

Gerald R. Ford International Airport

Zoning Ordinance

PREAMBLE

An Ordinance establishing airport zoning regulations restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Gerald R. Ford International Airport; providing for the allowance of variances from such regulations; designating the Zoning Administrator charged with the administration and enforcement of such regulations; establishing an airport zoning board of appeals; providing for enforcement; and imposing penalties for violation of this Ordinance.

Pursuant to the authority conferred by the provisions of the Airport Zoning Act, 1950 (Extra Session) P.A. 23 and for the purpose of promoting the health, safety, and general welfare of the inhabitants of the County of Kent by preventing the establishment of airport hazards and thereby protecting the general public, users of Gerald R. Ford International Airport, and occupants of land in its vicinity, and preventing the destruction and impairment of the utility of said Airport and the public investment therein.

The Board of Commissioners of the County of Kent under the provisions of 1950 (Extra Session) P.A. 23, being MCL 259.431 *et. seq.*, as amended, ordains as flows:

ARTICLE 1

SHORT TITLE AND PURPOSE

1.1 Short Title.

This Ordinance is to be known and may be cited as the “Gerald R. Ford International Airport Zoning Ordinance.”

1.2 Purpose.

The purpose of this Ordinance is to provide aviation safety and protection to the users of the Airport and to the people who live and work in its vicinity.

The Ordinance establishes regulations on land within a ten-mile radius of the Gerald R. Ford International Airport as referenced on attached Sheets 2/8 and 3/8. This Ordinance establishes a large air bowl with minimum height limitations immediately adjacent to the Airport increasing to a maximum height limitation of 500 feet above the established elevations of the Airport as the distance from the Airport is increased.

Structures and trees which project above the height limitations are considered hazards to flying and endanger lives and property. The prescribed height limits are based on past experience and studies made by the Aeronautics Commissions of the State of Michigan and by the Federal Aviation Administration. Height limits are based upon the established elevation of the Airport or upon the elevation of the end of the nearest runway.

This Ordinance does not affect existing structures, the height of which exceeded the limits imposed by this Ordinance at the time it became effective. New construction, and construction increasing the height of existing structures, within the airport area, must conform to the provisions on height. The Ordinance also restricts such uses of land within the vicinity of the Airport as would unreasonably interfere with radio communication systems and other navigational aids or devices used by the Airport and aircraft, or would reduce visibility, or would create confusing lights, or would be subject to undesirable effects that may be caused by the operation of aircraft.

The Board of Commissioners has charged the Gerald R. Ford International Airport Board with the responsibility of administering and enforcing the provisions of the Ordinance with the understanding that the Airport Board will seek the close cooperation of, and work through, Township Zoning Boards, City Zoning Boards, and Local Planning Agencies.

To effectively administer the Ordinance, the Board of Commissioners established threshold heights which are below the allowable height limits of the Ordinance. These threshold heights are intended to make it easier for the local Zoning Boards and the general public to decide whether an application for Permit must be filed with the Zoning Administrator and to give added insurance to those who are constructing the higher, more costly structures.

The establishment of threshold heights reduces the number of those who must make application.

The Ordinance contains provisions for the variance of the regulations in the event of practical difficulty or unnecessary hardship if the relief granted would not be contrary to the public interest and safety. It is the intent of the Board of Commissioners, with the cooperation of the public, to have the Ordinance administered in a reasonable and just manner in keeping with the responsibilities involved.

The preceding is by way of explanation only and is not to be considered a part of the Ordinance. Information regarding height limits and copies of the Ordinance are available at the offices of the Gerald R. Ford International Airport, the Gerald R. Ford International Airport website (www.grr.org), and the Michigan Aeronautics Commission, 2700 Port Lansing Road, Lansing, Michigan 48906. A copy of the Ordinance is on file with the Kent County Clerk.

ARTICLE 2 DEFINITIONS

2.1 Above Mean Sea Level.

“Above Mean Sea Level” denotes elevations above sea level based upon and determined by reference to United States Coast and Geodetic Survey datum.

