

ANTRIM COUNTY  
AIRPORT ZONING ORDINANCE  
ORDINANCE NO 101 -2000  
PASSED OCTOBER 12, 2000

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# ANTRIM COUNTY AIRPORT ZONING ORDINANCE

## FOREWORD

The Antrim County Airport Zoning Ordinance was adopted on \_\_\_\_\_ and became effective \_\_\_\_\_. The principal objective is to provide additional 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 Antrim County that is within a 10 mile radius of the Antrim County Airport (see attached Sheets 1 through 6). This Ordinance establishes a huge air bowl with a minimum height limitation of 25 feet above ground at some locations in the approaches to the runways 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 Commission 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 Zoning Administrator with the responsibility of administering and enforcing the provisions of the Ordinance with the understanding that it will seek the close cooperation of, and work through, Township, City, and the County Zoning Boards or Planning Commissions, and the County Planning Commission.

To effectively administer the Ordinance, the Board of Commissioners established application heights, which are below the allowable height limits of the Ordinance. This was done to make it easier for the local Planning Commissions 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 application 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, other land use limitation and copies of the Ordinance are available at the offices of the Antrim County Airport, the County Planning Commission and the Michigan Aeronautics Commission, Capital City Airport, Lansing, Michigan 48906. A copy of the Ordinance is on file with the County Clerk of Antrim County.

ANTRIM COUNTY AIRPORT  
ZONING ORDINANCE  
GENERAL

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 Antrim County 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, being Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session) and for the purpose of promoting the health, safety, and general welfare of the inhabitants of the County of Antrim by preventing the establishment of airport hazards and thereby protecting the general public, users of the Antrim County Airport, and occupants of land in its vicinity, and preventing the destruction and impairment of the utility of said airports and the public investment therein.

The Board of Commissioners of the County of Antrim County under the provisions of Section 13 of Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session), does hereby ordain as follows:

ARTICLE 1

PURPOSE AND LIMITATIONS

1.1 Title

This Ordinance includes all airport zoning plans attached hereto and is to be known and may be cited as the "Antrim County Airport Zoning Ordinance."

1.2 Objective

The principle objective of this Ordinance is to prevent the creation or establishment of airport hazards and, thereby, to provide additional safety and protection to the users of the airport and to the people who live and work in its vicinity.

### 1.3 Hazard Area

The Ordinance establishes regulations on land within Antrim County within a 10 mile radius of the Antrim County Airport (see attached Sheets 1 through 6 ). This Ordinance establishes a huge air bowl with a maximum height limitation of 500 feet above the established elevation of the airport at the outer edge and has a minimum height limitation of 25 feet above the ground at some locations in the approaches to the runways immediately adjacent to the airports. The height limitations of this Ordinance become less severe as the distance from the airports is increased.

### 1.4 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.

### 1.5 Existing Non-Conforming Objects

The 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 hazard area, must conform to the provisions on height limitations. The Ordinance also restricts such uses of land within the vicinity of the airport as will unreasonably interfere with radio communications systems, navigational aids, or other 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.

#### 1. 1.6 Administration

The Zoning Administrator shall administer and enforce the provisions of the Ordinance and shall seek the close cooperation of and work through the local County, Township and City Zoning Boards and Planning Commissions.

### 1.7 Heights Requiring Permits

To effectively administer the Ordinance, the Board of Commissioners hereby establishes application heights (See page 6 of the zoning plans) which are below the allowable height limits of the Ordinance. This is done 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. This was also done to give added insurance to those who are constructing the higher, more costly structures. The establishment of application heights reduces the number of those who must make application.

### 1.8 Land-Use Types Requiring Permits

To promote the general purpose and objectives of this Ordinance and its effective administration, all persons making use of land within the areas shown on sheet 5 of the zoning plans are advised to consult Section 3.7 of this Ordinance as to undesirable land uses within designated airport land-use guidance zones.

### 1.9 Provisions for Variance

The 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. It is the intent of the Administration and Zoning Administrator, with the cooperation of the public, to have the Ordinance administered in a reasonable and just manner in keeping with the responsibilities involved.

### 1.10 Where to Obtain Copies of this Ordinance

Information regarding height limits and copies of the Ordinance are available at the offices of the Antrim County Board of Commissioners, 205 East Cayuga, Bellaire, Michigan 49615; the Antrim County Airport, 3366A Derenzy Rd., Bellaire, Michigan 49615; or the Michigan Department of Transportation, 2700 East Airport Service Drive, Lansing, Michigan 48906. A copy of the Ordinance is on file with the County Clerk of Antrim County.

