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GRATIOT COMMUNITY AIRPORT ZONING ORDINANCE

GENERAL

An Ordinance establishing airport zoning regulations restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Gratiot Community Airport; providing for the allowance of variances from such regulations; designating the Zoning Administrator charged with the administration and enforcement of such regulations; establishing an Airport Zoning Board of Appeals; providing for enforcement; and imposing penalties for violation of this Ordinance.

This Ordinance is adopted pursuant to the authority conferred by the provisions of the Airport Zoning Act, being Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session) and for the purpose of promoting the health, safety, and general welfare of the inhabitants of the County of Gratiot by preventing the establishment of the airport hazards and thereby protecting the general public, users of the Gratiot Community Airport, and occupants of land in its vicinity, and preventing the destruction and impairment of the utility of said airports and the public investment therein.

The Joint Gratiot Community Airport Zoning Board of the Gratiot Community Airport Commission established under the provisions of Section 17 of Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session), does hereby ordain as follows:

ARTICLE 1

PURPOSE AND LIMITATIONS

1.1 Title

This Ordinance includes all airport zoning plans attached hereto and is to be known and may be cited as the "Gratiot Community Airport Zoning Ordinance."

1.2 Objective

The principle objective of this Ordinance is to prevent the creation or establishment of airport hazards and thereby to provide additional safety and protection to the users of the

airport and to the people who live and work in its vicinity.

1.3 Hazard Area

A hazardous area is hereby established in a ten mile radius of the Gratiot Community Airport, as set forth in the Zoning Plan attached hereto and incorporated herein. Maximum height limitations ranging between 25 feet and 500 feet, as set forth in the Zoning Plan dependent on proximity to runways and approaches, are hereby established. Structures and trees which exceed the various height limitations constitute hazards, as set forth below.

1.4 Hazards

Structures and trees which exceed the above height limitations under this Ordinance are considered hazards to flying and endanger lives and property. Erection or maintenance of such hazards constitute a violation of this Ordinance and will subject the owner of the premises upon which the violation occurs, or the person erecting or maintaining the violation shall subject such person to the penalty provisions of this Ordinance. Height limitations are based upon the established elevation of the airport or upon the elevation of the end of the nearest runway.

1.5 Pre-Existing Non-Conforming Objects

The Ordinance does not affect existing structures, the height of which exceeded the limits imposed by this Ordinance at the time it became effective. New construction, and construction increasing the height of existing structures, within the hazard area, must conform to the provisions on height limitations. The Ordinance also restricts such uses of land within the vicinity of the airport as will unreasonably interfere with radio communications systems, navigational aids, or other devices used by the airport and aircraft, or would reduce visibility or would create confusing lights, or would be subject to undesirable effects that may be caused by the operation of aircraft.

1.6 Administration

The City of Alma Zoning Official shall administer and enforce the provisions of the Ordinance and shall seek the close cooperation of and work through any local County, Township and City Zoning Boards.

1.7 Heights Requiring Permits

Any person, firm or entity constructing, erecting or maintaining, or proposing to construct, erect or maintain any structure or tree exceeding the heights set forth below in the location set forth below, shall make application to the Zoning Administrator for a

permit:

Maximum Application Height	Location
25 feet	Anywhere underlying an approach surface
50 feet	Anywhere within the inner control surface
100 feet	Anywhere within the conical surface
200 feet	Anywhere within the outer horizontal surface

1.8 Where to Obtain Copies of this Ordinance

Information regarding height limits and copies of the Ordinance are available at the offices of City of Alma Zoning Official, the Gratiot Community Airport, or the Michigan Department of Transportation, 2700 East Airport Service Drive, Lansing, Michigan 48906.

ARTICLE 2

DEFINITIONS

2.1 Words and Phrases

For the purposes of this Ordinance, the words, terms and phrases set forth in Sections 2.2 through 2.20 inclusive, shall have the meanings prescribed in those sections.

2.2 Above Mean Sea Level

The term "above mean sea level" denotes elevations above sea level based upon and determined by reference to United States Coast and Geodetic Survey datum.

2.3 Airport

The term "Airport" means the Gratiot Community Airport and all appurtenances used or acquired for airport buildings or other airport facilities, and all other appurtenant rights of way or other existing or future interests.

