

These parallel lines are at a horizontal distance from the runway center line equal one-half of the minimum width of each approach area as shown on the attached Airport Zoning Map.

Section 4. Height Limits. Except as otherwise provided in this ordinance, no structure or tree shall be erected, altered, allowed to grow, or maintained in any airport approach surface zone, horizontal surface zone, conical surface zone or transitional surface zone to a height in excess of the height limit herein established for such zone. For purposes of this regulation, height limits shown on the attached Airport Zoning Map are hereby established for each of the zones in question.

Notwithstanding any other provisions of this ordinance, no structure or tree shall be limited to a height of less than forty feet above the surface of the land on which it is or will be located.

Section 5. Use Restrictions. Notwithstanding any other provisions of this ordinance, no use may be made of land within any airport approach surface zone, horizontal surface zone or transitional surface zone, in such 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 6. Non-conforming uses. The regulations prescribed in Sections 4 and 5 of this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of any non-conforming 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.

Section 7. Variances. Any person desiring to erect any structure 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 for a variance therefrom. Such variance 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 but do substantial justice and be in accordance with the spirit of this ordinance.

Section 8. Permits.

(1) **Future Uses.** 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 airport approach surface zone, horizontal surface zone, conical surface zone or transitional surface zone, unless a permit therefor shall have been applied for and granted. Each such application 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 applied for shall be granted.

(2) **Existing Uses.** Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, within any airport approach surface zone, horizontal surface zone, conical surface zone or transitional surface zone, a permit must be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of any airport hazard or permit a non-conforming 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 than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement, change or repair of existing use, structure, or tree shall be granted.

Section 9. Hazard Marking and Lighting. Any permit or variance granted under Section 7 or 8 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 structure or tree in question to permit the City of Fayetteville, North Carolina, 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 10. Appeals.

(1) Any person aggrieved, or taxpayer affected, by any decision of the Airport Commission made in its administration of this ordinance, or any officer, department, board or bureau of the City affected if of the opinion that a decision of the Airport Commission is an improper application of this ordinance, may appeal to the Board of Adjustment for which provision is made in Section 12.

(2) All appeals taken under this Section must be taken within a reasonable time, as provided by the rules of the Board, by filing with the Airport Commission and with the Board, a notice of appeal specifying the grounds thereof. The Airport Commission shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Airport Commission 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 its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of the Board on notice to the Airport Commission and on due cause shown.

(4) The Board shall fix a reasonable time for the hearing of the appeal, 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.

(5) The Board 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 Commission.

(6) The Board 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.

(7) The concurring vote of a majority of the members of the Board shall be sufficient to reverse any order, requirement, decision, or determination of the Airport Commission, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to affect any variation in this ordinance.

Section 11. Administrative Agency. The Airport Commission of the City of Fayetteville, North Carolina, is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations herein prescribed. The duties of the Airport Commission shall include that of hearing and deciding all permits under Section 8, but the Airport Commission shall not have or exercise any of the powers or duties herein delegated to the Board of Adjustment.

Section 12. Board of Adjustment.

(1) The Board of Adjustment of the City of Fayetteville, North Carolina, now constituted, existing, and acting under the General Zoning Ordinance of the City is hereby designated and constituted, under this ordinance, the Board of Adjustment to have and exercise the following powers:

- (a) To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Commission in the enforcement of this ordinance;
- (b) To hear and decide special exceptions to the terms of this ordinance upon which such Board may be required to pass by subsequent ordinances;
- (c) To hear and decide specific variances under Section 7.

(2) The Board shall adopt rules for its governance and procedure in harmony with the provisions of this ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board 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 shall be public. 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 and shall be a public record.

Section 13. Judicial Review. Any person aggrieved, or taxpayer affected, by any decision of the Board of Adjustment, or any officer, department board, or bureau of the City may appeal to the superior court as provided in Section 63-34 of the General Statutes of North Carolina.

Section 14. Penalties. Each violation of this ordinance or of any regulation, order or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than \$50.00 or imprisonment for not more than 30 days, or both such fine and imprisonment, and each day a violation continues shall be a separate offense.