sec. 8-14. - Appeals; Board Authority.

(a) Any person aggrieved, or taxpayer affected by any decision of the Land Development Office or Board of Variances and Special Permits made in their administration of this article, who believes that a decision of the building official or Board of was an improper application of this Chapter 8, may appeal such decision to a Court of appropriate jurisdiction.

(b) All appeals taken under this section must be taken within thirty (30) days after the issuance of the denial or other decision, by filing with the Court of appropriate jurisdiction a notice of appeal, specifying the grounds for the appeal. The building official or Board of Variances and Special Permits shall forthwith transmit to the Court of appropriate jurisdiction all the papers constituting the record upon which the action appealed from was taken.

Sec. 8-15. - Penalties.

Each violation of this article or of any regulation, order or ruling promulgated hereunder shall be punishable by a fine of no more than fifty dollars (\$50.00).

(Code 1986, § 8-104)

ARTICLE III— DEVELOPMENT ON THE DIRECT AIRPORT PROPERTY

Sec. 8-16. - Landscaping.

The requirements of this Chapter 8 expressly supersede the requirements of the Zoning Ordinance that relate to landscaping, specifically including Section 38-591 et. seq. No permit or other approval to the Authority for a project within the Direct Airport Property shall be denied on the basis of landscaping requirements set forth in the Zoning Ordinance, and the following requirements shall be the only landscaping requirements applicable to the Direct Airport Property.

(a) *Purpose.* Landscaping creates a unique safety and security hazard for airports; in many cases, it also creates a violation of FAA Regulations and Department of Homeland Security ("DHS") regulations applicable to the Authority and the Direct Airport Property. Additionally, when considering proposed developments, the Authority and the City must take into account whether proposed requirements, such as landscaping, will increase wildlife hazards, as land-use practices that attract or sustain hazardous wildlife populations on or near airports can significantly increase safety and security hazards. Therefore, the landscaping requirements set forth below in this Section 8-16 are intended to (i) meet the intent and purpose of the landscaping requirements reflected in the Zoning Ordinance, and (ii) protect the public health, safety and welfare, while also omitting any requirements that potentially create a safety or security hazard, or are preempted by federal law.

(b) *Applicability.* The requirements of this Section shall apply to the landscaped areas surrounding any new development on the Direct Airport Property. The requirements of this Section shall apply only to real property owned by the Authority, and all other property owners within the AOD shall refer to the landscaping requirements set forth in the Zoning Ordinance.

(c) *Landscape Plan Submittal.* Proposed developments, subject to the provisions of this Section, shall file for a land disturbing permit and submit a landscape site plan to the Building Inspections Office. This plan may be incorporated into a parking/paving plan, provided the scale is not less than one (1) inch equals forty (40) feet. The following elements shall be shown on the landscape site plan:

- (i) Zoning of site and adjoining properties;
- (ii) Existing and proposed contours at five (5) feet intervals or less;
- (iii) Boundary lines and lot dimensions;
- (iv) Date, graphic scale, north arrow, titles and name of owner, and the phone number of the person or firm responsible for the landscape plan;
- (v) Location of all proposed structures and storage areas;
- (vi) Drainage features and one-hundred (100) year floodplain, if applicable;
- (vii) Parking lot layout including parking stalls, bays, and driving lanes;

- (viii) Existing and proposed utility lines, and easements; and
- (ix) All paved surfaces and curbs;
- (x) Existing trees or natural areas to be retained (if any); and
- (xi) The location of all required landscaped areas (Street Yard, Landscaped Peninsulas, Landscaped Islands, and Screening Buffers).

(d) *Plant Installation Plan.* Prior to receiving a Certificate of Occupancy, a Plant Installation Plan prepared by a registered landscape architect or architect shall be submitted and approved containing the following information:

Location, installation size, quantity, and scientific and common names of landscaping to be installed.

The applicant has the option of submitting both the Landscape Plan and Plant Installation Plan at the same time.

(e) *Hardships.* Where any hardship for compliance under this Section 8-16 exists, the Authority may apply for a variance from the requirement of this Section 8-16 in accordance with the procedure described in Section 8-11.

(f) *Street yard requirements.*

(i) *Intent.* The intent of this section is to add quality and definition to the street by planting Approved Plants within a landscaped area along the edges of any right-of-way.

(ii) *Dimensions.*

1) Except for points of access, a street yard shall be provided where the proposed development site adjoins the public street right-of-way. Alleys are exempt from this requirement.

2) The street yard shall have a minimum depth of eight (8) feet as measured from the edge of the public right-of-way towards the interior of the property. The yard shall consist of sod grass or other natural living ground cover material. No impervious surfaces are permitted in the street yard area.

