

Chapter 610 **BAKER CITY MUNICIPAL AIRPORT OVERLAY ZONE**

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610.01 Purpose. The purpose of this chapter is to provide the rules, regulations and standards governing permissible uses in the Baker City Municipal Airport Overlay Zone.

610.02 Procedure

- A. Any land use action within the Baker City Municipal Airport Overlay Zone is subject to the regulations herein described and those of the underlying zone. If any conflicts in regulation or procedure occur between the zones, the provisions of the Baker City Municipal Airport Overlay Zone shall govern.
- B. The Baker City Municipal Airport Overlay Zone is identified by the 1995 Baker City Municipal Airport Master Plan (BCMAMP) and the 2003 Oregon Department of Aviation Airport Land Use Compatibility Guidebook (ALUCG) and performs three functions:
 1. Sets the boundary for the Baker City Municipal Airport Overlay Zone.
 2. Defines the Federal Aviation Regulations for height restriction.
 3. Limits structures within airport approach zones.

610.03 Uses

- A. Permitted and conditional uses shall be as defined in underlying base zone, with exceptions as noted in Subsections B and C below.
- B. Dwellings, residences and replacement dwellings are not allowed in the Runway Protection Zone (RPZ).
- C. The following uses are prohibited in the Baker City Municipal Airport Overlay Zone:
 1. Landfills and garbage dumps.

2. Churches, auditoriums, schools, hospitals, and day-care centers and other public or private meeting places which are designed to accommodate more than 25 persons at one time.
3. Uses which interfere with aviation resulting from height of structures, glare from buildings, smoke, lights which shine upward, and radio interference from transmission.
4. All structures not in relation to navigation within the Runway Protection Zone (RPZ).

610.04 Development Standards. The following development standards shall apply:

- A. All conditional uses are subject to the application and site plan requirements of Section 205.10.
- B. The height of any structure or part of a structure, such as a chimney, tower, antenna, etc., shall be limited according to requirements established by FAA, part 77 Airport Imaginary Surfaces, and OAR Chapter 738, Division 70.
- C. All new public use airports, heliports or landing fields shall be designed so that the incidence of aircraft passing in the vicinity of dwellings or places of public assembly is minimized. They shall be located so that air traffic shall not constitute a nuisance to neighboring uses. The proponents shall show that adequate controls or measures will be taken to reduce noise levels, vibrations, dust or bright lights.
- D. All landowners requesting permission to construct a dwelling in the Baker City Municipal Airport Overlay Zone must sign a "Hold Harmless Agreement" before final approval, which is available from the Planning Director.

610.05 New Water Impoundments Prohibited. No new water impoundments shall be allowed in the following areas:

- A. Within 5,000 feet from the end or edge of a runway; or
- B. On land owned by the airport or airport sponsor where the land is necessary for airport operations.

610.06 Bird Strike Hazard Review. Baker County shall review land use proposals which include a water impoundment within a bird strike hazard area defined as between 5,000 and 10,000 feet of the edge or end of a runway surface for the Baker City airport.

- A. The landowner or authorized agent for a land use proposal that includes a water impoundment within a bird strike hazard area shall prepare an application per Section 610.07 Bird Strike Study.
- B. The application in subsection (A) above shall be reviewed through a Conditional Use Type III Planning Commission review process per Chapters 205 and 210.
- C. In addition to parties given notice in Chapter 205, the Planning Department will notify the Portland Office of the USDA Wildlife Service, the Federal Aviation Administration (FAA) Seattle Airports District Office, Oregon Department of Fish & Wildlife, Oregon Aeronautics and the airport sponsor at least 15 days prior to a Planning Commission evidentiary public hearing.
- D. The Planning Commission shall make a final decision per Chapters 205 and 210 based on a determination of whether the applicant has satisfactorily prepared a Bird Strike Study per Chapter 610.07 and the applicant has demonstrated the proposed water impoundment is not likely to result in a significant increase in hazardous bird movement across runways and approach corridors due to feeding, watering or roosting. "Significant" is defined as a level of increased flight activity by birds across approach corridors and runways that is more than incidental or occasional, considering the existing ambient levels of flight activity by birds in the vicinity.

