

Office of Register of Deeds

County of Franklin, Minn.

I hereby certify that I have compared the within instrument with the original instrument No. 102488 now on file in my office and that it is a true and correct copy of the same and of the whole instrument, and that the above is a true copy of the filing thereon.

*Except this certificate does not include Plats, Drawings & Exhibits referred to in the Ordinance.

SEP 24 1974
LeRoy E. Larson
Register of Deeds
By _____ Deputy

ZONING ORDINANCE FOR ELBOW LAKE MUNICIPAL AIRPORT

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ELBOW LAKE MUNICIPAL AIRPORT

ZONING ORDINANCE

CREATED BY THE

ELBOW LAKE - GRANT COUNTY 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 ELBOW LAKE 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 ELBOW LAKE 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 ELBOW LAKE - GRANT COUNTY JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES 360.061 - 360.074, AS FOLLOWS:

SECTION I: PURPOSES AND AUTHORITY

The Elbow Lake - Grant County Joint Airport Zoning Board, created and established by joint action of the City Council of the City of Elbow Lake and the Board of County Commissioners of Grant County, pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. An airport hazard endangers the lives and property of users of the Elbow Lake 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 the Elbow Lake Municipal 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 Elbow Lake 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 sub-divisions may raise and expend public funds.

SECTION II: SHORT TITLE

This ordinance shall be known as "Elbow Lake 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 Elbow Lake Municipal Airport located in Section Sixteen (16), Township One Hundred Twenty-nine (129) North, Range Forty-two (42) West, Grant County, Minnesota.

"AIRPORT ELEVATION" means the established elevation of the highest point on the usable landing area which elevation is established to be 1205 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.

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

"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, 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 100 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 500 feet.
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 1305 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.
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. APPROACH ZONE: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the existing runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the primary surface. The 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.
5. 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.

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 ZONE BOUNDARIES: In order to carry out the purpose of this Ordinance, there are hereby created and established the following safety zone boundaries:

1. **SAFETY ZONE A:** All that land in the approach zones of a runway which is located within a horizontal distance of 3,000 feet from each end of the primary zone.
2. **SAFETY ZONE B:** All that land in the approach zones of a runway which is located within a horizontal distance of 4,500 feet from each end of the primary zone and is not included in Zone A.
3. **SAFETY 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 Subsection IV B, no use shall be made of any land in any of the safety zones defined in Subsection V A which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, making 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 or temporary structures except as necessary and incidental to airport operations 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), cemeteries and auto parking.
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 used for the following purposes only:

a. For agricultural and residential purposes, provided there shall not be more than one single family dwelling per three (3) acre tract of land.

b. Any commercial or industrial use which meets the following minimum standards:

(1) each single commercial or industrial use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

(2) each single commercial or industrial site shall be of a size not less than three acres.

(3) each single commercial or industrial site shall contain no more than one building per three acre tract of land.

(4) the maximum ground area to be covered by a single commercial or industrial building shall not exceed the following minimum ratios with respect to the building site area:

At Least (Acres)	But Less Than (Acres)	Ratio of Site Area to 1st Floor Bldg. Area	1st Floor Bldg. 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

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

churches, hospitals, schools, theatres, stadiums, hotels and motels, trailer courts, camp grounds, and other places of public or semi-public assembly.

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

SECTION VI: AIRPORT ZONING MAP

The several zones herein established are shown on the Elbow Lake Municipal Airport Zoning Map consisting of three sheets, prepared by Koehnlein, Lightowler, Johnson, Inc., and dated April, 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 VII. NONCONFORMING USES

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.

SECTION VIII. 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 or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the 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 or structure 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 or structure, because of terrain, land contour, or topographic features, would extend above the height 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.

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 applications for a permit shall be granted.

C. **NONCONFORMING USES ABANDONED OR DESTROYED:** Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 80% 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. Whether application is made for a permit under this paragraph or not, the Zoning Administrator 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 Zoning Administrator 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 per cent 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 IX. 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 Adjustment, hereinafter provided for, 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 relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this ordinance; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this ordinance.

SECTION X. 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 City of Elbow Lake.

B. PERMITS AND VARIANCES: Any permit or variance granted by the Zoning Administrator or Board of Adjustment as the case may be, may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, so condition such permit or variance as to 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 XI. AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Elbow Lake Airport Board to administer and enforce the regulations prescribed herein. Application for permits and variances shall be made to the Chairman of the Elbow Lake Airport Board upon a form furnished by him. Permit applications shall be promptly considered and granted or denied by the Board. Variance applications shall be forthwith transmitted by the Elbow Lake Airport Board for action by the Board of Adjustment hereinafter provided for.

SECTION XII. BOARD OF ADJUSTMENT

A. **ESTABLISHMENT:** The board of Adjustment shall consist of the Elbow Lake City Council.

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 Zoning Administrator 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.

C. **PROCEDURES:**

1. 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 Mayor or Council Member who is a member of the Airport Board and at such other times as the Board of Adjustment may determine. The Mayor, or in his absence the acting Mayor 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 Zoning Administrator and shall be a public record.

2. 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.

3. 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 Zoning Administrator 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 XIII. APPEALS

A. Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in its administration of this Ordinance may appeal to the Board of Adjustment. 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. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The 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 Zoning Administrator 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 its 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 Zoning Administrator 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, and to that end shall have all the powers of the Zoning Administrator.

SECTION XIV. JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the board of adjustment is illegal may present to the appropriate Court in Grant 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 with 30 days after the decision is filed in the office of the Board of Adjustment. 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 XV. 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, or who shall disobey a lawful order of the Zoning Administrator, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$300 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense.

SECTION XVI. 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 XVII. SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are 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.

SECTION XVIII. AMENDMENTS

Upon final adoption of this ordinance, the Elbow Lake - Grant County Joint Airport Zoning Board shall be abolished, and all future zoning matters and amendments shall be handled by the Elbow Lake Airport Board, subject to the approval of the Board of Adjustment and Minnesota Department of Aeronautics.

SECTION XIX. EFFECTIVE DATE

This Ordinance shall be published on *September 26*, 1974 in the Grant County Herald, an official newspaper in Elbow Lake, Minnesota, and shall take effect on the 1st day of *October*, 1974. Copies thereof shall be filed with the Commissioner of Aeronautics, State of Minnesota, and the Register of Deeds, Grant County, Minnesota.

Passed and adopted after public hearing by the Elbow Lake - Grant County Joint Airport Zoning Board this *23d* day of *September*, 1974.

STATE OF MINNESOTA) **102688**
COUNTY OF GRANT) SS.

I hereby certify that the within instrument was filed in this office for record on the 24 day of Sept. A. D. 19 74 at 3 o'clock P. M. and was duly recorded in Book 24 of Miss. Page 610-620

Lelay E. Larson
Register of Deeds
By Glorance S. Larson
Deputy

Orvin Amundson
Orvin Amundson, Chairman

William E. Nelson
William E. Nelson, Vice-Chairman

Donald Dahl
Donald Dahl, Member

Orvin Larson
Orvin Larson, Member

Helen E. Stafholt, Member