(iii) *Plantings.* Street yard areas shall be densely planted with plant material that constitutes an Approved Plant for full-coverage within three (3) years from the date of planting.

(iv) *Existing Plants.* Existing Approved Plants along the street right-of-way frontage can be substituted for the street yard requirements subject to the following:

1) Existing Approved Plants to be set aside shall have a minimum depth of twenty-five (25) feet as measured from the public street right-of-way;

2) No impervious surfaces are permitted within the protected Approved Plants area except for approved access points to the site; and

3) No cutting/filling activities or storage of materials/equipment are permitted within the Approved Plants area.

(v) Exemptions/Special Situations.

1) Properties adjoining rights-of-way that encroach into established parking areas more than twenty (20) feet have the following street yard options:

a) Plant Approved Plants within the right-of-way provided written permission is obtained from the owner of the public right-of-way;

b) If permission cannot be obtained to plant in the right-of-way, no street yard will be required.

2) Existing plantings within the right-of-way (not including the center median or opposite side of the street) and approved by the City Urban Forester can be used to meet the street yard requirements.

3) Stormwater facilities may be located within the street yard subject to the following conditions:

a) No riprap, crushed stone, concrete, or other impervious materials are exposed; and

b) Approved Plants and other living organic materials can be planted along the stormwater facility.

4) With the written approval of the right-of-way owner, portions of the public right-of-way may be used to meet the street yard requirements.

5) No trees shall be located within the sight triangle as defined by the Zoning Ordinance.

(g) *Parking lot requirements.*

(i) Intent. The intent of this section is to break up the expanse of asphalt, and to reduce the glare from parked cars and loading docks.

(ii) Design Criteria.

1) No parking space can be more than sixty (60) feet from an Approved Plant.

2) A landscaped island or peninsula shall border ends of interior parking bays that contain a minimum of ten (10) contiguous parking spaces.

3) A landscaped peninsula shall border ends of perimeter bays.

a) Dimensions/Planting Criteria.

i) Landscaped islands and peninsulas used to meet the landscaping requirements shall have a minimum width of eight (8) feet and a minimum landscaped area of two hundred (200) square feet.

ii) Landscaped islands and peninsulas used to meet the landscaping requirements shall be planted with at least one (1) Approved Plant.

iii) All landscaped islands and peninsulas shall be bordered by a curb or a wheel stop.

(Code 1995, App. B, Art. IX, § 103)

(h) *Screening requirements.*

(i) Intent. To provide transition between the Airport and other property uses outside of the Direct Airport Property, screening and buffering (as described in this Sec. 8-16) will be required. The purpose of the screen is to provide a year-round visual obstruction without obstructing the view of the Airport security fence, providing an object that could be used to scale the fence, or otherwise creating safety or security hazards to the Airport or violating any federal law. The buffer provides transition between the airport uses on Direct Airport Property and adjacent land uses outside of the Direct Airport Property by requiring a landscape yard of a minimum specified depth along the shared property line.

(ii) Procedure. Refer to the matrix below to determine any screening requirements for the proposed development, depending on each adjoining property. If a screen is required, a capital letter will indicate the type of screen to be applied. A description of the screen type is provided herein.

SCREEN MATRIX

<u>Adjoining Use</u>	<u>Screening Requirement</u>
Manufacturing/Warehousing	None
Commercial	None
Office	None

1) Screening Type B: Provide a twenty (20) feet deep (as measured towards the interior of the property) landscape yard along the shared property line, planted with Approved Plants.

2) Plantings: Landscape yard areas shall be densely planted with plant material that constitutes an Approved Plant for full-coverage within three (3) years from the date of planting.

(i) *Plant installation specifications.*

(i) Intent. All landscaping material shall be installed in a professional manner, according to accepted planting procedures specified in the American Standard for Nursery Stock manual, available from the City Forester, and in accordance with the FAA Regulations and requirements and guidelines of the DHS.

(ii) Approved Plants. All planting and screening requirements may be met with Approved Plants, as defined in this Section 8-16.

(j) *Utility easement policy.*

(i) Any planting used to meet the requirements of this Section 8-16 shall not be located within proposed or existing utility easements unless written permission has been obtained from the holder of the utility easement.

(ii) If written permission is not granted, the following options shall be considered in order of priority:

1) Priority #1: Plant the Approved Plant as close to the easement as possible.

2) Priority #2: For highly visible areas (street yards, parking lots in front) plant the Approved Plant in the same general area where it can be seen from the street or parking lot.

