

DEPARTMENT OF TRANSPORTATION

Amendment and Compilation of Chapter 19-12
Hawaii Administrative Rules
May 24, 2007

SUMMARY

1. §19-12-9 is amended.
2. Chapter 19-12 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 12

AIRPORT ZONING

- \$19-12-1 Purpose
- \$19-12-2 Definitions
- \$19-12-3 Kinds of objects affected
- \$19-12-4 Zones
- \$19-12-5 Civil airport imaginary surfaces
- \$19-12-6 Airport imaginary surfaces for heliports
- \$19-12-7 Height limitations
- \$19-12-8 Overlapping surfaces
- \$19-12-9 Excepted height limitations
- \$19-12-10 Use restrictions
- \$19-12-11 Nonconforming uses
- \$19-12-12 Permits required
- \$19-12-13 Exceptions
- \$19-12-14 Application; severability
- \$19-12-15 Enforcement
- \$19-12-16 Penalty
- \$19-12-17 Repeal

Historical note. This chapter is based substantially on the airport zoning regulations. [Eff 4/21/72; am 4/6/74; R 6/21/81]

\$19-12-1 Purpose. These rules shall apply to all public, quasi-public, and military airports, including their airport hazard areas, in the State. These rules do not apply to private airports. [Eff 6/12/81; comp 8/30/97; comp JUN 18 2007]
(Auth: HRS §262-3) (Imp: HRS §262-3)

§19-12-2 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

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

"Airport hazard" means any structure or tree which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport, or any use of land which creates a dangerous condition, including the placement of strong lights which blind pilots during such operations.

"Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in chapter 262, Hawaii Revised Statutes.

"Airport protection" means protection against an airport hazard.

"Director" means the director of transportation or his authorized representative.

"Department" means the department of transportation of the State of Hawaii.

"FAA" means the Federal Aviation Administration.

"Height" means distance above ground level, unless otherwise specified.

"Military airport" means an airport owned or operated by the United States Department of Defense or any branch or agency thereof.

"Nonconforming use" means any pre-existing structure or tree, or other use of land which is inconsistent with the provisions of these rules or of chapter 262, Hawaii Revised Statutes.

"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, and for which no precision approach facilities are planned, or indicated on a state, FAA, or military service planning document.

"Person" means any individual, partnership, corporation, unincorporated association, joint stock association, or any trustee, receiver, assignee, or

other similar representative thereof; or the State or any of its political subdivisions or agencies thereof.

"Precision instrument runway" means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), ground controlled approach (GCA), or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an approved airport layout plan, a military service approved military airport layout plan, any other State or FAA planning document, or military service military airport planning document.

"Private airport" means an airport owned or operated by a person and not open to the public.

"Public airport" means an airport owned or operated by the State, municipality, county, or other political subdivision or public corporation of the State, and open for the use of the general public.

"Quasi-public airport" means an airport owned or operated by a person and open to the public in part or in whole as evidenced by its use by either aircraft operators or paying passengers carried in privately owned aircraft, operated for hire.

"Rules" means the rules governing airport zoning as set forth in this chapter.

"Runway" means the area of airport designated for the landing and taking-off of aircraft.

"State" means the State of Hawaii.

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

"Tree" means any object of natural growth.

"Utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred maximum gross weight and less.

"Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved airport layout plan, a military service approved military airport layout plan, or by a planning

document submitted to the FAA by competent authority.
[Eff 6/12/81; comp 8/30/97; comp] (Auth:
HRS §262-3) (Imp: HRS §262-3)

JUN 18 2007

§19-12-3 Kinds of object affected. These rules shall apply to:

- (1) Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used therein, and apparatus of a permanent or temporary character; and
- (2) Alteration of any permanent or temporary existing structure by a change in its height (including appurtenances), or lateral dimensions, including equipment or materials used therein. [Eff 6/12/81; comp 8/30/97; comp] (Auth: HRS §262-3)
(Imp: HRS §262-6)

