

Ordinance # 41

FAIRMONT MUNICIPAL AIRPORT ZONING ORDINANCE

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AN ORDINANCE AMENDING CHAPTER 7, ENTITLED "ZONING", OF THE CITY CODE OF THE CITY OF FAIRMONT, MINNESOTA, CHANGING SUBD. 7.02 TO INCLUDE DEFINITIONS, ADOPTING REGULATIONS RELATING TO THE USE OF LAND WITHIN THE AIRPORT HAZARD AREA, PREVENTING THE ESTABLISHMENT OF AIRPORT HAZARDS, AND REGULATING THE LOCATION, SIZE AND USE OF BUILDINGS AND THE DENSITY OF POPULATION WITHIN THE AIRPORT HAZARD AREA AND ADOPTING A ZONING MAP FOR THE AIRPORT HAZARD AREA.

THE CITY OF FAIRMONT PURSUANT TO THE PROVISIONS AND AUTHORITY OF MINNESOTA STATUTES 360.063 DOES ORDAIN:

SECTION I: PURPOSE

The City Code, Section 7.03, Subd. 21, is hereby amended to read:

- (a). It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land 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 the airport and the public investments therein. Accordingly, it is hereby declared:
- (1) That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question
 - (2) That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented
 - (3) That this should be accomplished to the extent legally possible by 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 property interests therein. It is the purpose of this ordinance to promote the health, safety, order, convenience, prosperity, general welfare and for conserving property values and encouraging the most appropriate use of land, in that portion of the airport hazard area under approach zones for a distance not to exceed two miles from the airport boundary and in other portions of the airport hazard area for a distance not to exceed one mile from the airport boundary.

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SECTION II: SHORT TITLE

This ordinance shall be known and may be cited as "Fairmont Municipal Airport Zoning Ordinance", amending and replacing Subd. 21, Section 7.03, Chapter 7, of the City Code.

SECTION III: DEFINITIONS

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

"AIRPORT" means the Fairmont Municipal Airport located in Section 10, 11, 14, and 15, T102N, R30W, Fairmont Township, Martin County.

"AIRPORT ELEVATION" means the established elevation of the highest point on the usable landing area which elevation is established to be 1161 feet above mean sea level.

"AIRPORT HAZARD" means any structure or 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; and any use of land which is hazardous to persons or property because of its proximity to the airport.

"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.

"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.

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

"LANDING STRIP" means any grass or turf covered area of the airport specifically designated and used for the landing and/or take-off of aircraft. This term shall have the same meaning throughout this Ordinance as does the term "runway."

"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 hereto.

"NON-INSTRUMENT RUNWAY" means a runway other than an instrument runway.

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"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.

"RUNWAY" means any paved surface of the airport which is specifically designated and used for the landing and/or take-off of aircraft.

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

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

"TREE" means any object of natural growth.

"WATER SURFACES" For the purpose of this Ordinance shall have the same meaning as land for the establishment of protected zones.

SECTION IV: AIRSPACE OBSTRUCTION ZONING

A. AIRSPACE ZONES: In order to carry out the purposes of this Ordinance, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Instrument Approach Zone, Non-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 extending 200 feet beyond each end of a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
 - a. 1000 feet for NW/SE Runway
 - b. 500 feet for NE/SW Runway
2. HORIZONTAL ZONE: All that land which lies directly under an imaginary horizontal surface 100 feet above the established airport elevation, or a height of 1261 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:

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- a. 10,000 feet for NW/SE Runway
- b. 6,000 feet for NE/SW Runway

When a 6,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 6,000 foot arc shall be disregarded in the construction of the perimeter of the horizontal surface.

- 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 to 1 for a horizontal distance of 4,000 feet.
- 4. INSTRUMENT APPROACH ZONE: All that land which lies directly under an imaginary instrument approach surface longitudinally centered on the extended centerline at each end of NW/SE Runway. The inner edge of the instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The instrument approach surface inclines upward and outward for a horizontal distance of 10,000 feet at a slope of 50 to 1, expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40 to 1, expanding uniformly to an ultimate width of 16,000 feet.
- 5. NON-INSTRUMENT APPROACH ZONE: All that land which lies directly under an imaginary non-instrument approach surface longitudinally centered on the extended centerline at each end of NE/SW Runway. The inner edge of the non-instrument approach surface is at the same width and elevation as, and coincides with, the primary surface. The non-instrument approach surface inclines upward and outward at a slope of 40 to 1, expanding uniformly to a width of 2,500 feet at a horizontal distance of 10,000 feet, and then continuing at the same rate of divergence to the periphery of the conical surface.
- 6. TRANSITIONAL ZONE: All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 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.