(iii) Utility easements can be used to meet the landscape yard requirements. The applicant is responsible for identifying existing and proposed utility easements within the property on the landscape site plan.

(Code 1995, App. B, Art. IX, § 107)

(k) *Maintenance.*

(i) The Authority shall be responsible for the maintenance of all landscaping provided. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the Authority with new plantings that meet the requirements of this Section 8-16.

(Code 1995, App. B, Art. IX, § 108)

(l) *Certificate of occupancy/bonding.*

(i) If the landscaping has not been installed and inspected for proper installation prior to receiving a Certificate of Occupancy, a Certificate of Occupancy may be granted provided the following conditions are met:

1) The Authority posts a performance bond or irrevocable letter of credit with the City Treasurer;

2) The amount of the bond or letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a ten percent (10%) contingency cost, as shown on the submitted landscape plan;

3) The costs of the landscaping shall be certified by a licensed contractor or determined using a general formula established by the landscape site reviewer (option of applicant).

a) After receiving the Certificate of Occupancy, the remaining landscape material shall be installed within six (6) months. The bond or letter of credit shall be called if the required landscaping has not been installed by the end of the six (6) month period and the funds applied to complete the landscaping work.

(Code 1995, App. B, Art. IX, § 109; Ord. No. 10789, 11-10-98)

(m) *Appeals.*

(i) Any person aggrieved by the administration, interpretation, or enforcement of this Section 8-16 may appeal to the Board of Zoning Appeals within sixty (60) days of the decision. Decisions of the Board of Appeals may be appealed to a court of competent jurisdiction.

(ii) Should any court of competent jurisdiction find any portion of this Section 8-16 unlawful or unconstitutional, such finding shall not affect this Section 8-16 as a whole or any portion of it not found invalid.

(Code 1995, App. B, Art. IX, § 110)

(n) *Definitions.*

(i) Approved Plant— plants that may be planted or installed to comply with the requirements of this Section 8-16 are those that (a) meet the wildlife hazard management requirements of Title 14 CFR Part 139 (as may be amended from time to time), (b) are under four feet (4') in height, and (c) specifically excluding trees and plants prohibited by the Tennessee Invasive Plant Council. Approved Plants also must not be a wildlife attractant or hazard to aviation in this geographic area, and must be drought tolerant and require minimal maintenance, as required in an aviation environment.

(ii) Impervious Surfaces — includes concrete, asphalt, brick, metal, or any other material constructed or erected on landscaped or natural buffer areas that impede the percolation of water into the ground.

(iii) Interior Parking Bays — all parking bays that do not qualify as a perimeter bay.

(iv) Landscape Area/Landscaped Yard — an area to be planted with trees, grass, shrubs, or other natural living ground cover material. No impervious surfaces are permitted in these areas.

(v) Landscaped Island — a landscaped area defined by a curb and surrounded by paving on all sides.

(vi) Landscaped Peninsula — a landscaped area defined by a curb and surrounded by paving on three (3) sides.

(vii) Landscaped Median — a landscaped area bordering two (2) adjoining parking bays.

(viii) Natural Buffer — an area of land set aside for preservation in its natural vegetative state. No removal of plants is permitted with the exception of poisonous or non-native plant species. In addition, no fill/cutting activities or storage of materials is permitted in these areas. No impervious surfaces are permitted.

(ix) Parking Space/Parking Bay — includes spaces and areas for all vehicles except tractor trailers.

(x) Perimeter Bay — all parking bays that are adjacent to the perimeter of a development.

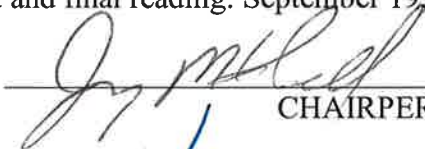
(xi) Street Yard — a designated landscaped area where private property abuts the public street right-of-way for the planting of grass, trees, and shrubs.

(Code 1995, App. B, Art. IX, § 11; Ord. No. 10692, 4-21-98; Ord. No. 10749, 8-25-98; Ord. No. 10789, 11-10-98)

Sec. 8-17. - Stormwater Requirements. When construction on the Direct Airport Property necessitates a Stormwater Maintenance Agreement, the City shall accept a revised Stormwater Maintenance Agreement, as necessary for the Authority to comply with FAA Regulations and other federal law. In connection with the Stormwater Maintenance Agreement, the City shall accept the Authority's long term maintenance plan, as approved by the Tennessee Department of Environment and Conservation ("TDEC"), as the Authority's Long Term Maintenance Plan for purposes of the Stormwater Maintenance Agreement between the Authority and the City. The City acknowledges that any maintenance plan and other documentation, which TDEC has approved and that has not expired or otherwise become inapplicable, shall be sufficient to satisfy any City requirements for the same type of document.