2.4 Airport Approach Surfaces

The approach surface is an inclined plane located directly above the approach area. The dimensions of the approach area are measured horizontally as follows:

(a) The approach area has a variable length, measured on the extended centerline, beginning 200 feet outward from the threshold of or the displaced threshold of

each runway, and extending outward, ending at the intersection of the inner horizontal surface and the approach surface.

(b) The approach area is symmetrically located with respect to the extended runway centerline. For FAA designated or master plan instrument landing system runways, the approach area has total width of 1,000 feet at the end adjacent to the runway and flares outward at a ratio of 20:3 until the approach surface intersects the inner horizontal surface. For all other runways, the approach area has a total width at the end adjacent to the runway as follows: runways 3,501 or longer, 500 feet; runways less than 3,501 feet long, 250 feet. The approach areas with widths of 250 feet and 500 feet flare outward at a ratio of 10:1 until the approach surface intersects the inner horizontal surface.

(c) For FAA designated or master plan instrument landing runways, the slope of the approach surface along the runway centerline extended is 50:1. For runways 3,200 feet or longer, corrected length, this slope is 34:1 and for runways less than 3,200 feet, corrected length, the slope is 20:1. Corrected length is that which is corrected to elevation, the runway gradient and the normal maximum temperature of the hottest month of the site.

2.5 Airport Hazard

"Airport Hazard" means any structure or tree within the airport hazard area which exceeds the height limitations established by this Ordinance, or any use of land or appurtenances within the airport hazard area which interferes with the safe use of the airport by aircraft.

2.6 Airport Hazard Area

The term "airport hazard area" means any area of land or water, or both, lying within a ten mile radius from the established center of the Gratiot Community Airport in which an airport hazard might exist if not prevented by this Ordinance.

2.7 Airport Referenced Imaginary Surfaces

Airport referenced imaginary surfaces are established by reference to the airport as hereinafter described and consist of the approach surfaces, inner horizontal surface, extended inner horizontal surface, conical surface, transitional surfaces, outer horizontal surface, and extended 500 foot parallel surface.

2.8 Airport Zoning Act

The term "Airport Zoning Act" refers to Act no. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session).

2.9 Board

The term "Board" means the Board of Appeals as hereinafter created and designated below.

2.10 Conical Surface

The conical surface extends from the periphery of the inner horizontal surface outward and upward to a horizontal distance of 33,390 feet from the airport reference point and to a height of 500 feet above the established elevation of the airport.

2.11 Inner Horizontal Surface

The inner horizontal surface is a plane, circular in shape, with a height of 150 feet above the established elevation of the airport, which is the highest point on the usable runways, and having a radius of 3 miles from the airport reference point, which is the center of the usable runways.

2.12 Non-Conforming Use

The term "non-conforming use" means any structure, tree or use of land which does not conform to a regulation prescribed in this Ordinance or any amendment as of the effective date of such regulation.

2.13 Outer Horizontal 500-Foot Turning Zone Surface

The outer horizontal 500-foot turning zone surface, is a plane, circular in shape, with its height 500 feet above the established airport elevation, and extends from the outer periphery of the conical surface a distance of 10 miles from the airport reference point.

2.14 Person

The term "person" means any individual, firm, partnership, corporation, company, association, joint stock association, municipal corporation or other body politic, including any trustee, receiver, assignee or other similar representative.

2.15 Structure

The term "structure" means any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, overhead transmission lines, and radio and television aerials and antennae, but not including highways and their appurtenances.

2.16 Transitional Surfaces

The transitional surfaces are inclined planes with a slope of 7:1 measured outward and upward in a vertical plane at right angles to the centerline or extended centerline of the runway. The transitional surfaces, symmetrically located on either side of the runway, extend outward and upward from a line on either side of the runway, which is parallel to and level with the runway centerline. These parallel lines are at a horizontal distance from the runway centerline equal to ½ of the width of the approach area indicated in R 259.284. Transitional surfaces extend from the edges of all approach surfaces outward and upward to the intersection with the inner horizontal surface.

2.17 Tree

The term "tree" means any object of natural growth.

2.18 Zoning Administrator

"Zoning Administrator" means the City of Alma's Zoning Administrator, or his designee.

ARTICLE 3

ZONES

3.1 Airport Hazard Areas

An airport hazard area is established, which area or zone consists of all the lands within Gratiot County lying beneath the approach, transitional, 150 feet horizontal, conical and 500 feet horizontal surfaces, said land being located within a circle having a radius extending horizontally 10 miles in accordance with the attached Zoning Plan from the established center of the usable landing areas of the airport, known as the airport reference point. The boundaries of the hazard areas are shown in the Zoning Plan attached hereto and incorporated herein.