2.2 Aeronautics Code.

“Aeronautics Code” means the Aeronautics Code of the State of Michigan, 1945 P.A. 327, being MCL 259.1 *et. seq.*, as amended.

2.3 Airport.

“Airport” means the Gerald R. Ford International Airport, however named or governed in the future, and all appurtenances used or acquired for Airport buildings or other Airport facilities, and all other appurtenant rights of way or other existing or future interests.

2.4 Airport Hazard.

“Airport Hazard” means any structure or tree within the Airport Hazard Area which exceeds the height limitations established by this Ordinance, or any use of the land or appurtenances within the Airport Hazard Area which interferes with the safe use of the Airport by aircraft or which constitutes an incompatible land use in a Land Use Guidance Zone.

2.5 Airport Hazard Area.

“Airport Hazard Area” means any area of land or water, or both, lying within a ten-mile radius from the established center of the Gerald R. Ford International Airport in which an Airport Hazard might exist if not prevented by this Ordinance.

2.6 Airport Zoning Act.

“Airport Zoning Act” refers to 1950 (Extra Session) P.A. 23, being MCL 259.431 *et. seq.*, as amended.

2.7 Airport Zoning Plans.

“Airport Zoning Plans” refer to the Sheets attached to and made a part of this Ordinance depicting height limitations and land use restrictions.

2.8 Applicant.

“Applicant” means the Person applying for a Permit under Article 5 of this Ordinance.

2.9 Board.

“Board” means the governing body of the Gerald R. Ford International Airport and any successor governing body of the Airport, including that of a public airport authority.

2.10 Board of Appeals.

“Board of Appeals” means the Gerald R. Ford International Airport Board of Appeals created below.

2.11 Board of Commissioners.

“Board of Commissioners” means the Kent County Board of Commissioners.

2.12 Land Use Guidance Zone.

“Land Use Guidance Zone” means an area or zone in which certain types of land uses are recommended due to noise, vibrations, fumes, dust, fuel particles and other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at the Airport.

2.13 Local Zoning Ordinance.

“Local Zoning Ordinance” means a zoning ordinance, other than this Ordinance, adopted by a political subdivision of this state located in whole or in part in an Airport Hazard Area.

2.14 Non-Conforming Use.

“Non-Conforming Use” means any structure, tree or use of land which does not conform to a regulation prescribed in this Ordinance or any amendment as of the effective date of such regulation.

2.15 Ordinance.

“Ordinance” means the Gerald R. Ford International Airport Zoning Ordinance, as amended from time to time.

2.16 Permit.

“Permit” means an airport zoning permit issued under Article 5 of this Ordinance.

2.17 Person.

“Person” means any individual, firm, partnership, corporation, company, association, joint stock association, municipal corporation or other body politic, including any trustee, receiver, assignee or other similar representative.

2.18 Structure.

“Structure” means any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, overhead transmission lines, cranes, scaffolding and radio and television aerials and antennae, but not including highways and their appurtenances.

2.19 Tree.

“Tree” means any object of natural growth.

2.20 Zoning Administrator.

“Zoning Administrator” means the Executive Director of the Airport, or his designee, who is designated and charged with the administration and enforcement of this Ordinance.

ARTICLE 3
GENERAL PROVISIONS AND ADMINISTRATION

3.1 Authority.

This Ordinance is enacted in accordance with the Airport Zoning Act. All power and authority with respect to the administration and enforcement of this Ordinance is delegated to the Board in accordance with Section 133 of the Aeronautics Code, and resolutions of the Board of Commissioners, including any future grant of authority.

3.2 Administration.

The Board shall administer and enforce the provisions of the Ordinance and shall seek the close cooperation of and work through local City, Village and Township Zoning Boards, and local Planning Agencies.

