





**RESOLUTION OF THE  
BACKUS MUNICIPAL JOINT AIRPORT ZONING BOARD  
AS TO FINAL ADOPTION OF A ZONING ORDINANCE**


At a meeting of the above Board held on May 17, 2011, Member William Fitch, seconded by Member Mike Wetzel, introduced the following Resolution and moved its adoption.

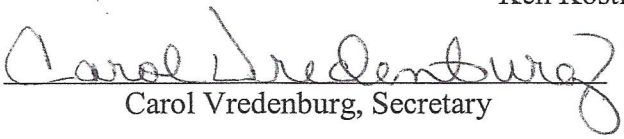
WHEREAS, A public hearing has been held on a proposed zoning ordinance pursuant to Minnesota Statutes Section 360.065; and

WHEREAS, No changes in said proposed ordinance are necessary;

NOW THEREFORE, It is hereby resolved that the Backus Municipal Airport Safety Zoning Ordinance and Map attached thereto are hereby adopted.

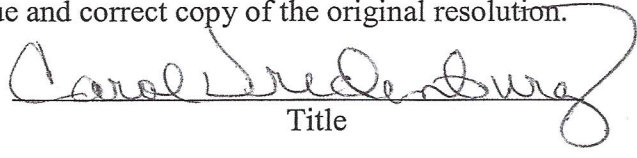
Roll Call Vote: Mike Wetzel, Carol Bennett, Sylvia Peterson, Ken Kostial, William Fitch, & Carol Vredenburg in favor; absent; Denny Williams; 0 against.

Resolution declared passed:   
Ken Kostial, Chairperson

Attest:   
Carol Vredenburg, Secretary

I hereby certify that the foregoing resolution is a true and correct copy of the original resolution.

SEAL

  
Title





**AIRPORT SAFETY ZONING  
ORDINANCE**

**FOR**

**BACKUS MUNICIPAL AIRPORT**

**THIS ORDINANCE AMENDS AND REPLACES  
CHAPTER 11/SECTION 1100  
IN CITY OF BACKUS MN CODE OF ORDINANCES  
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Adopted May 17, 2011



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**TITLE AND INTRODUCTION**

**AIRPORT ZONING ORDINANCE**

**BACKUS MUNICIPAL JOINT AIRPORT ZONING BOARD**

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 BACKUS MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE BACKUS MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE BACKUS MUNICIPAL JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES SECTION 360.061 THROUGH 360.074, AS FOLLOWS:



**SECTION I: PURPOSE AND AUTHORITY**

The Backus Municipal Joint Airport Zoning Board, created and established by joint action of the City Council of the City of Backus MN , the Board of Commissioners of Cass County, and the Town Board of Powers Township, pursuant to the provisions and authority of Minnesota Statutes Section 360.063, hereby finds and declares that:

- A. An airport hazard endangers the lives and property of users of the Backus Municipal Airport, and property or occupants of land in its vicinity; and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of said Airport and the public investment therein.
- B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Backus Municipal Airport.
- C. For the protection of the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
- D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- E. 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.
- F. The Backus Municipal Airport is an essential public facility that serves an important public transportation role and provides a public good.

**SECTION II: SHORT TITLE**

This Ordinance shall be known as the Backus Municipal Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in Exhibit “A”, which is attached to this Ordinance.



### SECTION III: DEFINITIONS

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

“*AIRPORT*” means the Backus Municipal Airport located in West ½ of Section 29, Township 139 North, Range 30 West, Cass County, Minnesota.

“*AIRPORT ELEVATION*” means the established elevation of the highest point on the usable landing area which elevation is established to be 1355 feet above mean sea level.

“*AIRPORT HAZARD*” means any structure, tree, or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

“*COMMISSIONER*” means the Commissioner of the Minnesota Department of Transportation.

“*CONFORMING USE*” means any structure, tree, or object of natural growth, or use of land that complies with all the applicable provisions of this Ordinance or any amendment to this ordinance.

“*DWELLING*” means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

“*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.

“*LANDING AREA*” means the area of the airport used for the landing, taking off, or taxiing of aircraft.

“*LOW DENSITY RESIDENTIAL STRUCTURE*” means a single-family or two-family home.

“*LOW DENSITY RESIDENTIAL LOT*” means a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

“*NONCONFORMING USE*” means any pre-existing structure, tree, natural growth, or land use which is inconsistent with the provisions of this Ordinance or an amendment hereto.

“*NONPRECISION INSTRUMENT RUNWAY*” means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.





“OTHER THAN UTILITY RUNWAY” means a runway that is constructed for and intended to be used by jet aircraft or aircraft of more than 12,500 pounds maximum gross weight; or is 4,900 feet or more in length.