3.2 Airport Zoning Plans

The height limitations shown on the attached airport zoning plans are imposed on the lands in the airport hazard areas, the same being based upon the elevations above mean sea level at the ends of the respective airport runways and the established elevation of the airport, which elevations are shown in the Zoning Plan attached hereto and incorporated herein.

3.3 Legal Height Limitations

No person may erect or maintain any structure to a height in excess of the limitations

prescribed by the terms of this Ordinance and the Zoning Plan, or to plant or allow any tree to grow to a height in excess of the limitations prescribed by the terms of this Ordinance and the attached maps; or to establish any use of lands contrary to the provisions of this Ordinance.

3.4 Unlawful Land Use

Notwithstanding any other provisions of this Ordinance, no person may use any lands within any airport hazard area which:

- (a) Would create electrical interference with radio communications between the airport and aircraft or create interference with navigational aids employed by aircraft;
- (b) Would make it difficult for flyers to distinguish between airport lights and others or result in glare to the eyes of flyers using the airport;
- (c) Would create air pollution in such amounts as to impair the visibility of flyers in the use of the airport;
- (d) Would locate or permit the operation of a dump, waste disposal site, sanitary landfill, hazardous waste facility, solid waste transfer station or recycling facility within 10,000 feet of any runway at the airport, unless the construction, location and operation of the site is approved or authorized by the Federal Aviation Administration as not being in violation of its orders, rules or regulations applicable to the airport, or unless a waiver is issued by the Federal Aviation Administration.
- (e) Would otherwise endanger the landing, taking off, or maneuvering of aircraft;
- (f) Would attract birds.
- (g) Would raise the descent minimums of any instrument approach procedure to the airport, or otherwise limit operations at the airport, as determined by an airspace study conducted by the Federal Aviation Administration.

3.5 Non-Conforming Pre-Existing Uses

The provisions of Section 3.3 of this Ordinance shall not apply to structures, trees or other non-conforming uses existing in an airport hazard area on the effective date of this Ordinance, provided that such use remains otherwise lawful and subject to the following provisions:

1. No such structure, use or tree shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use or height of the structure to a use or height permitted within the hazard area.
2. Any structure in or on which a nonconforming use is superceded by permitted use, shall thereafter conform to this Ordinance and the nonconforming use may not thereafter be resumed.
3. If such nonconforming use of land or structure is discontinued with the intent of abandonment for a period in excess of six months, any subsequent use of such land or structure shall conform to the regulations specified in this Ordinance pertaining to the hazard area in which the user, land or structure is located. Abandonment shall be presumed if the structure or tree has been damaged or deteriorated or has decayed to the degree of fifty percent or more; or such abandonment has continued for a period of six consecutive months.

3.6 Alterations to Non-Conforming Land Use

The provisions of Section 3.3 of this Ordinance shall apply to changes or alterations which increase the height of existing structures, trees or other non-conforming uses after the effective date of this Ordinance, with the same force and effect as though the same were new uses.

ARTICLE 4

ORDINANCE ADMINISTRATION

4.1 Approach Standards

The approach, transitional, conical and inner horizontal surfaces which establish the height limitations under this Ordinance are denoted in the Zoning Plan attached hereto and incorporated herein, and are established in conformance with approach standards or regulations of the Michigan Aeronautics Commission or the Federal Aviation Administration. In acting upon applications for permits the Zoning Administrator will arrive at proper height limitations by interpolating between contours shown on the zoning plans.

4.2 Zoning Administrator as Administrative Agency

The City of Alma Zoning Official is designated the Zoning Administrator charged with the duty of administering and enforcing this Ordinance. The Zoning Administrator shall act as the "administrative agency" referred to in the Airport Zoning Act. The duties of the Zoning Administrator shall include those of issuing permits as provided below, but the Zoning Administrator shall not have or exercise any of the powers or duties delegated to

the Board of Appeals. The Zoning Administrator may adopt such rules of procedure as may be necessary in connection with the administration and enforcement of this Ordinance.

