

CHAPTER 62**AIR SAFETY AND ZONING****Authority**

N.J.S.A. 27:1A-5 and 27:1A-6; and the Air Safety and Zoning Act of 1983, P.L. 1983, c.260, as amended.

Source and Effective Date

R.2005 d.183, effective May 12, 2005.
See: 37 N.J.R. 37(a), 37 N.J.R. 2047(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 62, Air Safety and Zoning, expires on November 8, 2010. See: 42 N.J.R. 1137(a).

Chapter Historical Note

Chapter 62, Special Aircraft Operating Restrictions, was adopted as Emergency R.1973 d.29, effective January 23, 1973. See: 5 N.J.R. 58(a).

Chapter 62, Special Aircraft Operating Restrictions, was repealed by R.1983 d.476, effective November 7, 1983. See: 15 N.J.R. 1453(a), 15 N.J.R. 1870(b).

Chapter 62, Air Safety and Hazardous Zoning, was adopted as new rules by R.1985 d.173, effective April 15, 1985. See: 16 N.J.R. 860(b), 17 N.J.R. 977(b).

Subchapter 8, Permits for Developments Immune to Local Ordinance, Subchapter 9, Existing Land Uses Not Conforming to the Standards of this Chapter, and Subchapter 10, Implementation Deadlines, were adopted as new rules and existing Subchapter 8, Liability, was recodified as Subchapter 11, by R.1985 d.537, effective November 4, 1985. See: 17 N.J.R. 1869(a), 17 N.J.R. 2673(b).

Pursuant to Executive Order No. 66(1978), Chapter 62, Air Safety and Hazardous Zoning, was readopted as R.1990 d.178, effective February 26, 1990. See: 22 N.J.R. 158(a), 22 N.J.R. 981(a).

Pursuant to Executive Order No.66 (1978), Chapter 62, Air Safety and Hazardous Zoning, was readopted as R.1995 d.76, effective January 12, 1995. As a part of R.1995 d.76, Chapter 62 was renamed Air Safety and Zoning, effective February 6, 1995. See: 26 N.J.R. 4502(a), 27 N.J.R. 525(a).

Pursuant to Executive Order No. 66(1978), Chapter 62, Air Safety and Zoning, was readopted as R.2000 d.8, effective December 7, 1999. See: 31 N.J.R. 2707(a), 32 N.J.R. 115(a).

Chapter 62, Air Safety and Zoning, was readopted as R.2005 d.183, effective May 12, 2005. See: Source and Effective Date. See, also, section annotations.

Law Review and Journal Commentaries

Airports—Condemnation—Municipal Land Use—State Constitution. Judith Nallin, 136 N.J.L.J. 63 (1994).

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APPENDIX—AIRPORT SAFETY ZONE DIMENSIONS**SUBCHAPTER 1. AIR SAFETY AND ZONING****16:62-1.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

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

“Airport” means 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 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” means:

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” means any area of land or water, or both, upon which an airport hazard might be created or established, if not prevented by this chapter.

“Commissioner” means the Commissioner of the Department of Transportation.

“Department” means the Department of Transportation.

“Development” means the construction, reconstruction, creation, or establishment of any structure or planting of a tree.

“Director” means the Director of the Division of Aeronautics.

“Division” means the Division of Aeronautics.

“Person” means any corporation, company, association, society, firm, partnership, joint stock company, individual, the State, and all political subdivisions of the State or any agencies or instrumentalities thereof.

“Structure” means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, chimneys, and overhead transmission lines.

“Tree” means an object of natural vegetative growth.

Amended by R.1989 d.242, effective May 15, 1989.

See: 20 N.J.R. 3007(a), 21 N.J.R. 1376(c).

Added new definition for “Airpark.”

Amended by R.1995 d.76, effective February 6, 1995.

See: 26 N.J.R. 4502(a), 27 N.J.R. 525(a).

16:62-1.2 General requirements and provisions

(a) Under the Air Safety and Zoning Act of 1983, as amended, this chapter establishes minimum standards for the control of airport and aeronautical hazards, and standards for land use adjacent to airports, which the municipalities of this State shall implement. These standards are minimum State standards, and municipalities may adopt more rigorous stan-

dards for control of the areas and condition under the provisions of the Municipal Land Use Law. The Commissioner may adopt under N.J.A.C. 16:62-7 a special or amended standard for an airport when it is determined that local conditions require it.

(b) 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 airports covered under this chapter.

(c) Nothing in this chapter shall be construed as limiting the power of the Commissioner regarding the design, placement, location, or operation of airports or other aeronautical facilities.

(d) Municipalities of this State are required to implement and maintain land use ordinances in accordance with the provisions of this chapter. These ordinances are subject to review by the Commissioner.

(e) No ordinance adopted under this chapter shall require the removal or lowering of, or other change or alteration of any structure or tree not conforming to the rules when this chapter was adopted, or otherwise interfere with the continuance of any nonconforming use.

(f) Airport safety zones adjacent to airports not licensed by the State of New Jersey or airports which are located within the Port of New York District as defined in N.J.S.A. 32:1-3 are not subject to the specific provisions of this chapter. Although the specific provisions of this chapter apply to areas surrounding only those airports open to the public, this in no way limits the power of municipalities to enact substantially similar ordinances governing the areas in accordance with the purpose of the Municipal Land Use Law.

(g) All persons are hereby put on notice that the standards of this chapter are minimum Statewide standards. Implementations of these standards does not necessarily guarantee a prudent and comprehensive land use and safety program suitable for all airports.

(h) The mechanisms provided for control of aeronautical hazards within the “Air Safety and Zoning Act” rely substantially upon local zoning regulations. The powers to enact traditional zoning ordinances upon navigable waters are constrained; and the operational characteristics and jurisdictions of water facilities may differ substantially from many land facilities; the provisions of this chapter do not apply to seaplane or water facilities unless otherwise provided for by the Commissioner in N.J.A.C. 16:62-7.1. Any interested person may petition the Commissioner for review of Air Safety and Zoning issues under the operation of any Public Use Seaplane Facility.

(i) The Director may provide for informal reviews of permit applications prior to their formal submission to the Department.