

**FILLMORE
COUNTY**

**AIRPORT ZONING
ORDINANCE**

Adopted July 9, 1973
Amended 1995

FILLMORE COUNTY AIRPORT ZONING ORDINANCE

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FILLMORE COUNTY AIRPORT ZONING ORDINANCE

SECTION 1 PURPOSE AND AUTHORITY

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE FILLMORE COUNTY AIRPORT BY CREATING AIRPORT APPROACH ZONES, TRANSITION ZONES, HORIZONTAL ZONE AND CONICAL ZONE, AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE FILLMORE COUNTY AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF APPEAL; AND IMPOSING PENALTIES.

This ordinance is adopted pursuant to the authority conferred by Minnesota Statutes 360.061 to 360.074. It is hereby found that an airport hazard endangers the lives and property of users of the Fillmore County Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Fillmore County Airport and the public investment therein. Accordingly it is declared:

- 1) that the creation of establishing of an airport hazard is a public nuisance and an injury to the region served by the Fillmore County Airport;
- 2) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented, and;
- 3) that the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are purposes for which political subdivisions may raise and expend public funds and acquire land or interest in land.

IT IS HEREBY ORDAINED BY County of Fillmore State of Minnesota as follows:

SECTION 2 SHORT TITLE

This Ordinance shall be known and be cited as the "Fillmore County Airport Zoning Ordinance".

SECTION 3 DEFINITIONS

As used in this Ordinance, unless the context otherwise requires the following definitions shall apply:

- 1) **Airport:** Means Fillmore County Airport. With the following short description S ½ of the SE ¼ ex. 21.1 acres to Glazer and 15.7 acres of the SW ¼ of Sec 32 Twp 103 N. Range 11 W. consisting of 74.6 acres.
- 2) **Airport Elevation:** Means the established elevation of the highest point on the usable landing area. Which Elevation is established to be 1276' above mean sea level.
- 3) **Airport Hazard:** Means any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.
- 4) **Board of Adjustment:** Means a board consisting of 3 members appointed by the Commissioners as provided in Article XIX Fillmore County Zoning Ordinance.
- 5) **Height:** For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- 6) **Instrument Runway:** Means a runway equipped or to be equipped with a precision electronic navigation aid or landing aid or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.
- 7) **Landing Area:** Means the area of the Airport used for the landing, taking off or taxiing of aircraft. (Landing strip means any designated area or areas used for the landing and/or taking off of aircraft.)
- 8) **Non-Conforming Use:** Means any pre-existing structure, tree, natural growth or use of land, which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- 9) **Non-instrument Runway:** Means a runway other than an instrument runway.
- 10) **Person:** Means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- 11) **Runway:** Means any paved surface of an airport specifically designated for the landing and/or taking off of aircraft.

12) Structure: Means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

13) Tree: Means any object of natural growth.

14) Dwelling: Means any building or portion thereof designed or designed or used as a residence or sleeping place for one or more persons.

SECTION 4 AIRSPACE ZONING

AIRSPACE REFERENCE SURFACES: In order to carry out the purpose of this Ordinance, the following imaginary airport reference surfaces are hereby established: Primary Surface, Horizontal Surface, Conical Surface, Approach Surface, and Transitional Surface, and whose locations, slopes, and dimensions are as follows:

- A. Primary Surface:** A surface longitudinally centered on a runway and extended 200 feet beyond each end of a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is five hundred (500) feet for all runways.
- B. Horizontal Surface:** A horizontal plane 100 feet above the established airport elevation, or a height of 1376 feet above mean sea level, the perimeter of which is constructed by swinging arcs of six thousand (6000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.
- C. Conical Surface:** A surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4000) feet.
- D. Approach Surface:** A surface longitudinally centered on the extended centerline at each end of the (all) runway(s). The inner edge of the approach surface is at the same width and elevation as, and coincides with, the primary surface. The approach surface inclines upward and outward at a slope of 40 to 1, expanding uniformly to a width of twenty five hundred (2500) feet at ten thousand (10,000) foot distance and then continuing at the same rate of divergence to the periphery of the conical surface.
- E. Transitional Surface:** A surface extending upward and outward at right angles to the runway centerline and the runway centerline extending at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

SECTION 5 AIRSPACE ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established the following airspace zones: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, and Transitional Zone; and whose areas consist of all lands which lie directly under the correspondingly named airport reference surfaces described in Section 4 hereof.

SECTION 6 HEIGHT RESTRICTIONS

Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any zone created in Section 5 so as to project above any of the airport reference surfaces described in Section 4 hereof. Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

SECTION 7 LAND USE ZONING

LAND USE ZONES: In order to carry out the purpose of this Ordinance, there are hereby created and established the following land use zones:

Zone A: All that land in the approach zones of a runway, which is located within a horizontal distance of six thousand (6,000) feet from each end of the primary zone.

Zone B: All that land in the approach zones of a runway which is located within a horizontal distance of ten thousand (10,000) feet from each end of the primary zone and is not included in Zone A.

Zone C: All that land which is enclosed within the perimeter of the horizontal zone and which is not included in Zone A or Zone B.