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Transitional surfaces for those portions of the instrument approach surface 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 instrument approach surface and at right angles to the extended instrument runway centerline.

- 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 airspace zone created in Sub Section IV A so as to project above any of the imaginary airspace surfaces described in said Sub Section IV A hereof. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION V: LAND USE SAFETY ZONING

- A. SAFETY ZONES: In order to carry out the purpose of this Ordinance, there are hereby created and established the following safety zones:

1. ZONE A: All that land in the approach zones of a runway which is located within a horizontal distance equal to 1/3 the ultimate runway length (4600 feet for NW/SE Runway and 3300 feet for NE/SW Runway).
2. ZONE B: All that land in the approach zones of a runway which is located within a horizontal distance equal to the ultimate runway length and not included in Zone A (ultimate runway length: NW/SE - 6900 feet, NE/SW - 5000 feet).
3. ZONE C: All that land which is enclosed within the perimeter of the horizontal zone and which is not included in Zone A or Zone B.

- B. USE RESTRICTIONS:

1. GENERAL: Subject at all times to the height restrictions set forth in Sub Section IV B, no use shall be made of any land in any of the safety zones defined in Sub 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, makes 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.

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- 2. ZONE A: Subject at all times to the height restrictions set forth in Sub Section IV B, and to the general restrictions contained in Sub Section V B-1.

Areas designated as Zone A shall contain no buildings and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include agriculture, light outdoor recreation (non-spectator), and auto parking.

- 3. ZONE B: Subject at all times to the height restrictions set forth in Sub Section IV B, and to the general restrictions contained in Sub Section 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/A)
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 and motels, trailer courts, camp grounds, and other places of public or semipublic assembly.

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

SECTION VI: RESERVED FOR FUTURE USE

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SECTION VII: AIRPORT ZONING MAP

The several zones herein established are shown on the Fairmont Municipal Airport Zoning Map consisting of four (4) sheets, prepared by Gailen O. Narum, City Engineer, and dated January , 1974, 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 VIII: NON-CONFORMING USES

Except as provided in Section X, the provisions of Sections VI and VII of this Ordinance shall not be construed to require the discontinuance, removal, lowering or other change or alteration of any use or structure not conforming to the provisions of this Ordinance as of the effective date hereof, or otherwise interfere with the continuance of any non-conforming use or structure. Nothing herein contained shall require any change in the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed with two (2) years thereof.

SECTION IX: PERMITS

A. FUTURE USES. No material change shall be made in the use of the land, no use shall be made of land which has been previously unused, and no structure shall be erected, altered, moved or otherwise established in any of the zones provided in Section III, unless a permit therefore shall have been first applied for and granted. Each application shall indicate the purpose for which the permit is desired with sufficient particularity to allow determination of whether the resulting use or structure would conform to the provisions of this Ordinance. If such determination is in the affirmative, the permit applied for shall be issued.

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- B. **EXISTING USES.** Before any existing use or structure may be replaced, substantially altered or repaired or rebuilt within any zone established in Section VIII, a permit must be secured authorizing such replacement, change or repair. No permit shall be issued which would allow the establishment or creation of an airport hazard or permit a non-conforming use or structure to be made higher, enlarged, intensified, or become a greater hazard to air navigation than it was on the effective date of this Ordinance or than it is when the application for a permit is made.

SECTION X: VARIANCES

Any person desiring to erect, alter, or increase the height of any structure or otherwise use his property not in accordance with the provisions of this Ordinance may apply to the Board of Adjustment for a variance therefrom. Such variance shall only be allowed when [a literal application or enforcement of the provisions of this Ordinance would result in the 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.] In granting a variance, the Board of Adjustment may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary to effectuate the purposes of this Ordinance.

SECTION XI: HAZARDS, MARKING AND LIGHTING

Any permit issued, or variance granted, under Sections VIII and IX, may, if such action is deemed advisable to effectuate the purposes of this Ordinance and reasonable in the circumstances, be so conditioned as to require the owner of the land or structure in question to permit the City of Fairmont, Minnesota, 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 airport hazard.

SECTION XII: AIRPORT ZONING ADMINISTRATOR

The Zoning Administrator for the City of Fairmont, State of Minnesota, is hereby designated Airport Zoning Administrator and is charged with the duty of administering and enforcing the provisions of this Ordinance. The duties of the Airport Zoning Administrator shall include that of receiving applications for permits and the granting or denying of such permits as provided in Section XII, but the Airport Zoning Administrator shall not have or exercise any of the powers or duties herein delegated to the Board of Adjustment.