JUN 18 2007

§19-12-4 Zones. For the purpose of these rules, the airport hazard areas shall be divided into the following zones:

- (1) Horizontal
- (2) Conical
- (3) Primary
- (4) Approach
- (5) Transitional
- (6) Heliport primary
- (7) Heliport approach
- (8) Heliport transitional

Each zone shall be the ground area underlying the airport imaginary surface described in §§19-12-5 and 19-12-6, i.e., the horizontal zone shall be the ground area underlying the horizontal surface; the conical zone shall be the ground area underlying the conical surface; etc. [Eff 6/12/81; comp 8/30/97; comp] (Auth: HRS §262-3) (Imp: HRS §262-6)

JUN 18 2007

§19-12-5 Civil airport imaginary surfaces. The following civil airport imaginary surfaces shall be established with relation to the airport and to each

runway. The size of each imaginary surface shall be based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway shall be determined by the most precise approach existing or planned for that runway end.

- (1) Horizontal surface shall be a horizontal plane one hundred fifty feet above the established airport elevation; the perimeter of which shall be constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc shall be:
 - (A) Five thousand feet for all runways designated as utility or visual;
 - (B) Ten thousand feet for all other runways. The radius of the arc specified for each end of a runway shall have the same arithmetical value. That value shall be the highest determined for either end of the runway. When a five thousand-foot arc is encompassed by tangents connecting two adjacent ten thousand-foot arcs, the five thousand-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
- (2) Conical surface shall be a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one for a horizontal distance of four thousand feet.
- (3) Primary surface shall be a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface shall extend two hundred feet beyond each end of that runway; but when the runway has no specially prepared hard surface or planned hard surface, the primary surface shall end at each end of that runway. The elevation of any point on the primary surface shall be the same as the elevation of the nearest point on the runway centerline.

The width of a primary surface shall be:

- (A) Two hundred fifty feet for utility runways having only visual approaches.
- (B) Five hundred feet for utility runways having nonprecision instrument approaches.
- (C) For other than utility runways, the width shall be:
 - (i) Five hundred feet for visual runways having only visual approaches.
 - (ii) Five hundred feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile.
 - (iii) One thousand feet for a nonprecision instrument runway having a nonprecision instrument approach with a visibility minimum as low as three-fourths of a statute mile, and for precision instrument runways.

The width of the primary surface of a runway shall be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

- (4) Approach surface shall be surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface shall be applied to each end of each runway based upon the type of approach available or planned for that runway end.

- (A) The inner edge of the approach surface shall be the same width as the primary surface and shall expand uniformly to a width of:

- (i) One thousand two hundred fifty feet for that end of a utility runway with only visual approaches;
- (ii) One thousand five hundred feet for that end of a runway other than a utility runway with only visual approaches;
- (iii) Two thousand feet for that end of utility runway with a nonprecision instrument approach;

- (iv) Three thousand five hundred feet for that end of a nonprecision instrument runway other than utility having visibility minimums greater than three-fourths of a statute mile;
 - (v) Four thousand feet for that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - (vi) Sixteen thousand feet for precision instrument runways.
- (B) The approach surface shall extend for a horizontal distance of:
- (i) Five thousand feet at a slope of twenty to one for all utility and visual runways;
 - (ii) Ten thousand feet at a slope of thirty-four to one for all nonprecision instrument runways other than utility; and
 - (iii) Ten thousand feet at a slope of fifty to one with an additional forty thousand feet at a slope of forty to one for all precision instrument runways.
- (C) The outer width of an approach surface to an end of a runway shall be that width prescribed in this paragraph (4) for the most precise approach existing or planned for that runway end.
- (5) Transitional surfaces shall extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precise approach surface which project through and beyond the limits of the conical surface shall extend a distance of five thousand feet measured horizontally from the edge of the approach surface and at right

angles to the runway centerline. [Eff 6/12/81; am and comp 8/30/97; comp JUN 18 2007] (Auth: HRS §262-3) (Imp: HRS §262-6)

§19-12-6 Airport imaginary surfaces for heliports.

