**Section 41.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed**

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use or tree *has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use or tree *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to Section 41.70(c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling *the owner of the non - conforming structure* or use or tree, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or tree *as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use or tree *shall neglect or refuse to comply with such order* within ten (10) *days after notice thereof, the Department may proceed to have* such structure or use or tree *so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by* suit in equity *for the enforcement thereof as in the case of other liens*. (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.