

## APPENDIX D AIRPORT HAZARD ORDINANCE

### Section 101. Authority and enactment.

The Legislature of the State of North Carolina has, in Chapter 63, Article 4, Model Airport Zoning Act, authorized local governmental units to adopt regulations designed to protect the public health, public safety, and general welfare of their citizenry. The Iredell County board of commissioners does hereby ordain and enact into law the following article as the Airport Hazard Ordinance of Iredell County.

### Section 102. Definitions.

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Airport* means the Statesville Regional Airport.

*Airport Elevation* means the established airport elevation above mean sea level, which is 965 feet at Statesville Municipal Airport.

*Airport hazard* means any structure or tree which obstructs the aerial approaches of a publicly owned airport or is otherwise hazardous to its use for landing or taking off.

*Approach Surface* means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 103 of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

*Conical Surface* means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

*Height* means the vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon.

*Horizontal Surface* means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

*Nonconforming Structure* means any structure or tree which does not conform to this ordinance as of the effective date of these regulations.

*Non-Precision Instrument Runway* means a runway having an existing instrument approach procedure utilizing air navigation facilities with one horizontal guidance, or are type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

*Precision Instrument Runway* means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

*Primary Approach Surface* means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the pavement with zero slope at the elevation as set forth in Section 103 of this Ordinance. In plan, the perimeter of the primary approach surface coincides with the perimeter of the primary approach zone.

*Primary Surface* means a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is 1,000 feet wide and centered on the runway centerline. The elevation

of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

*Runway* means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

*Structure* means any object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.

*Transitional Surfaces* means surfaces that extended outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

*Tree* means any object of natural growth.

### **Section 103. Airport zones.**

In order to carry out the purposes of this ordinance, there are hereby created and established certain zones, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Statesville Regional Airport. Such zones are shown on the Height Zoning Map, prepared by W.K. Dickson dated September 2007, which is attached to this ordinance and made part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- (a) *Non-Precision Instrument Approach Zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly at a slope of 34 feet horizontally for every 1 foot vertically to a width of 4,000 feet at a horizontal distance 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (b) *Precision Instrument Runway Approach Zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly at a slope of 50 feet horizontally for every 1 foot vertically for a horizontal distance of 10,000 feet, then at a slope of 40 feet horizontally for every 1 foot vertically to a width of 16,000 feet for a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (c) *Primary Approach Zones.* The Primary Approach Zones begin at each runway end starting at the pavement edge at a width of 1,000 feet and extend to a width of 6,940 for a horizontal distance of 20,000 feet. This zone provides that no structure may be built within this zone that rises above a height as determined in the underlying zoning district as directed in the Iredell County Zoning Ordinance Article VII, Section 7.0 or to a maximum of 50 feet above ground elevation, whichever is less. No structures will be exempt from this requirement, and under no circumstance shall any structures be located in the Primary Approach Zone that are taller than 50 feet above ground elevation.
- (d) *Primary Zone.* The primary zone is the area beneath the primary surface. This zone extends 200 feet beyond each end of the runway, has a width of 1,000 feet, and is centered on the runway centerline.
- (e) *Transitional Zones.* The transitional zones are the areas beneath the 7 foot horizontal to 1 foot vertical transitional surface.

- (f) *Horizontal Zone.* The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones. This zone contains the Horizontal Surface, which is located 150 feet above the established airport elevation.
- (g) *Conical Zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. This zone contains the Conical Surface, which contains a slope of 20 horizontally for every 1 foot vertically.

#### **Section 104. Height limitations.**

No structure or tree shall be erected, altered, allowed to grow or maintained in the airport zones to a height in excess of the height limit as determined by the aerial contours appearing on the Height Zoning Map or referred to in Section 103. Except for the City of Statesville, the property owner of a tree, determined to be an airport hazard, shall not be responsible for bringing such tree into conformance with this ordinance.

#### **Section 105. Use restrictions.**

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult to for pilots to distinguish between airport lights and others, resulting in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

#### **Section 106. Nonconforming structures.**

Subject to the provisions of subsection (a) of Section 108, the regulations prescribed in Section 104 shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of December 3, 2003.