(a) Heliport primary surface. The area of the primary surface shall coincide in size and shape with the designated take-off and landing area of a heliport. This surface shall be a horizontal plane at the elevation of the established heliport elevation.

(b) Heliport approach surface. The approach surface shall begin at each end of the heliport primary surface, shall have the same width as the primary surface, and shall extend outward and upward at a slope of eight to one for a horizontal distance of four thousand feet where its width is five hundred feet.

(c) Heliport transitional surfaces. These surfaces shall extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of two to one for a distance of two hundred fifty feet measured horizontally from the centerline of the primary and approach surfaces. [Eff 6/12/81; comp 8/30/97; comp JUN 18 2007] (Auth: HRS §262-3) (Imp: HRS §262-6)

§19-12-7 Height limitations. No structure shall be constructed, erected, altered, or maintained, and no tree shall be maintained in any zone created by these rules to a height which would penetrate the surface established in §§19-12-5 and 19-12-6. [Eff 6/12/81; comp 8/30/97; comp JUN 18 2007] (Auth: HRS §262-3) (Imp: HRS §262-6)

§19-12-8 Overlapping surfaces. Where any surfaces overlap, the lower or lowest height limitation shall govern and prevail in the overlapped area. [Eff 6/12/81; comp 8/30/97; comp JUN 18 2007] (Auth: HRS §262-3) (Imp: HRS §262-6)

\$19-12-9 Excepted height limitations. Nothing in these rules shall be construed as prohibiting the construction, erection, maintenance, or alteration of any structure, the growth of any tree, or any use below the height limitations established in \$19-12-7, provided that it does not violate \$19-12-10. [Eff 6/12/81; comp 8/30/97; am and comp **JUN 18 2007**] (Auth: HRS \$262-3) (Imp: HRS \$262-6)

\$19-12-10 Use restrictions. Notwithstanding any other provisions of these rules, no use may be made of land within any zone established by these rules or within the vicinity of the zone which would:

- (1) Create electrical, electronic, or atmospheric interference with radio communication or landing aids between an airport and an aircraft;
- (2) Make it difficult or confusing for operators of aircraft to distinguish between airport lights and non-airport lights;
- (3) Result in glare to, or blinding of, the eyes of operators of aircraft approaching or taking-off from an airport; and
- (4) Impair visibility in the vicinity of an airport or otherwise endanger the landing, taking-off, or maneuvering of aircraft.

[Eff 6/12/81; comp 8/30/97; comp **JUN 18 2007**] (Auth: HRS \$262-3) (Imp: HRS \$262-6)

\$19-12-11 Nonconforming uses. (a) Rules not retroactive. These rules shall not be construed to (1) require the removal, lowering, or other change or alteration of any structure or tree or use not conforming to these rules as of the effective date of these rules or as of the effective date of the rules superseded by these rules, or (2) otherwise interfere with the continuance of any such nonconforming use. Nothing contained herein shall require any change of construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these rules, and which is diligently prosecuted.

(b) Markings and lighting. Notwithstanding the provisions of subsection (a) of this section, the owner of any nonconforming structure or tree or use shall permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the director to indicate to the operators of aircraft in the vicinity of the presence of an airport hazard or of an incompatible land use. These markers and lights shall be installed, operated, and maintained at the expense of the State.

(c) Nonconforming uses abandoned or destroyed. Whenever the director determines that a nonconforming structure, tree, or use has been abandoned or more than fifty percent torn down, physically deteriorated or decayed, that nonconforming structure or tree or use shall not be reconstructed, rehabilitated, replanted, or resumed. [Eff 6/12/81; am and comp 8/30/97; comp **JUN 18 2007** 1 (Auth: HRS §262-3) (Imp: HRS §262-6)]

§19-12-12 Permits required. (a) Except as provided in §§19-12-9 and 19-12-13, no substantial change shall be made in the use of land, and no structure shall be erected or altered and no tree shall be planted or otherwise established in any zone described in §19-12-4 unless a permit therefor shall have been applied for and granted by the director. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient detail to permit a determination of whether the resulting structure or tree would conform to the height limitations established in §19-12-7, or whether the resulting use violates the use restrictions established in §19-12-10. The director shall grant all applications for a permit unless to do so would allow the establishment, maintenance, or creation of an airport hazard.