3.3 Zoning Administrator as Administrative Agency.

The Executive Director of the Airport or his designee is designated the Zoning Administrator charged with the duty of administering and enforcing this Ordinance. The Zoning Administrator shall act as the “administrative agency” referred to in the Airport Zoning Act. The duties of the Zoning Administrator shall include those of issuing Permits as provided below, but the Zoning Administrator shall not have or exercise any of the powers or duties delegated to the Board of Appeals. The Zoning Administrator may adopt such rules of procedure as may be necessary in connection with the administration and enforcement of this Ordinance.

3.4 Approach Standards.

The approach, transitional, conical and inner and outer horizontal surfaces which establish the height limitations under this Ordinance are denoted on Sheets 2/8, 3/8 and 4/8 of the Airport Zoning Plans, and area established in conformance with approach standards or regulations of the Michigan Aeronautics Commission and the Federal Aviation Administration. In acting upon applications for Permits the Zoning Administrator will arrive at proper height limitations by interpolating between contours shown on the Airport Zoning Plans.

3.5 Hazards.

Structures and trees which project above the height limitations under this Ordinance are considered hazards to flying and endanger lives and property. The prescribed height limits are not arbitrarily set, but are based on past experience and studies made by the Michigan Aeronautics Commission and by the Federal Aviation Administration. Height limits are based upon the established elevation of the Airport or upon the elevation of the end of the nearest runway.

3.6 Heights Requiring Permits.

To effectively administer the Ordinance, the Board of Commissioners hereby establishes threshold heights which are below the allowable height limits of the Ordinance. This is done to make it easier for the local Zoning Boards, Planning Agencies, Contractors, Architects, Engineers, Design Professionals, and the general public to decide whether an application for Permit must be filed with the Zoning Administrator. This was also done to give added insurance to those who are constructing the higher, more costly structures. The establishment of applications heights reduces the number of those who must make application.

3.7 Provisions for Variance.

This Ordinance contains provisions for the variance of the regulations in event of practical difficulty or unnecessary hardship if the relief granted would not be contrary to the public interest and safety.

ARTICLE 4 ZONES

4.1 Airport Hazard Area.

An Airport Hazard Area is established, which area or zone consists of all the lands within Kent County lying beneath the approach, transitional, 149 feet horizontal, conical and 500 feet horizontal surface, said land being located within a circle having a radius extending horizontally 10 miles (see attached Sheets 2/8 and 3/8) from the established center of the usable landing areas of the Airport, known as the Airport Reference Point. The boundaries of the hazard areas are shown on the Airport Zoning Plans numbered 1/8 through 8/8, which maps are attached and made a part of this Ordinance.

4.2 Airport Zoning Plans.

The height limitations shown on the attached Airport Zoning Plans are imposed on the lands in the Airport Hazard Areas, the same being based upon the elevations Above Mean Sea Level at the ends of the respective Airport runways and the established elevation of the Airport, which elevations are shown on Sheets 2/8, 3/8 and 4/8 of the Airport Zoning Plans.

4.3 Legal Height Limitations.

No person may erect or maintain any structure to a height in excess of the limitations prescribed by the terms of this Ordinance and the attached maps, or to plant or allow any tree to grow to a height in excess of the limitations prescribed by the terms of this Ordinance and the attached maps; or to establish any use of lands contrary to the provisions of this Ordinance.

4.4 Unlawful Land Use.

Notwithstanding any other provisions of this Ordinance, no person may use any lands within any Airport Hazard Area which:

(a) Would create electrical interference with radio communication between the Airport and aircraft or create interference with navigation aids employed by aircraft;

(b) Would make it difficult for flyers to distinguish between Airport lights and other lights or result in glare to the eyes of flyers using the Airport;

(c) Would create air pollution in such amounts as to impair the visibility of flyers in the use of the Airport;

(d) Would locate or permit the operation of a dump, waste disposal site, sanitary landfill, hazardous waste facility, solid waste transfer station or recycling facility within 10,000 feet of any runway at the Airport, unless the construction, location and operation of the site is approved or authorized by the Federal Aviation Administration as not being in violation of its orders, rules or regulations applicable to the Airport, or unless a waiver is issued by the Federal Aviation Administration.

