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AIRPORT ZONING ORDINANCE

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 SILVER CITY - GRANT 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 SILVER CITY - GRANT COUNTY AIRPORT ZONING MAP DATED AUGUST, 1970 WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF APPEALS; and IMPOSING PENALTIES.

This Ordinance is adopted pursuant to the authority, New Mexico Statutes Annotated 14-40-14 through 14-40-24. It is hereby found that an airport hazard endangers the lives and property of users of Silver City - Grant 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 Silver City - Grant County Airport and the public investment therein. Accordingly, it is declared: (1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Silver City - Grant 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 public purposes for which political subdivisions may raise and expend public funds and acquire land or interest in land.

IT IS HEREBY ORDAINED BY THE COMMISSIONERS OF GRANT COUNTY AS FOLLOWS:

8-9-77

Mailed copy:
J. M. Grunewald - Airport Manager
R. M. Remmey - Secy., Airport Bd.

SECTION I: SHORT TITLE

This Ordinance shall be known and may be cited as "Silver City - Grant County Airport Zoning Ordinance."

SECTION II: DEFINITIONS

As used in this Ordinance, unless the context otherwise requires:

- (1) AIRPORT - Means Silver City - Grant County Airport.
- (2) AIRPORT ELEVATION - Means the established elevation of the highest point on the usable landing area.
- (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.
- (4) AIRPORT REFERENCE POINT - Means the point established as the approximate geographic center of the airport landing area and so designated.
- (5) BOARD OF APPEALS - Means a board consisting of three (3) members appointed by the County Commission as provided in Section 14-40-20.
- (6) 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.
- (7) 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.
- (8) LANDING AREA - Means the area of the Airport used for the landing, taking off or taxiing of aircraft.
- (9) NONCONFORMING 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.
- (10) NONINSTRUMENT RUNWAY - Means a runway other than an instrument runway.
- (11) 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.
- (12) RUNWAY - Means the paved surface of an airport landing strip.
- (13) STRUCTURE - Means an object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
- (14) TREE - Means any object of natural growth.

SECTION III: ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying within the instrument approach zones, noninstrument approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on Silver City - Grant County Airport Zoning Map consisting of one (1) sheet, prepared by Limbaugh Engineers, Inc. and dated August, 1970.

which is attached to this Ordinance and made a part hereof. The various zones are hereby established and defined as follows:

- (1) NONINSTRUMENT APPROACH ZONE - A noninstrument approach zone is established at each end of all noninstrument runways for non-instrument landing & takeoffs. The noninstrument approach zone shall have a width of 500 feet at a distance of 200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.
- (2) TRANSITION ZONES - Transition zones are hereby established adjacent to each instrument and noninstrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways have variable widths as shown on the zoning map. Transition zones extend outward from a line 250 feet on either side of the centerline of the noninstrument runway, for the length of such runway plus 200 feet on each end; and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both instrument and noninstrument approach zones for the entire length of the approach zones. These transition zones have variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) feet horizontally to the points where they intersect the surfaces of the horizontal and conical zones. Additionally, transition zones are established adjacent to the instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distance of 5,000 feet measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the centerline of the runway.
- (3) HORIZONTAL ZONE - A horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of 7,000 feet. The horizontal zone does not include the instrument and noninstrument approach zones and the transition zones.
- (4) CONICAL ZONE - A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of 5,000 feet. The conical zone does not include the instrument approach zones and transition zones.

SECTION IV: HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this Ordinance to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

- (1) NONINSTRUMENT APPROACH ZONES - One (1) foot in height for each forty (40) or twenty (20) feet in horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the noninstrument runway and extending to a point 10,200 feet from the end of the runway.
- (2) TRANSITION ZONES - One (1) foot in height for each seven (7) feet in horizontal distance beginning at any point 250 feet normal to and at the elevation of the centerline of noninstrument runways, extending 200 feet beyond each end thereof, extending to a height of 150 feet above the airport elevation which is 5,383 feet above mean sea level. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces.
- (3) HORIZONTAL ZONE - One hundred fifty (150) feet above the airport elevation or a height of 5,533 feet above mean sea level.
- (4) CONICAL ZONE - One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of 5,783 feet above the airport elevation; and
- (5) EXCEPTED HEIGHT LIMITATIONS - Nothing in this Ordinance shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the surface of the land.

Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

SECTION V: USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use may be made of land within any zone established by this Ordinance in such a manner as to create electrical interference with radio communication between the airport and aircraft, ~~make~~ it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off, or maneuvering of aircraft.

SECTION VI: NONCONFORMING USES

(a) Regulations not Retractive. 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 nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is 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 County Manager 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 Grant County.

SECTION VII: PERMITS

(a) Future Uses. Except as specifically provided in Paragraphs 1, 2 and 3 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 therefor shall have been applied for and granted. Each application for a permit therefor shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

- (1) 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 50 feet of 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.
- (2) In the areas 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 feet of vertical height above the ground, except when such

tree or structure would extend above the height limit prescribed for such instrument or noninstrument approach zone.

(3) In the areas 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.

(b) 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.

(c) Nonconforming Uses Abandoned or Destroyed. Whenever the Commissioners of Grant County determine 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 exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) 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 Adjustments 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.

(e) 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 to permit Grant County, 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 VIII: ENFORCEMENT

It shall be the duty of the County Manager to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the County Manager upon a form furnished by him. Applications required by this Ordinance to be submitted to the County Manager shall be promptly considered and granted or denied by him. Applications for action by the Board of Appeals shall be forthwith transmitted by the County Manager.

SECTION IX: BOARD OF ADJUSTMENT

(a) There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the County Manager in the enforcement of this Ordinance; (2) 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; (3) to hear and decide specific variances.

(b) The Board of Adjustment shall consist of three (3) members, appointed by the County Commission and each shall serve for a term of three (3) years and until his successor is duly appointed and qualified. Of the members first appointed one shall be appointed for a term of one year, one for a term of two years and one for a term of three years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

(c) The Board of Adjustment 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 may 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 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 County Manager and shall be a public record.

(d) 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.

(e) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the County Manager 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 X: APPEALS

(a) Any person aggrieved, or any taxpayer affected, by any decision of the County Manager made in his administration of this Ordinance, may appeal to the Board of Adjustment.

(b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the County Manager a notice of appeal specifying the grounds thereof, and shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the County Manager certifies to the Board of Adjustment,

after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the County Manager and on due cause shown.

(d) 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.

(e) 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 appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

SECTION XI: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Appeals may appeal to the Court of the Sixth Judicial District as provided in Section 40 of Chapter 14 of the Public Laws of New Mexico.

Consideration should be given the desirability of setting forth this procedure here, or as an alternative attaching to all copies of this Ordinance, a copy of excerpts from the statute cited.

SECTION XII: PENALTIES

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than \$100.00 or imprisonment for not more than ten days or both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.

SECTION XIII: 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 structure or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION XIV: SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect 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.

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SECTION XV: 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 County Commission and publication and posting as required by law.

ADOPTED BY THE COUNTY COMMISSION this 26th day of November, 1970.

GRANT COUNTY COMMISSION

E. Morrison
Chairman

Fred L. McCauley
Member

A. V. Hayes
Member

ATTEST:

Addie Athey
Grant County Clerk
By Shirley Fox, Deputy