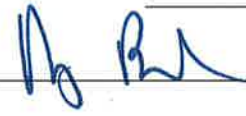
SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: September 19, 2017



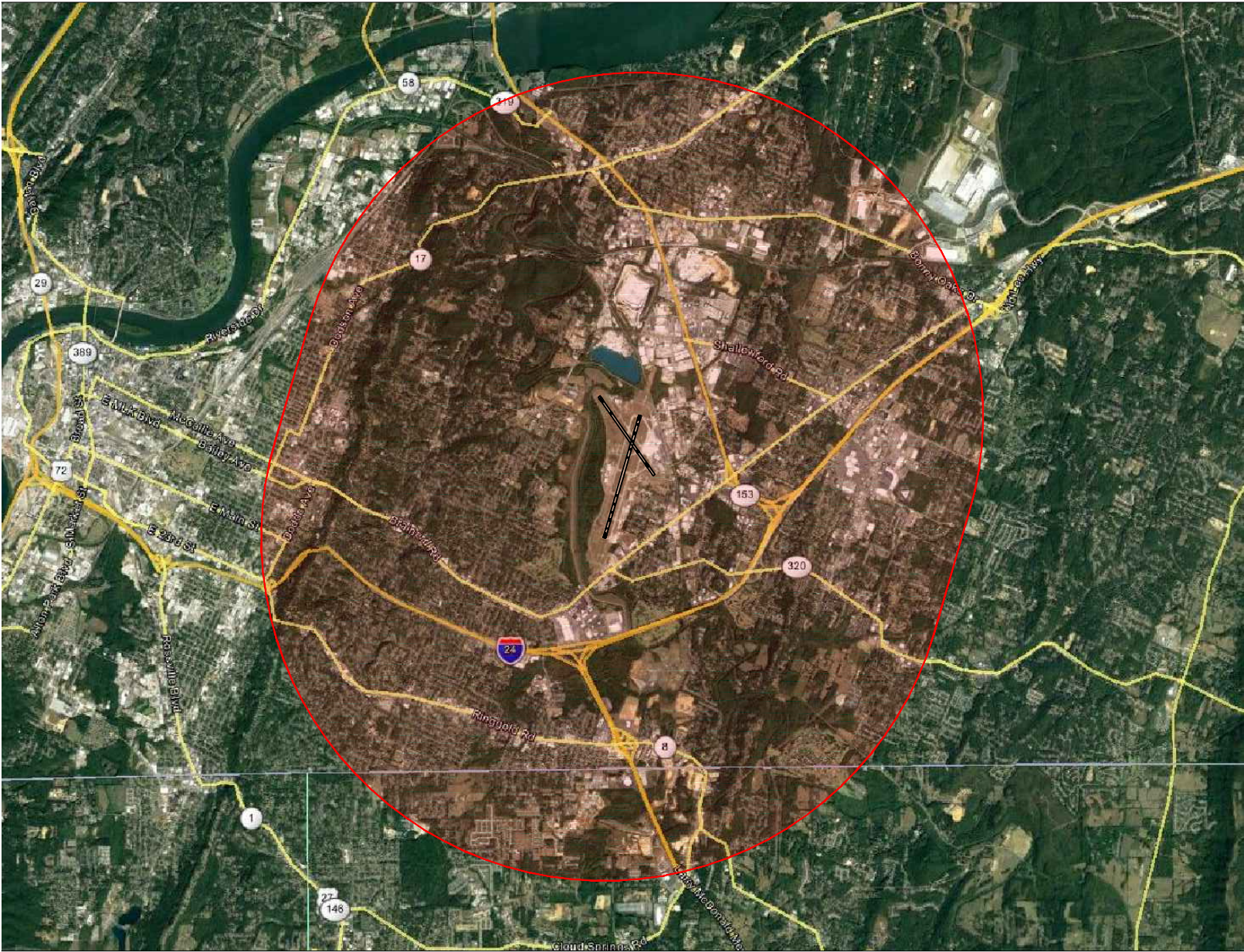
CHAIRPERSON

APPROVED: ✓ DISAPPROVED:



MAYOR

/mem/v4





LEGEND

 FAA AVIATION OVERLAY DISTRICT

APPENDIX A

**Legend
As of July, 2017**

-  Direct Airport Property
-  Airport Use District

0 1,000 2,000 4,000 Feet
1 inch = 2,000 feet