(e) Would otherwise endanger the landing, taking off, or maneuvering of aircraft;

(f) Would attract birds.

(g) Would raise the descent minimums of any instrument approach procedure to the Airport, or otherwise limit operations at the Airport, as determined by an airspace study conducted by the Federal Aviation Administration.

4.5 Land Use Guidance Zone.

(a) *Purpose.* The purpose of Land Use Guidance Zones defined in Section 2.12 and referred to in the Land Use Guidance Zone Chart I, Sheets 5/8 and 6/8, is to designate areas in which certain types of uses are incompatible with their proximity to an airport due to the undesirable effects inherent in the operation of aircraft and for reasons of the health, safety and welfare of users of the land and Airport.

(b) *Incompatible Land Uses Under Local Zoning.* Pursuant to Section 203 of the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3203, as amended, if a local zoning ordinance was adopted before March 28, 2001, the local zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. A local zoning ordinance amendment adopted or variance granted after March 28, 2001 shall not increase any inconsistency that may exist between this Ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan.

(c) *Incompatible Land Uses Prohibited.* Uses of land within the areas shown as incompatible land uses on the Land Use Guidance Zone Chart I, Sheets 5/8 and 6/8, are prohibited unless allowed by a local zoning ordinance that is in compliance with Section 203 of the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3203, as amended.

(d) *Acceptable Land Use.* Uses of land within the areas shown as acceptable land uses on the Land Use Guidance Zone Chart II, Sheets 5/8 and 6/8 are permitted unless prohibited by local zoning.

4.6 Non-Conforming Existing Uses.

The provisions of Sections 4.3 and 4.5 of this Ordinance shall not apply to structures, trees or other Non-Conforming Uses existing in an Airport Hazard Area on the effective date of this Ordinance, unless the Zoning Administrator determines it to be abandoned, or 80% torn down, destroyed, deteriorated, or decayed. The definition of abandon shall be the same as that definition used by each respective local land use zoning agency of the jurisdiction in which the structure or use is located.

4.7 Alterations to Non-Conforming Land Use.

The provisions of Sections 4.3 and 4.5 of this Ordinance shall apply to changes or alterations which increase the height of existing structures, trees or expansion of other Non-Conforming Uses after the effective date of this Ordinance, with the same force and effect as though the same were new uses.

ARTICLE 5 PERMITS

5.1 Permit Maps.

There are attached hereto as Sheets 7/8 and 8/8 of the Airport Zoning Plans, “permit maps” showing applicable height limitations within the Airport Hazard Areas above which Permits are required under this Ordinance. The permit maps are affixed to this Ordinance for the information of and consultation by all persons proposing to make uses of land within the Airport Hazard Areas, whether the same by new uses or changes in existing uses, and it shall not be a defense in any actions that a person charged with violation of this Ordinance, whether in a criminal or civil action, failed to consult this Ordinance or the permit maps prior to the action giving rise to the violation.

5.2 Land Use Types Requiring Permits.

All persons making use of land within the Land Use Guidance Zones shown on Sheets 5/8 and 6/8 of the Airport Zoning Plans shall apply for a Permit under this Article. An applicant should apply for a Permit under this Ordinance before seeking permission under a Local Zoning Ordinance so that the Zoning Administrator may make a determination of inconsistency under Section 4.5(b) and provide input to the local zoning jurisdiction.