## ARTICLE 2 DEFINITIONS

### 2.1 Words and Phrases

For the purposes of this Ordinance, the words, terms and phrases set forth in Section 2.2 through 2.13 inclusive, shall have the meanings prescribed in those sections.

### 2.2 Airport

The term "Airport" means the Antrim County Airport 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.

### 2.3 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 land or appurtenances within the airport hazard area which obstructs the air space required for the safe flight of aircraft in landing or taking off at an airport or is otherwise hazardous or creates hazards to such safe landing or taking off of aircraft

#### 2.4 Airport Hazard Area

The term "airport hazard area" means any area of land or water, or both, lying within a ten mile radius from the established center of the Antrim County Airport in which an airport hazard might exist if not prevented by this Ordinance and including any such area which has been declared to be an "airport hazard area" by the Michigan Aeronautic Commission in connection with any airport approach plan adopted by said commission.

#### 2.5 Airport Zoning Act

The term "Airport Zoning Act" refers to Act no. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session) being MCL 259.431 et seq.

#### 2.6 Board

The term "Board" means the Board of Appeals as hereinafter created and designated below.

#### 2.7 Land-Use Guidance Zone

The term "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 Antrim County Airport.

#### 2.8 Above Mean Sea Level

The term "above mean sea level" denotes elevations above sea level based upon and determined by reference to United States Coast and Geodetic Survey datum.

#### 2.9 Non-Conforming Use

The term "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.

#### 2.10 Person

The term "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.

## 2.11 Structure

The term "structure" means any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, overhead transmission lines, and radio and television aerials and antennae, but not including highways and their appurtenances.

## 2.12 Tree

The term "tree" means any object of natural growth. 2.13

## Zoning Administrator

"Zoning Administrator" means the person who is designated and charged by the Antrim County Board of Commissioner with the administration and enforcement of this Ordinance.

# ARTICLE 3 ZONES

## 3.1 Airport Hazard Areas

An airport hazard area is established, which area or zone consists of all the lands within Antrim County lying beneath the approach, transitional, 150 feet horizontal, conical and 500 feet horizontal surfaces, said land being located within a circle having a radius extending horizontally 10 miles (see attached Sheets 1 through 6 ) 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 through 6, which maps are attached and made a part of this Ordinance.

## 3.2 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 1 through 6 of the zoning plans.

## 3.3 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. In any case, outside of the approach surfaces (see attached sheet 4), a structure of up to 35 feet above the surface is allowed under this ordinance.

### 3.4 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 communications between the airport and aircraft or create interference with navigational aids employed by aircraft;
- ( b ) Would make it difficult for flyers to distinguish between airport lights and others 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

### 3.5 Non-Conforming Existing Uses

The provisions of Section 3.3 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. For the purpose of this Ordinance, the term abandon (abandoned, abandonment) shall be the same definition as determined by the Courts of this State in respect to local land use zoning.

### 3.6 Alterations to Non-Conforming Land Use

The provisions of Section 3.3 of this Ordinance shall apply to changes or alterations which increase the height of existing structures, trees or other non-conforming uses after the effective date of this Ordinance, with the same force and effect as though the same were new uses.

### 3.7 Land-Use Guidance Zone

- (a) Purpose. The purpose of land-use guidance zones defined in Section 2.7, is to designate areas in which certain types of land uses are recommended due to undesirable effects that may be caused by the operation of aircraft. See the land-use guidance chart I, as shown on Sheet 5 of the airport zoning plans, for recommended land uses.
  
- (b) Acceptable Land-Use. The uses of land within the areas shown on the zoning plans are acceptable land-uses as outlined in land-use guidance chart II, as shown on Sheet 5 of the airport zoning plans.

## ARTICLE 4 ORDINANCE ADMINISTRATION

### 4.1 Approach Standards

The approach, transitional, conical and inner horizontal surfaces which establish the height limitations under this Ordinance are denoted on sheets 1 through 6 of the zoning plans, and are established in conformance with approach standards or regulations of the Michigan Aeronautics Commission or 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 zoning plans.

### 4.2 Zoning Administrator as Administrative Agency

The Antrim County Board of Commissioners shall appoint the Zoning Administrator, who is 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, with the concurrence of the Antrim County Board of Commissioners, such rules of procedure as may be necessary in connection with the administration and enforcement of this Ordinance.

### 4.3 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, which appointments shall be made by the County Board of Commissioners and provided that upon such appointments being initially made, one member of the Board shall be appointed for a term of 1 year, two for terms of 2 years each, and two for terms of 3 years each. Board 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 in this Ordinance.