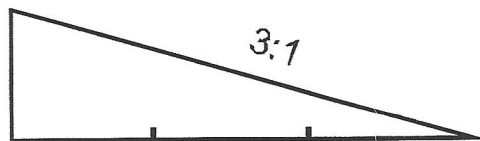
“PERSON” means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

“PLANNED,” as used in this Ordinance, refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, Minnesota Department of Transportation Office of Aeronautics, and City of Backus MN.

“PRECISION INSTRUMENT RUNWAY” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

“RUNWAY” means any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

“SLOPE” means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



Slope = 3:1 = 3 feet horizontal to 1 foot vertical

“STRUCTURE” means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, earth formations, and overhead transmission lines.

“TOWER” means a structure of at least 50 feet in height above ground level; most often communication towers but includes water towers, wind generators and similar structures.

“TRAVERSE WAYS,” for the purpose of determining height limits as set forth in this Ordinance, shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all





other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

“*TREE*” means any object of natural growth.

“*UTILITY RUNWAY*” means a runway that is constructed for, and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less; and is less than 4,900 feet in length.

“*VISUAL RUNWAY*” means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

“*WATER SURFACES*” for the purpose of this ordinance, shall have the same meaning as land for the establishment of protected zones.



## SECTION IV: AIR SPACE OBSTRUCTION ZONING

A. AIR SPACE ZONES: In order to carry out the purpose of this Ordinance, as set forth above, the following air space zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, and whose locations and dimensions are as follows:

1. PRIMARY ZONE: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:
  - a. Extending 200 feet beyond each end of Runway 15/33
  - b. 500 foot width Runway 15/33
  - c. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
2. HORIZONTAL ZONE: All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1505 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

The radius of each arc is: 6000 feet for Runway 15/33

3. CONICAL ZONE: All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured outward from the periphery of the horizontal surface.
4. APPROACH ZONE: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of 40:1 for Runway 15/33. The approach surface expands uniformly to a width of 3,500 feet for Runway 15/33 at a distance of 10,000 feet; then continues at the same rate of divergence to the periphery of the conical surface.
5. TRANSITIONAL ZONE: All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.



B. HEIGHT RESTRICTIONS: Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any air space zone created in SECTION IV A so as to project above any of the imaginary air space surfaces described in said SECTION IV A hereof. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

C. BOUNDARY LIMITATIONS: The air space obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one and one half miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

**SECTION V: LAND USE SAFETY ZONING**

A. SAFETY ZONE BOUNDARIES: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Backus Municipal Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

1. SAFETY ZONE A: All land in that portion of the approach zones of a runway, as defined in SECTION IV A hereof, which extends outward from the end of the primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be 2,392 feet for Runway 15/33
2. SAFETY ZONE B: All land in that portion of the approach zones of a runway, as defined in SECTION IV A hereof, which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be 1196 feet for Runway 15/33





3. SAFETY ZONE C: All land which is enclosed within the perimeter of the horizontal zone, as defined in SUBSECTION IV A hereof, and which is not included in Safety Zone A or Safety Zone B.

B. USE RESTRICTIONS:

1. GENERAL: Subject at all times to the height restrictions set forth in SECTION IV B, no use shall be made of any land in any of the safety zones defined in SECTION V A which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
2. ZONE A: Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V B 1, areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, automobile parking, and existing lumber yard supply storage.
3. ZONE B: Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Zone B shall be restricted in use as follows:
  - a. Each use shall be on a site whose area shall not be less than three acres.
  - b. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage
  - c. Each site shall have no more than one building plot upon which any number of structures may be erected.





d. A building plot shall be a single, uniform, and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at least (Acres)	But Less Than (Acres)	Ratio of Site Area to Bldg. Plot Area	Building Plot Area (sq. ft.)	Max. Site Population (15 persons/Acre)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,600	90
	10	8:1		
10		6:1	72,500	150
	20	6:1		
20	and up	4:1	218,000	300

e. The following uses are specifically prohibited in Zone B:

Churches, hospitals, schools, theaters, stadiums, hotels, motels, campgrounds, and other areas of high density housing and/or places of frequent public or semi-public assembly.

4. ZONE C: Zone C is subject only to height restrictions set forth in SECTION V B, and to the general restrictions contained in SECTION V B 1.

C. BOUNDARY LIMITATIONS: The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

D. PROPERTY IN MULTIPLE ZONES: Portions of some parcels may fall within the boundaries of either two or all three Airport Safety Zones. In such cases, the use restrictions applicable to the particular safety zone in which the use would actually occur or be located would prevail. For example, if the owner of a ten acre parcel with four acres in Zone A and six acres in Zone B placed the entire use within the Zone B portion of the property, then only the Zone B restrictions would apply.