610.07 Bird Strike Study. Procedures and standards for the review of potential bird attractants within the bird strike hazard area shall provide for early coordination with the airport sponsor, the FAA and the FAA technical representative.

- A. The local government may allow a potential bird attractant to be sited in the bird strike hazard area without a bird strike study. The applicant, the airport sponsor, the FAA and the FAA technical representative must agree that the use, with appropriate mitigation to minimize bird strike hazards, will not significantly increase hazardous bird movement across runways and approach corridors due to feeding, watering or roosting which could lead to potential collisions between birds and aircraft.
- B. Where a bird strike study is required it shall be coordinated with representatives of the airport sponsor, FAA and FAA's technical representative throughout the course of the study. Coordination shall include an opportunity to participate in the development of the study work scope and in the review of the study draft. The airport sponsor, FAA and FAA's technical representative shall have 30 days to review the study draft. Their comments on the study shall be included and addressed in the final bird strike study. A bird strike study shall consider:
 1. A description of the proposed project, its location in relation to the airport, and the bird strike study area, which shall include at least the project site, the airport property, all

lands within the bird strike hazard planning area and other surrounding habitat areas which form the local bird ecosystem;

2. A description of existing and planned airport operations and air traffic patterns and a history of any available bird strike incidents.
 3. Baseline information on existing bird habitats, species and populations including seasonal populations of waterfowl, gulls and other bird species using the area;
 4. A description of existing bird populations, activity and flight patterns on a seasonal basis as they relate to airport traffic patterns. The airport sponsor will provide approach and departure air space information up to five statutory miles from the airport.
 5. An evaluation of the anticipated effect of the proposal on bird habitats in the study area and on bird activity and flight patterns. This evaluation shall consider proposed mitigation measures that meet the requirements of Subsection (E) below; and
 6. An evaluation of the anticipated effect of the proposal on the population density, behavior patterns and species composition of the birds within the study area.
- C. Review of the Bird Strike Study. For purposes of the 150 day time limit for quasi-judicial decisions, an application for a use requiring a bird strike study shall be complete on the date the final bird strike study is submitted to the Planning Department. Upon receipt of the study and if the application is otherwise complete, the Planning Department shall commence its Type III land use hearings process consistent with Chapters 205 and 210.
- D. Approval Standard. The applicant shall demonstrate that the proposal is consistent with mandatory requirements of the acknowledged Comprehensive Plan and land use regulations. The proposal will not significantly increase hazardous bird movement across runways and approach corridors due to feeding, watering or roosting which lead to potential collision between birds and aircraft. A significant increase may be measured by changes in the density, behavior patterns or species composition of bird populations.

E. Mitigation:

1. Where a proposal requires mitigation to meet the requirements of subsection (D) above, the Planning Commission may only consider measures that are shown to be safe, effective, consistent with applicable laws and based on accepted technology and industry practices.
2. The Planning Commission shall require the applicant to undertake reasonable and practicable mitigation measures adequate to meet the requirements of subsection (D) above and intended to minimize the potential hazard to air navigation.

3. Mitigation measures may only be considered where they are customary management practices and where adequate and secure financial support is provided (i.e. performance bond) to assure perpetual implementation. Perpetual means ongoing implementation as long as a potential bird strike hazard persists. If the airport is declassified or moved, or the proposed water impoundment is continuously de-watered resulting in reduced or eliminated bird strike hazards mitigation measures could be revisited or eliminated through a Conditional Use review process.
4. Where a proposal requires mitigation to meet bird strike requirements, the Planning Commission shall require specific mitigation measures and compliance with conditions as part of its decision approving the application.