(b) No permit shall be granted which would allow the establishment, maintenance, or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of these rules or the rules superseded by these rules.

(c) In granting any application for a permit, the director may, if he deems such action advisable and reasonable in the circumstances, so condition the permit as to require the owner of the structure or tree or the user in question to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators or aircraft the presence of an airport hazard. [Eff 6/12/81; am and comp 8/30/97; comp JUN 18 2007] (Auth: HRS §262-3) (Imp: HRS §262-7)

§19-12-13 Exceptions. (a) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than seventy-five feet in height above the ground, except when the tree or structure would extend above the height prescribed for such instrument or noninstrument approach zones in §19-12-7.

(b) In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of height above the ground, except when the tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transitional zones in §19-12-7.

(c) Nothing contained in subsections (a) and (b) of this section shall be construed as permitting or intending to permit any construction, erection, maintenance, or alteration of any structure, or the growth of any tree in excess of the height limits established by §19-12-7. [Eff 6/12/81; am and comp 8/30/97; comp JUN 18 2007] (Auth: HRS §262-3) (Imp: HRS §262-7).

§19-12-14 Application; severability. In any case in which these rules may be finally held to interfere with the use or enjoyment of land to such an extent as to be in violation of the state constitution or the Constitution of the United States, such holding shall not affect the application of these rules to other structures, trees, or parcels of land.

These rules are hereby declared to be severable and if any portion or the application thereof to any person, circumstance, or property is held to be invalid for any reason, the validity of that portion or its application to any other person, circumstance, or property, and the validity of the remainder of these rules, or the application of the remainder to any person, circumstance, or property shall not be affected. [Eff 6/12/81; comp 8/30/97; comp **JUN 18 2007**] (Auth: HRS §262-3) (Imp: HRS §§262-6, 262-9)

§19-12-15 Enforcement. Enforcement of these rules shall be as set forth in §262-10, Hawaii Revised Statutes. [Eff 6/12/81; comp 8/30/97; comp **JUN 18 2007**] (Auth: HRS §262-3) (Imp: HRS §262-10)


§19-12-16 Penalty. Penalties for violation of any of these rules shall be as set forth in §262-10, Hawaii Revised Statutes. [Eff 6/12/81; comp 8/30/97; comp **JUN 18 2007**] (Auth: HRS §262-3) (Imp: HRS §262-10)

§19-12-17 Repeal. The airport zoning regulations effective April 21, 1972, and as amended effective April 6, 1974, and all rules relating to airport zoning in effect prior to the effective date of this chapter are repealed. [Eff 6/12/81; comp 8/30/97; comp **JUN 18 2007**] (Auth: HRS §262-3) (Imp: HRS §262-3)


DEPARTMENT OF TRANSPORTATION

Amendments to and compilation of Chapter 19-12, Hawaii Administrative Rules, on the Summary Page dated May 24, 2007, were adopted on May 24, 2007, following public hearings held on November 28 and 29, 2006, after public notice was given in the Honolulu Star-Bulletin, Maui News, Garden Island and West Hawaii Today on October 10, 2006, and the Hawaii Herald-Tribune on October 12, 2006.

These amendments to and compilation of Chapter 19-12, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.


BARRY FUKUNAGA
Director of Transportation

APPROVED:


LINDA LINGLE
Governor
State of Hawaii

Date: JUN - 6 2007

Filed

APPROVED AS TO FORM:


Deputy Attorney General

LIEUTENANT GOVERNOR'S
OFFICE