4.3 Board of Appeals

There is hereby created a Board of Appeals consisting of five members, each to be appointed for a term of 3 years and until his or her successor is appointed and qualified, one of whom shall be designated as Chair and one of whom shall be designated as Vice-Chair, which appointments shall be made by the Joint Gratiot Community Airport Zoning Board and provided that upon such appointments being initially made, one member of the Board shall be appointed for a term of 1 year, two for terms of 2 years each, and two for terms of 3 years each. Board members shall be removable by the appointing body for cause shown, upon written charges and after notice and opportunity to be publicly heard. The Board of Appeals has the powers set forth in Section 28 of the Airport Zoning Act and shall exercise such powers as are conferred upon it in the Airport Zoning Act and in this Ordinance.

- (a) Official Name: The Board of Appeals shall be officially known as the Gratiot Community Airport Zoning Board of Appeals.
- (b) Rules and Procedures: The rules of procedure of the Zoning Board of Appeals of the City of Alma are hereby adopted by reference, as from time to time amended, and shall govern all appeals and hearings which come before the Zoning Board of Appeals under this Ordinance. Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine, and notice of all meetings shall be given to all members. An annual meeting shall be held during the month following the anniversary date of this Ordinance. The Chair, or in his or her absence the Vice-Chair, may administer oaths or affirmations and issue subpoenas to compel the attendance of witnesses. All hearings of the Board of Appeals shall be public, and it shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, then so indicating, and the Board shall keep records of its examinations and other official acts, all of which shall be immediately filed in the offices of the Board and shall be a public record.
- (c) Powers: The Board of Appeals, by the concurring vote of a majority of its members, shall have the power to issue certificates of variance under the provisions of this Ordinance, or to otherwise decide appeals from any order, requirement, rule, regulation, decision or determination made by the Zoning Administrator under the powers conferred upon it by this Ordinance.

- (d) Who May Appeal: Any person, including the governing body of any political subdivision, aggrieved by any decision of the Zoning Administrator made in the administration of this Ordinance, may appeal to the Board of Appeals.
- (e) Appeal Procedure: All appeals from actions of the Zoning Administrator shall be taken within the time and in the manner prescribed in the rules of procedure of the Zoning Board of Appeals of the City of Alma, as from time to time amended, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds of appeal. The Zoning Administrator shall promptly transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator 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 the Zoning Administrator's opinion, cause imminent peril to life or irreparable damage to property. In that case, proceedings shall not be stayed otherwise than by order of the Board and on due cause shown. The Board shall fix a time for the hearing of the appeal, give public notice and due notice to the parties in interest, and decide the appeal within a reasonable time. At the hearing any party may appear in person or by agent or by attorney. The Board may, in conformity with the provisions of this Ordinance, reverse, affirm or modify, wholly or partly, the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator.
- (f) Certificates of Variance: An application for a variance is to be submitted on the form provided for by the rules of the Board of Appeals. If the application is granted, the applicant will receive a certificate of variance in the form prescribed by such rules. The certificate shall provide that it is not effective for a period of thirty (30) days following the date of its issuance. Immediately upon issuance, copies of the certificate shall be filed with the Zoning Administrator, the Michigan Aeronautics Commission and each political subdivision affected by the certificate. In acting upon applications for variance, variances 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 and approach protection, but would do substantial justice and be in accordance with the spirit of the regulations of this Ordinance; provided, however, that any variance may be allowed subject to any reasonable condition or conditions subsequent

that the Board of Appeals may deem necessary to effectuate the purpose of this Ordinance. Nothing in this section shall be construed to permit a use which would conflict with any general zoning ordinance or regulation of any political subdivision applicable to the same area.

ARTICLE 5

PERMITS

5.1 Application for Permits

Applications for permits shall be made to the Zoning Administrator in three (3) copies upon forms furnished by the Zoning Administrator, and the Zoning Administrator shall, within 15 days from receiving the application, determine whether the height limitations as designated by the airport zoning maps and this Ordinance, would or would not be violated if the application were granted and shall grant or deny the application accordingly (the Zoning Administrator not being vested with authority to permit a variance). The Zoning Administrator shall advise applicant of its action within three (3) days after the action has been taken. In the event of a denial, the applicant may apply to the Board of Appeals for a certificate of variance. The Zoning Administrator is authorized and directed to approve all applications for permits for uses not exceeding 25 feet in height above the existing ground level as the same may exist on the effective date of this Ordinance, notwithstanding anything to the contrary herein contained, it being intended that the minimum height limitation to be imposed by this Ordinance shall be 25 feet above ground level existing on the date of this Ordinance. The issuance of a permit shall not be construed to permit a use that violates section 3.5 of this Ordinance or any general zoning Ordinance or regulations of any political subdivision applicable to the same area.