**SECTION VI: AIRPORT MAP**

The several zones herein established are shown on the Airport Zoning Plan, Backus Municipal Airport, Cass County MN consisting of six (6) sheets, prepared by Widseth Smith Nolting & Associates, and dated (*replace with a completion date*), attached hereto and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this Ordinance.

**SECTION VII: AIRPORT ZONING ADMINISTRATOR**

A. JURISDICTION OF GOVERNMENTAL UNITS: The organizations responsible for receiving and processing land use actions undertaken within Backus Airport zones A, B and C, are as follows:

1. For airport zoning areas within the Backus city limits:
  - a. Issuance of land use permits to be processed and issued by the City of Backus Zoning Administrator consistent with the terms and conditions of the then current Backus City Code and this ordinance including Section IX.
  - b. Platting, non-conforming uses, conditional use permits issues: to be heard and acted upon by the Backus City Council consistent with the then current Backus City Code as well as this ordinance including Section IX.
  - c. Variances: application for and processing of variances will be directed to the Backus City Council for disposition which will be consistent with the then current Backus City Code as well as this ordinance including Section X.
2. For airport zoning areas outside of the Backus City Limits:
  - a. Land use permits to be processed and issued by Cass County Environmental Services Department (for purposes of this ordinance, EDS is identified as a "zoning administrator").
  - b. Platting, non-conforming uses, conditional use permit issues and variances: to be heard and acted upon by the Cass County Planning Commission consistent with the then current Cass County Land Use Ordinance as well as the ordinance including Sections IX and X.



**B. GOVERNMENTAL UNIT COLLABORATION:** In order to ensure necessary

uniformity/consistency in the application of this ordinance, the following is required:

1. Upon receipt of an application by the City of Backus or Cass County ESD for a land use permit or variance within airport zones A, B or C, other interested governmental units, including the appropriate township(s), shall be notified of all applications for variances, conditional use permits and re-zoning or platting issues that, if approved, have a potential for conflict with this ordinance. Such notice will allow for a minimum of three weeks prior to the hearing on the application for comment by these public or private entities so noticed.
  
2. In those land use or variance applications involving a property that is partially within and outside of the Backus city limits, the recipient of the application (city or county) shall arrange to have the matter heard during a joint meeting of members of the Backus City Council and members of the Cass County Planning Commission. This joint hearing will have an equal number of representatives from each entity (a minimum of six in total) and will elect its own chair, who may or may not elect to vote.

**SECTION VIII: NONCONFORMING USES**

**A. REGULATIONS NOT RETROACTIVE:**

The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any 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 and completed within two years thereof.

**B. CONSTRUCTION AFTER ORDINANCE EFFECTIVE DATE ON A NON-**

**CONFORMING LOT IN ZONE B:** An existing single family residential lot of record partially or totally within Zone B that does not meet the minimum size requirements specified in Section V.B.3.d will be considered non-conforming. As such, new construction or expansion of an existing structure commenced after the effective date of this Ordinance





may require that a variance application be submitted and approved prior to the issuance of a permit. Processing of such permits and variances would be governed by the applicable provisions in Section IX:Permits; Section X:Variances, and Section XI:Hazard Marking and Lighting. Section V.D “Property in Multiple Zones” may also apply in certain situations.

In most cases, it is expected that a variance application submitted to obtain relief from the minimum lot size and buildable area requirements in Zone B would be granted if the proposed construction:

1. Is deemed by the appropriate authority to have met the other requirements established by municipal or county land use ordinances and regulations (set-back requirements; height and impervious surface restrictions, etc.) and meets the established criteria for granting a variance from such municipal or county ordinance(s) and
2. If allowed by variance, would not present a material airport safety or navigational hazard. If there is a question as to whether or not the proposed structure(s) create a possible safety issue, then an advisory opinion by the Mn/DOT Office of Aeronautics Zoning Director shall be sought (see Section X.C. of this Ordinance).

**SECTION IX: PERMITS**

A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the appropriate zoning administrator, hereinafter, provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1. However, a permit for a tree of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.
2. Nothing contained in this foregoing exception 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 limitations established by this ordinance as set forth in SECTION IV and the land use limitations set forth in SECTION V.

- B. **EXISTING USES:** Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. 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 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 applicants for such a permit shall be granted.
- C. **NONCONFORMING USES ABANDONED OR DESTROYED:** Whenever the appropriate zoning administrator determines that a nonconforming structure or tree has been abandoned or more than 50% torn down, 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. Whether application is made for a permit under this paragraph or not, the appropriate zoning administrator(s) may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Ordinance. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the appropriate zoning administrator(s) may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight percent per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.



**SECTION X: VARIANCES**

- A. City and County Ordinances: As expressed elsewhere in this ordinance, variances will be received, processed and acted upon by the appropriate body (Backus City Council or Cass County Planning Commission). The organization of these two bodies, operating procedures, required notifications, decision criteria and time limits will be consistent with Minnesota Statutory requirements, this ordinance and, as appropriate, Backus City Code or Cass County Land Use Ordinances.
  