SECTION XIII: AIRPORT ZONING BOARD OF ADJUSTMENT

- A. **ESTABLISHMENT.** There is hereby established and created a Board

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of Adjustment which shall consist of five members, each to be appointed by the City Council for a term of three years, and each to be removable by the said City Council for cause, upon written charges and after public hearing. In the first instance, one member shall be appointed for a term of three years, two members for a term of two years, and two members for a term of one year; and the term of each of the first members so appointed shall be extended until the day of the next succeeding annual meeting. Thereafter each member appointed shall serve for a term of three years. Terms shall commence and expire at noon on the day of the annual meeting but each member shall serve until his successor is duly appointed and qualified. Each member shall qualify by taking and subscribing an oath to faithfully and justly perform the duties of his office. The City Council shall fill any vacancy which occurs by an appointment for the unexpired portion of the term.

- B. POWERS. The Board of Adjustment shall have and exercise the following powers:
- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Administrator.
 - (2) To hear and decide any special exceptions to the terms of this Ordinance or any regulation adopted by the Zoning Administrator.
 - (3) To hear and decide specific variances under Section II.
- C. PROCEDURE. The Board of Adjustment shall adopt rules of procedure in harmony with the provisions of this Ordinance and state law. The Board of Adjustment shall hold an annual meeting on the first Tuesday of February at which meeting the Board of Adjustment shall elect from its members a chairman and a secretary who shall serve at the pleasure of the Board of Adjustment or until the next annual meeting. Meetings of the Board of Adjustment shall also be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The Board 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.
- 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, or affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance. The office of the Board of Adjustment shall be the office of

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the Administrative Assistant, City of Fairmont. All decisions of the Board of Adjustment shall be filed in the office of the Administrative Assistant and shall be served upon the appellant and Airport Zoning Administrator.

- 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 Airport Zoning Administrator, or to decide in favor of the appellant or applicant on any matter upon which it is required to pass under this Ordinance, or to grant a variance as provided in this Ordinance.

SECTION XIV: APPEALS

- A. The City Council of Fairmont, if of the opinion that a decision of the Airport Zoning Administrator is an improper application of the provisions of this Ordinance, and any person aggrieved, or taxpayer affected, by any decision of the Airport Zoning Administrator made in his administration of this Ordinance, may appeal to the Board of Adjustment.
- B. All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the Board of Adjustment by filing with the Airport Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Airport Zoning Administrator 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 Airport Zoning Administrator certifies to the Board of Adjustment after the notice of appeal has been filed with him, 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 otherwise than by order of the Board of Adjustment on notice to the Airport Zoning Administrator and on due cause shown.
- D. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice to the parties in interest, and decide the same within a reasonable time.
- 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 Airport Zoning Administrator.

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SECTION XV: JUDICIAL REVIEW

The City Council of Fairmont, if of the opinion that a decision of the Board of Adjustment is illegal, and any person aggrieved or taxpayer affected by any decision of the Board of Adjustment, may secure a judicial review of such decision in the manner provided by Minnesota Statutes, Section 360.072.

SECTION XVI: PENALTIES

Every person who violates the provisions of this Ordinance, or the provisions of any permit or variance granted under the provisions of this Ordinance, or who violates any ruling or order made thereunder, shall be guilty of a misdemeanor as provided in Minnesota Statutes, Section 360.073, shall be punished by a fine of not more than \$300.00 or imprisonment for not more than 90 days or by both such fine and imprisonment, and each day violation continues to exist shall constitute a separate offense.

SECTION XVII: CONFLICTS

Where Ordinances conflict or are inconsistent with the provisions of this Ordinance, the more restrictive provisions of the Ordinances shall be applied.

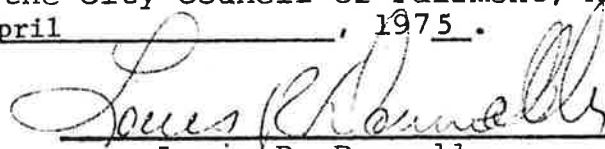
SECTION XVIII: SEVERABILITY

If any of the provisions of this Ordinance or the application thereof 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 of application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION XIX: DATE EFFECTIVE

This Ordinance shall be published on Friday, April 25, 1975 ~~XXX~~ in the Fairmont Daily Sentinel, a legal newspaper in Fairmont, Minnesota, distributed in Martin County, and shall take effect on the 25th day of April, 1975.

Passed and adopted by the City Council of Fairmont, Minnesota on this 17th day of April, 1975.



Louis R. Donnelly
Mayor



LeRoy E. Schultze
Administrative Assistant