5.2 Permit Procedures

Persons desiring to create new uses, or to change existing uses, must file an application for a permit if the proposal involves objects that exceed 25' within any approach surface area or exceed 50' within the inner horizontal surface, 100' within the conical surface, 200' within the outer horizontal surface or in any case where an object may be in violation of section 3.4 or 3.7 of this ordinance.

5.3 Exception for Emergency Repairs

No permit is required for the emergency repair or emergency replacement of nonconforming public utility structures, other than buildings, when the height of such structures will not be increased by such repairs or replacement. It is intended that in the

application of this provision any combination of circumstances calling for immediate action or remedy in the repair or replacement of such non-conforming public utility structures shall be deemed an emergency.

ARTICLE 6

JUDICIAL ACTION

6.1 Appeals to Circuit Court

Any person, including the Michigan Aeronautics Commission on behalf of and in the name of the State, aggrieved by any decision of the Board of Appeals, may appeal to the Circuit Court of the County of Gratiot as provided in Section 30 of the Airport Zoning Act.

6.2 Penalties

Any person who violates this Ordinance or any regulations, orders or rulings made pursuant to this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or imprisoned for a term not to exceed 90 days, or both. Each day a violation continues to exist after notice shall constitute a separate offense. Such notice may be given by the Zoning Administrator by certified mail, return receipt requested, addressed to the person maintaining the violation at the last known address.

6.3 Appearance Ticket Authorization

Unless prohibited by state law, the following persons are empowered to issue and serve appearance tickets for violations of this Ordinance, pursuant to Act No.175 of the Public Acts of 1927, as amended by Act No.506 of the Public Acts of 1980, Act No.366 of the Public Acts of 1984 and Act No.49 of the Public Acts of 1988, being sections 764.9c and 764.9f of the Michigan Compiled Laws:

The Gratiot County Sheriff and all other Deputy Gratiot County Sheriffs

6.4 Civil Action Available

The Joint Gratiot Community Airport Zoning Board may, in addition to any criminal action taken, institute in the Circuit Court of Gratiot County, an action to prevent, restrain, correct or abate any violation of this Ordinance or the Airport Zoning Act, or of airport zoning regulations adopted under this Ordinance or under the Airport Zoning Act, or of any order or ruling made in connection with their administration or enforcement,

and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order to effectuate fully the purposes of this Ordinance or the Airport Zoning Act and the regulations adopted and orders and rulings made pursuant thereto. Any violation of this Ordinance is deemed to constitute a public nuisance.

ARTICLE 7

FEDERAL LAWS FEDERAL AVIATION REGULATIONS

7.1 Federal Laws (Part 77, 14 C.F.R. §77.1 *et seq.*)

The airport zoning ordinance is not intended to supercede existing federal approach protection laws. The Federal Aviation Administration requires that it be given notice of any construction or alteration:

- (a) That would be more than 200 feet above ground level at its site.
- (b) That would be above an imaginary surface extending outward and upward at 100:1 slope within 20,000 feet of the nearest point of a runway more than 3200 feet in length.
- (c) That would be above an imaginary surface extending outward and upward at 50:1 slope within 10,000 feet of the nearest point of a runway less than 3200 feet in length.

ARTICLE 8

SEVERABILITY OF PROVISIONS

8.1 Severability of Provisions

If any of the provisions of this Ordinance or its application to any person or circumstance is held invalid, unenforceable or illegal such determination shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications of the Ordinance, and to that end the provisions of this Ordinance are declared to be severable.

ARTICLE 9

AMENDMENTS

9.1 Amendments

This Ordinance, and the regulations prescribed herein, may be amended by the Airport Zoning Board after a public hearing is held in relation to the proposed amendment, pursuant to Section 19 of the Airport Zoning Act.

ARTICLE 10

REPEAL OF PRIOR ZONING ORDINANCE

10.1 Repeal

The Joint Gratiot Community Airport Zoning Board hereby repeals the Gratiot Community Airport Zoning Ordinance, effective July 1, 1968.

ARTICLE 11

EFFECTIVE DATE

11.1 Effective Date

This Ordinance shall take effect on July 27, 2001.



Chairperson, Joint Gratiot Community
Airport Zoning Board

Attest:

Barbara A Gager
Alma City Clerk