5.3 Application for Permits.

Applications for Permits shall be made to the Zoning Administrator in one (1) entirely completed copy upon forms furnished by the Zoning Administrator, and the Zoning Administrator shall, within 15 days from the application, determine whether the height limitations as designated by the Airport Zoning Plans and this Ordinance, would or would not be violated if the application were granted and shall grant or deny the application accordingly (the Zoning Administrator not being vested with authority to permit a variance). The Zoning Administrator shall advise Applicant of its action within three (3) days after the action has been

taken. In the event of a denial, the Applicant may apply to the Board of Appeals for a certificate of variance. The Zoning Administrator is authorized and directed to approve all applications for Permits for uses not exceeding 25 feet in height above the existing ground level as the same may exist on the effective date of this Ordinance, notwithstanding anything to the contrary herein contained, it being intended that the minimum height limitation to be imposed by this Ordinance shall be 25 feet above ground level existing on the date of this Ordinance. The issuance of a Permit shall not be construed to permit a use that violates Section 4.6 of this Ordinance or any general zoning ordinance or regulations of any political subdivision applicable to the same area. Nothing contained in this Ordinance waives any state or federal notification requirements.

5.4 Permit Procedures.

Persons desiring to create new uses, or to change existing uses, shall proceed with one of the following after consulting the applicable permit map:

(a) *Procedure One:* If it appears, after consulting the permit map, that the proposed new use, or changed existing use, clearly would not violate the terms of this Ordinance, then the new use may be created, or existing use changed, without applying for a Permit hereunder or taking any further action under this Ordinance.

(b) *Procedure Two:* If it appears, after consulting the permit map, that the proposed new use, or changed existing use may violate that terms of this Ordinance, then the new use shall not be created, or existing use changed, until a proper Permit has first been obtained from the Zoning Administrator in accordance with the provisions of this Ordinance. Inasmuch as the height limitations imposed in the Airport Hazard Area steadily incline from the Airport center, and at various rates according to location of approaches, the permit maps are only approximations for any given segment of the Airport Hazard Area and therefore a height limitation may be somewhat greater than accorded by the maps, depending upon the particular parcel of land involved. The purpose of this second procedure is, therefore, to enable the Zoning Administrator to make exact mathematical determinations and enable users of the land within the hazard area to avoid violations of this Ordinance.

(c) *Procedure Three:* If it appears, after consulting the permit map, that the proposed new use, or change in existing use will violate the provisions of this Ordinance, then no such new or changed use shall be undertaken unless the person proposing to undertake it shall first apply to the Board of Appeals and obtain a certificate of variance in accordance with the procedures contained in this Ordinance.

5.5 Permit Conditions.

The Zoning Administrator may attach reasonable conditions to the issuance of a Permit under this Ordinance which may include, without limitation, obstruction markers, markings, lighting or other visual or aural identification.

5.6 Revocation of Permits.

The Zoning Administrator may revoke a Permit in those cases where an administrative determination has been duly made that error, false statements or misrepresentation existed as to material fact in the application or plans upon which the Permit was based.

5.7 Time Limit on Permits and Variances.

If a Permit under this Ordinance has been granted and substantial construction has not commenced within six (6) months from issuance, the Permit shall automatically expire at the end of that time period. No site preparation or construction may be commenced after that date without re-applying to the Zoning Administrator.

5.8 Other Local Requirements Not Affected.

Nothing contained in this Ordinance shall relieve the Applicant from local land use requirements, zoning or building permits, or other requirements of the political subdivision in which the Applicant's project is located or of the state or federal governments.

The Zoning Administrator may withhold a Permit until satisfied that Applicant has met such other requirements, including, but not limited to (a) approvals and land-use permits required by the local governing body; (b) determination of no hazard by the Federal Aviation Administration, if required; and (c) compliance with the Michigan Tall Structure Act, 1959 P.A. 259, being MCL 259.481, *et. seq.*

5.9 Notice of Commencement of Construction.

No Person shall clear land or commence construction in furtherance of a Permit issued under this Ordinance until notice of commencement is given to the Zoning Administrator.

5.10 Exception for Emergency Repairs.

No Permit is required for the emergency repair or emergency replacement of nonconforming public utility structures or repair of building fixtures such as HVAC and roof membranes, other than replacement of whole buildings, when the height of such structures will not be increased by such repairs or replacement. It is intended that in the application of this provision, any combination of circumstances calling for immediate action or remedy for repair or replacement of such structures shall be deemed an emergency. However, prior to commencement, notice shall be given to the Zoning Administrator for coordination with air traffic control for the issuance of a notice to airmen ("NOTAM").