- B. Minnesota Department of Transportation: If a variance application is not acted upon within the limits set forth under statute, before the variance can become effective, the applicant must properly notify the Minnesota Commissioner of Transportation. Such a "default" approval will become effective sixty days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6a.
  
- C. The Backus City Council or the Cass County Planning Commission may request a review of a variance application within its jurisdiction by the Mn/DOT Office of Aeronautics Zoning Director prior to making a decision.

**SECTION XI: HAZARD MARKING AND LIGHTING**

- A. NONCONFORMING USES: The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the zoning administrator, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Backus Municipal Airport.
  
- B. PERMITS AND VARIANCES: Any permit or variance deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, and granted by the zoning administrator or Board, shall require the owner of the structure or tree in question, at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.



**SECTION XII: APPEALS**

- A. Any person aggrieved, or any property owner affected by any decision of the City of Backus Zoning Administrator, made in his administration of this Ordinance may appeal to the Backus City Council. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the zoning administrator is an improper application of this Ordinance as it concerns such governing body or board.
  
- B. Any person aggrieved, or any property owner affected by any decision of the Cass County Environmental Services Department, made in the administration of this Ordinance may appeal to the Cass County Planning Commission. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the zoning administrator is an improper application of this Ordinance as it concerns such governing body or board.
  
- C. All appeals hereunder must be commenced within 30 days of the zoning administrator’s decision, by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to either the Backus City Council or the Cass County Planning Commission all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the zoning administrator made in his administration of this Ordinance who desires to appeal such decision shall submit an application for a variance, by certified mail, to either the Backus City Council or the Cass County Planning Commission in the manner set forth in Minnesota Statutes Section 360.068, Subdivision 2.
  
- D. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to either the Backus City Council or the Cass County Planning Commission after the notice of appeal has been filed, that by reason of the facts stated in the certificate a stay would, in the opinion of the appropriate zoning administrator, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Backus City Council or Cass County





Planning Commission on notice to the appropriate zoning administrator and on due cause shown.

- E. The Backus City Council or the Cass County Planning Commission 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, by agent, or by attorney.
  
- F. The Backus City Council or the Cass County Planning Commission 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, and to that end shall have all the powers of the zoning administrator.

**SECTION XIII: JUDICIAL REVIEW**

Any person aggrieved, or any property owner affected by any decision on a variance by the Backus City Council or the Cass County Planning Commission, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Backus City Council or the Cass County Planning Commission is illegal may present to the District Court of Cass County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Backus City Clerk or Cass County Environmental Services Department as appropriate. The petitioner must exhaust the remedies provided in this Ordinance before availing himself of the right to petition a court as provided by this section.

**SECTION XIV: PENALTIES**

Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a permit or variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any





existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The airport zoning administrator may enforce all provisions of this Ordinance through such proceedings for injustice relief and other relief as may be proper under the laws of Minnesota Statutes Section 360.073 and other applicable law.

**SECTION XV: CONFLICTS**

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

**SECTION XVI: SEVERABILITY**

- A. In any case in which the provision of this Ordinance, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.
  
- B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.



**SECTION XVII: EFFECTIVE DATE**

This ordinance shall take effect on the 17<sup>th</sup> day of May, 20 11.

Copies thereof shall be filed with the Commissioner through the Office of Aeronautics, State of Minnesota, and the Register of Deeds, Cass County, Minnesota.

Passed and adopted after public hearing by the Backus Joint Airport Zoning Board this

17<sup>th</sup> day of May, 20 11.

[Signature]  
Chairperson

[Signature]  
Member

[Signature]  
Member

[Signature]  
Member

[Signature]  
Member

[Signature]  
Member

[Signature]  
Member

[Signature]  
Member



**EXHIBIT A**

**BACKUS MUNICIPAL AIRPORT ZONING ORDINANCE**

This Ordinance affects all or a portion of the following sections of land:

NAME AND NUMBER OF TOWNSHIP	AIR SPACE OBSTRUCTION ZONING: Section IV of Ordinance; Page 2 of 6 Zoning Map.	LAND USE SAFETY ZONING: Section V of Ordinance; Pages 4, 5 & 6 of 6 Zoning Map.
Powers Township T139N R30W	Sections: 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 & 34	Sections: 19, 20, 21, 28, 29, 30, 31, 32 & 33
Deerfield Township T139N R31W	Sections: 13, 24, 25 & 36	Sections: N/A
Bull Moose Township T138N R31W	Sections: 1	Sections: N/A
Pine River Township T138N R30W	Sections: 4, 5 & 6	Sections: N/A