- ( a ) Official Name: The Board of Appeals shall be officially known as the Antrim County Airport Zoning Board of Appeals.
- ( b ) 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.
- ( c ) 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 shall be held at the call of the Chair and at such other times as the Board 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 shall keep records of its examinations and other official acts, all of which shall be immediately filed in the offices of the Board and shall be a public record.

- ( d ) Powers: The Board of Appeals, by the concurring vote of a majority of its members, shall have the power to issue certificates of variance under the provisions of this Ordinance, or to otherwise decide appeals from any order, requirement, rule, regulation, decision or determination made by the Zoning Administrator under the powers conferred upon it by this Ordinance.
- ( e ) 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.
- f. 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 a notice of appeal specifying the grounds of appeal. The Zoning Administrator shall promptly transmit to the Board 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, 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 and on due cause shown. The Board 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 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.
- ( g ) 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.

## ARTICLE 5 PERMITS

### 5.1 Permit Maps

There is attached hereto as Sheet 6 of the airport zoning maps, a "permit map" 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 be new uses or changes in existing uses, and it shall not be a defense in any action 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 Application Procedure for Permits

A person desiring to create new use or to change existing use, shall proceed in accordance with this section. A person shall make applications for permits to the Zoning Administrator as set forth herein or as may be otherwise provided in the rules of procedures. The applications for permits shall be submitted in three (3) copies upon forms furnished by the Zoning Administrator. Within 15 days from the application, the Zoning Administrator shall make a determination whether such purposed use would or would not be violated the height limitations as designed by this Ordinance as set forth in the airport zoning maps (Sheet 1-6) and/or land use restrictions of this Ordinance and shall grant or deny the application accordingly. The Zoning Administrator is not being vested with authority to permit a variance. The Zoning Administrator shall advise applicant of such 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. For applications for land outside of the approach surfaces (see attached sheet 4) the Zoning Administrator is authorized and directed to immediately approve all applications for permits for uses not exceeding 35 feet in height above the existing ground level as the same may exist on the effective date of this Ordinance so long the requested use does not otherwise violate Article 3. The issuance of a permit shall not be construed to permit a use that violates Article 3 of this Ordinance or any general zoning Ordinance or regulations of any political subdivision applicable to the same area.

### 5.3 Exception for Emergency Repairs

No permit is required for the emergency repair or emergency replacement of nonconforming public utility structures, other than 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 in the repair or replacement of such non-conforming public utility structures shall be deemed an emergency.

## ARTICLE 6 JUDICIAL ACTION

### 6.1 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 Circuit Court of the County of Antrim as provided in Section 30 of the Airport Zoning Act.

### 6.2 Penalties

Any person who violates this Ordinance or any regulations, orders or rulings made pursuant to this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than or imprisoned for a term not to exceed 90 days, or both. Each day a violation continues to exist after notice shall constitute a separate offense. Such notice may be given by the Zoning Administrator by certified mail, return receipt requested, addressed to the person maintaining the violation at the last known address.

### 6.3 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 Act No.175 of the Public Acts of 1927, as amended by Act No.506 of the Public Acts of 1980, Act No.366 of the Public Acts of 1984 and Act No.49 of the Public Acts of 1988, being sections 764.9c and 764.9f of the Michigan Compiled Laws:

The Zoning Administrator  
The Antrim County Sheriff and all other Deputy Antrim County Sheriffs

#### 6.4 Civil Action Available

The Antrim County Board of Commissioners, on behalf of and in the name of the County of Antrim, may, in addition to any criminal action taken, institute in the Circuit Court of Antrim County, 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 purposes of this Ordinance or the Airport Zoning Act and the regulations adopted and orders and rulings made pursuant thereto.

### ARTICLE 7 FEDERAL LAWS FEDERAL AVIATION REGULATIONS

#### 7.1 Federal Laws (Part 77. 14 C.F.R. §77.1 et seq.)

The airport zoning 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 its 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 more than 3200 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 less than 3200 feet in length.

### ARTICLE 8 SEVERABILITY OF PROVISIONS

#### 8.1 Severability of Provisions

If any of the provisions of this Ordinance or its application to any person or circumstance 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 are declared to be severable.

ARTICLE 9  
AMENDMENTS

9.1 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 10  
EFFECTIVE DATE

10.1 Effective Date

This Ordinance shall take effect on \_\_\_\_\_

\_\_\_\_\_  
Chairperson, Antrim County Board of  
Commissioners

Attest:

County Clerk