ARTICLE 6
BOARD OF APPEALS

6.1 Board of Appeals.

There is hereby created a Board of Appeals consisting of five members, each to be appointed for a term of 3 years and until his or her successor is appointed and qualified, one of whom shall be designated as Chair and one of whom shall be designated as Vice Chair. Upon initial appointments, one member of the Board of Appeals shall be appointed for a term of 1 year, two for terms of 2 years each, and two for terms of 3 years each. Members shall be removable by the appointing body for cause shown, upon written charges and after notice and opportunity to be publicly heard. The Board of Appeals has the powers set forth in Section 28 of the Airport Zoning Act and shall exercise such powers as are conferred upon it in the Airport Zoning Act and this Ordinance.

(a) *Appointing Body:* The Board shall be the appointing body of members of the Board of Appeals under delegation from the Board of Commissioners.

(b) *Official Name:* The Board of Appeals shall be officially known as the Gerald R. Ford International Airport Zoning Board of Appeals.

(c) *Compensation:* The Board of Appeals shall receive such compensation and expense reimbursement for attendance at meetings and hearings, and may employ such necessary personnel, as may be provided for by resolution of the Board of Commissioners.

(d) *Rules and Procedures:* The Board of Appeals shall adopt rules concerning its organization and procedure, including appeal forms, and other authorized matters, consistent with the provisions of the Airport Zoning Act and this Ordinance. Such rules shall include, but not be limited to, providing a reasonable period of time from which appeal may be taken to it from an action of the Zoning Administrator. Meetings of the Board of Appeals shall be held at the call of the Chair and at such other times as the Board of Appeals may determine, and notice of all meetings shall be given to all members. An annual meeting shall be held during the month following the anniversary date of this Ordinance. The Chair, or in his or her absence the Vice Chair, may administer oaths or affirmations and issue subpoenas to compel the attendance of witnesses. All hearings of the Board of Appeals shall be public, and it shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, then so indicating, and the Board of Appeals shall keep records of its examinations and other official acts, all of which shall be immediately filed in the offices of the Board of Appeals and shall be a public record.

(e) *Powers:* The Board of Appeals shall have the power to issue certificates of variance under the provisions of this Ordinance, or to otherwise decide appeals from any interpretation, order, requirement, rule, regulation, decision or determination made by the Zoning Administrator under the powers conferred upon it by this Ordinance.

(f) *Who May Appeal:* Any person, including the governing body of any political subdivision, aggrieved by any decision of the Zoning Administrator made in the administration of this Ordinance, may appeal to the Board of Appeals.

(g) *Appeal Procedure:* All appeals from actions of the Zoning Administrator shall be taken within the time and in the manner provided by the rules of the Board of Appeals, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds of appeal. The Zoning Administrator shall promptly transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or irreparable damage to property. In that case, proceedings shall not be stayed otherwise than by order of the Board of Appeals and on due cause shown. The Board of Appeals shall fix a time for the hearing of the appeal, give public notice and due notice to the parties in interest, and decide the appeal within a reasonable time. At the hearing any party may appear in person or by agent or by attorney. The Board of Appeals may, in conformity with the provisions of this Ordinance, reverse, affirm or modify, wholly or partly, the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator.

(h) *Certificates of Variance:* An application for certificate of variance is to be submitted on the form provided for by the rules of the Board of Appeals. If the application is granted, the Applicant will receive a certificate of variance in the form prescribed by such rules. The certificate shall provide that it is not effective for a period of thirty (30) days following the date of its issuance. Immediately upon issuance, copies of the certificate shall be filed with the Zoning Administrator, the Michigan Aeronautics Commission and each political subdivision affected by the certificate. In acting upon applications for variance, variances shall be allowed where 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 and approach protection, but would do substantial justice and be in accordance with the spirit of the regulations of this Ordinance; provided, however, that any variance may be allowed subject to any reasonable condition or conditions subsequent that the Board of Appeals may deem necessary to effectuate the purpose of this Ordinance. Nothing in this Section shall be construed to permit a use which would conflict with any general zoning ordinance or regulation of any political subdivision applicable to the same area.