#### **Section 107. Variances.**

Variances may be permitted by the board of adjustment where a literal application or enforcement of the regulations prescribed by this ordinance would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest or impair the utility of the airport, but do substantial justice and be in accordance with the spirit of this ordinance.

#### **Section 108. Permits.**

- (a) *Future structure.* No person shall erect or alter any structure within the airport zones without first applying for and receiving a permit in accordance with the provisions of this ordinance.
- (b) *Existing structures.* Before any existing structure may be replaced, substantially altered or repaired, or rebuilt within the airport zones, a permit must be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure to be made or become higher than the height limit as determined by the aerial contours appearing on the Height Zoning Map or referred to in Section 103.
- (c) *Permit requirements.* When compliance with the aerial contour height limits cannot be clearly established without further information, the zoning administrator may require that the permit include, but not be limited to, the ground elevation of the area in question with certification by a registered land surveyor or professional engineer.

### **Section 109. Hazard marking and lighting.**

Any permit or variance granted under Section 107 or 108 may, if such action is deemed advisable to effectuate the purposes of this ordinance, be so conditioned as to require the owner of the structure or tree in question, to permit the City of Statesville, at its own 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 110. Duties of zoning administrator.**

The zoning administrator is hereby designated the administrative official charged with the duty of administering and enforcing the regulations prescribed in this ordinance. The duties of the zoning administrator shall include that of hearing and deciding all applications for permits under Section 108, but the zoning administrator shall not have or exercise any of the powers or duties herein delegated to the board of adjustment.

### **Section 111. Board of adjustment.**

(a) The board of adjustment is to have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision or determination made by the zoning administrator in the enforcement of this ordinance.

(2) To hear and decide specific variances under Section 107.

(b) The board of adjustment may adopt rules establishing procedure. 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 may determine. The chairman or, in the absence of the chairman, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings, showing the vote of 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 board of adjustment and shall be a public record.

### **Section 112. Appeals.**

(a) Any person aggrieved, or any officer, department, board, commission or bureau of the county affected, by any decision of the zoning administrator made in the administration of this ordinance may appeal to the board of adjustment, for which provision is made in Section 111.

(b) All appeals taken under this ordinance must be taken within the time provided by the rules of the board of adjustment, by filing with the zoning administrator and with the board of adjustment a notice of appeal, specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed was taken.

(c) 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, that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order of the board of adjustment or by a court of record on application, on notice to the zoning administrator and on due cause shown.

(d) The chairman of the board of adjustment shall fix a reasonable time for the hearing of the appeal and cause public notice to be given together with notice to the parties in interest. The board of adjustment

shall decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. All witnesses will be sworn and a record of the proceedings shall be kept.

(e) The board of adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

(f) Before the board of adjustment considers a variance request or hears an appeal from any order, requirement, decision or determination made under the provisions of this ordinance, the Statesville Airport Commission shall be given an opportunity to make recommendations with respect to the variance or appeal.

(g) The board of adjustment shall make written findings of fact and conclusions of law, giving the facts upon which it 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.

(h) The concurring vote of four-fifths of the members of the board of adjustment shall be necessary 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.

### **Section 113. Judicial review.**

Any person, any taxpayer or any officer, department, board or bureau of the county aggrieved by any decision of the board of adjustment, may petition for a writ of certiorari to the superior court as provided in G.S. 63-34.

### **Section 114. Enforcement and remedies.**

Each violation of any regulations, order, or ruling made pursuant to this ordinance shall constitute a Class 3 misdemeanor. Each day a violation continues to exist shall constitute a separate offense. In addition, the county may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this ordinance or of any order or ruling made in connection with its administration or enforcement. The court shall provide relief, by injunction or otherwise in order to fully effectuate the purposes of this ordinance and orders and rulings made pursuant thereto.

### **Section 115. Adoption.**

Duly adopted by the Board of Commissioners of the County of Iredell, North Carolina, this the 20th day of May, 2008.

Jean C. Moore

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Clerk