SECTION 8 LAND USE RESTRICTIONS

- A. **GENERAL:** Subject at all times to the height restrictions set forth in Section 6, no use shall be made of any land in any of the zones defined in Section 7 which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft makes it difficult for pilots to distinguish between the airport lights and other lights, results in glare in the eyes

of pilots using the airport, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off, or maneuvering of aircraft.

- B. Subject to all times to the height restrictions set forth in Section 6, and to the general restrictions contained in Subsection 8A, land included in Zone A shall be used for agricultural purposes, light recreation, and auto parking.
- C. The following uses are specifically prohibited in Zone A; dwellings, churches, hospitals, schools, theaters, stadiums, hotel and motels, trailer courts, camp grounds, and other places of public or semipublic assembly.
- D. Subject to all times to the height restrictions set forth in Section 6 and to the general restrictions contained in Subsection 8 A, land included in Zone B shall be used for the following purposes only.
- E. For agricultural and residential purposes, provided there shall not be more than one single-family dwelling per five acre tract of land.
- F. Any commercial or industrial use which meets the following minimum standards:
 - a. Each single commercial or industrial site shall be not less twenty (20) acres in size and shall contain no dwellings:
 - b. The use shall not permit, require, cause or attract an assembly or concentration, public or private, at any one time, regardless of duration, of more than fifty (50) persons per commercial or industrial site, or more than ten (10) persons in any one acre of such site.
- G. The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotel or motels, trailer courts, camp grounds, and other places of public or semipublic assembly.
- H. Subject to all times to the height restrictions set forth in Section 6, and to the general restrictions contained in Subsection 8 A, land included in Zone C may be used for any agricultural, residential, commercial, or industrial purpose, with the exception that dwellings are restricted to single-family dwellings constructed on not less than one (1) acre lots.

SECTION 9

AIRPORT ZONING MAP

The several zones herein established are shown on the Fillmore County Airport Zoning Map consisting of 2 sheets, prepared by _____, and dated _____, 1995, attached hereto and made a part hereof, which map, together with such amendments thereto and the same is hereby adopted as part of this Ordinance.

SECTION 10 NONCONFORMING USES

- A. Regulations not Retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any conforming use. Nothing herein contained shall require any change in the construction or alteration, or intended use of any structure, the construction, alteration of which was begun prior to the effective date of this Ordinance, and its diligently prosecuted.

- B. Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of Property Owner (Individual or cooperate.)

SECTION 11 BOARD OF ADJUSTMENT

- 1) There is hereby created a Board of Adjustment to have and exercise the following powers:
 - a. to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance;
 - b. to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass;
 - c. to hear and decide specific variances.

- 2) The Board of Adjustment shall consist of 3 members appointed by the Commissioners and each shall serve for a term of 6 years and until his successor is duly appointed and qualified. The Board of Adjustment for the Fillmore County Zoning Ordinance; shall also serve as Board of Adjustment for the Fillmore County Airport Zoning Ordinance.

- 3) The Board of Adjustments shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment will determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote to each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and shall be a public record.

- 4) The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which is acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance.
- 5) The concurring vote of a majority of the members of the Board of Adjustments shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.

SECTION 12 APPEALS

- 1) Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Administrator made in his administration of this Ordinance, may appeal to the Board of Adjustment.
- 2) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof, Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record which the action appealed from was taken.
- 3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, in his opinion, cause imminent peril to life or property. In such case, proceeding shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.
- 4) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- 5) The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination, as may be appropriate under the circumstances.

SECTION 13 JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the District Court of Fillmore County on questions of Law and Fact.

SECTION 14 PERMITS

- 1) Future Uses. Except as specifically provided in Paragraphs a, b and c hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
 - 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 75 feet in vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.
 - b. In the area lying within the limits of the instrument and noninstrument approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 50' of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument approach zones.
 - c. In the area lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 50' feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this Ordinance except as set forth in Section IV.

- 1) Existing Uses. No permit shall be granted that would allow the establishment 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 this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
 - a. Nonconforming Uses Abandoned or Destroyed. Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated or decayed no permit shall be granted that would allow such structure or tree to extend the applicable height limit or otherwise deviate from the zoning regulations.
 - b. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Ordinance.

- c. Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question at his or their own (private or cooperate) expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

SECTION 15 ENFORCEMENT

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by him. Applications required by this Ordinance to be submitted to the Zoning Administrator shall be promptly considered and granted or denied by him. The Zoning Administrator shall forthwith transmit applications for action by the Board of Adjustment.

SECTION 16 PENALTIES

Each violation of this Ordinance or any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punished by a fine or imprisonment or both such fine or imprisonment, and each day a violation continues to exist shall constitute a separate offense.

SECTION 17 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION 18 SEVERABILITY

If any of the provisions of this Ordinance or the application thereof of any person or circumstances is held invalid, such invalidity shall not effect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 19
EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare, an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Fillmore County Board of Commissioners this _____day of _____, 1995.

_____Chairman of Fillmore County Board of Commissioners

Attest _____County Auditor