6.2 Appeals from Interpretations.

An appeal from any interpretation, order, requirement, rule, regulation, decision or determination made by the Zoning Administrator shall be decided by a majority of all members of the Board of Appeals.

6.3 Standards for Variances and Findings.

(a) *Non-Use (Dimensional) Variances:* The Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration

of buildings or structures related to dimensional requirements of the Ordinance or to any other nonuse-related standard in the Ordinance, only when all of the following conditions exist:

(1) The need for the requested variance is due to practical difficulties in carrying out the strict letter of the Ordinance arising from unique circumstances or physical conditions of the subject property that do not apply generally to other properties in the vicinity with the same or similar dimensional restrictions.

(2) The asserted practical difficulty is not due to the Applicant's personal or economic circumstances nor created by actions of the Applicant or Applicant's predecessor(s). Increased financial return alone shall not be deemed sufficient to warrant a variance.

(3) Strict compliance with the dimensional requirements will unreasonably prevent the Applicant from using the property for permitted purposes, or will render conformity with those regulations unnecessarily burdensome.

(4) The requested variance is the minimum variance necessary to do substantial justice to the Applicant and to other similarly-situated property owners, and still afford protection to persons and property.

(5) The variance will not impair the intent and purpose of this Ordinance or violate the Airport's grant assurances.

No non-use variance shall be granted unless at least a majority of all members of the Board of Appeals vote in favor of the variance.

(b) *Use Variances:* A use variance may be granted by the Board of Appeals only in cases where unnecessary hardship exists by showing all of the following:

(1) The property cannot be reasonably used for any of the uses permitted.

(2) The need for the requested variance is due to unique circumstances or physical conditions of the subject property that do not apply generally to other properties in the vicinity with the same or similar use restrictions.

(3) The asserted unnecessary hardship is not due to the Applicant's personal or economic circumstances nor created by actions of the Applicant or Applicant's predecessor(s). Increased financial return alone shall not be deemed sufficient to warrant a variance.

(4) The asserted unnecessary hardship is not so general or recurrent in nature so as make amending this Ordinance the most practical way of addressing the problem.

(5) The requested variance is the minimum variance necessary to do substantial justice to the Applicant and to other similarly-situated property owners, and still afford protection to persons and property.

(6) The variance will not impair the intent and purpose of this Ordinance or violate the Airport's grant assurances.

No use variance shall be granted unless at least two-thirds (2/3) of all members of the Board of Appeals vote in favor of the variance.

ARTICLE 7 JUDICIAL REVIEW

7.1 Appeals to Circuit Court.

Any person, including the Michigan Aeronautics Commission on behalf of and in the name of the state, aggrieved by any decision of the Board of Appeals, may appeal to the Kent Circuit Court as provided in Section 30 of the Airport Zoning Act.

ARTICLE 8 ENFORCEMENT

8.1 Cease and Desist Orders.

The Zoning Administrator shall have the authority to issue a cease and desist order in the form of a written notice for the violation of any provision of this Ordinance. Such cease and desist order shall become effective once it has been either, (a) served personally; or (b) posted on the property where the violation has occurred and a copy of the notice has been sent to the person involved by first class mail at the person's last known address. Once a cease and desist order is effective, any use or work done in violation of this Ordinance shall stop immediately and shall not be recommenced until the Zoning Administrator issues a written notice dissolving the cease and desist order. Any person who violates a cease and desist order shall be in violation of this Ordinance; provided, that any decision of the Zoning Administrator regarding a cease and desist order may be appealed to the Board of Appeals. A cease and desist order shall be in addition to the other remedies provided in this Ordinance.

8.2 Violations as Civil Infractions.

Any person who violates any provision of this Ordinance is responsible for a municipal civil infraction and, upon a finding of responsibility, subject to payment of a civil fine of not less than \$100.00 or more than \$500.00, plus costs and other sanctions, for each infraction. Every day that a violation continues shall constitute a separate offense.

(a) *Repeat Offenses.* Repeat offenses under this Ordinance shall be subject to increased fines as provided below. As used herein, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of any provision of this Ordinance committed by a person within any one (1) year period and for which the person is found responsible. The increased fine for repeat offenses shall be as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$500.00, plus costs.

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$750.00, plus costs.

(b) *Persons Chargeable With a Violation.* Persons chargeable with a violation of this Ordinance and subject to being responsible for a municipal civil infraction may include the following:

(1) The owner, agent, lessee, tenant, contractor or any other person using or having control of the land, building or premises where such violation has been committed or shall exist;

(2) Any person who knowingly commits, aids and abets, takes part or assists in any such violation; or

(3) Any person who owns or maintains any land, building, or premise on which such violation shall exist.

8.3 Appearance Ticket Authorization.

Unless prohibited by state law, the following persons are empowered to issue and serve appearance tickets for violations of this Ordinance, pursuant to 1927 P.A. 175, as amended by 1980 P.A. 506, 1984 P.A. 366 and 1988 P.A. 49, being MCL 764.9c and 764.9f, as amended:

The Executive Director
The Deputy Executive Director
The Airport Planning Engineer
The Zoning Administrator
Airport Police

8.4 Other Civil Actions Available.

The Board may, in addition to any other action, institute in the Kent County Circuit Court, an action to prevent, restrain, correct or abate any violation of this Ordinance or the Airport Zoning Act, or of airport zoning regulations adopted under this Ordinance or under the Airport Zoning Act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order to effectuate fully the circumstances of the case, in order to effectuate the purposes of this Ordinance or the Airport Zoning Act and the regulations adopted and orders and rulings made pursuant thereto.

ARTICLE 9
FEDERAL LAWS & FEDERAL AVIATION REGULATION

9.1 Federal Laws (Part 77, 14 C.F.R. §77.1 et seq.).

This Ordinance is not intended to conflict with existing federal approach protection laws. The Federal Aviation Administration requires that it be given notice of any construction or alteration:

- (a) That would be more than 200 feet above ground level at the site.
- (b) That would be above an imaginary surface extending outward and upward at 100:1 slope, within 20,000 feet of the nearest point of a runway, and more than 3,200 feet in length.
- (c) That would be above an imaginary surface extending outward and upward at 50:1 slope, within 10,000 feet of the nearest point of a runway, and less than 3,200 feet in length.

ARTICLE 10
SEVERABILITY OF PROVISIONS

10.1 Severability of Provisions.

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

ARTICLE 11
AMENDMENTS

11.1 Amendments.

This Ordinance, and the regulations prescribed herein, may be amended by the Board of Commissioners after a public hearing is held in relation to the proposed amendment, pursuant to Section 19 of the Airport Zoning Act.

ARTICLE 12
REPEAL OF PRIOR ZONING ORDINANCE

12.1 Repeal.

The Board of Commissioners hereby repeals the Kent County Airport Zoning Ordinance, dated January 30, 1995 as of the effective date of this Ordinance.

ARTICLE 13
EFFECTIVE DATE

13.1 Effective Date.

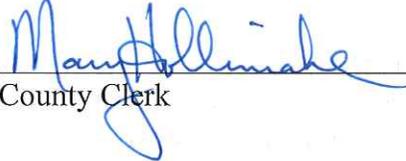
This Ordinance shall take effect when notice of the adoption is published in a newspaper of general circulation in the county, pursuant to Section 11(j) of 1851 P.A. 156, being MCL 46.11(j), as amended.

COUNTY OF KENT

By 

Dan Koorndyk
Its Chairperson

Attest:



County Clerk

00199 (002) 682809.3