

CHAPTER 152: AIRPORT ZONING

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GENERAL PROVISIONS**§ 152.01 PURPOSE AND AUTHORITY.**

The Municipal Joint Airport Zoning Board, created and established by joint action of the City Council and the Board of County Commissioners pursuant to the provisions and authority of M.S. § 360.063, as amended from time to time, hereby finds and declares as follows:

- (A) An airport hazard endangers the lives and property of users of the 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 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 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.

(Ord. passed 8-6-75)

§ 152.02 TITLE.

This chapter shall be known as the "Municipal Airport Zoning Ordinance."
(Ord. passed 8-6-75)

§ 152.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRPORT. The Municipal Airport of this city, located in the west half of Section 19, Township 38 North, Range 26 West.

AIRPORT ELEVATION. The established elevation of the highest point on the useable landing area which elevation is established to be 1,100 feet above mean sea level.

AIRPORT HAZARD. 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. 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 chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

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

NONCONFORMING USE. Any pre-existing structure, tree, natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment hereto.

NONPRECISION INSTRUMENT RUNWAY. 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.

PERSON. 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. Only those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Aeronautics, and the city.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), or a precision approach radar (PAR). Also, a

runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

RUNWAY. 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. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

STRUCTURE. An object constructed or installed by persons, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

TREE. Any object of natural growth.

VISUAL RUNWAY. 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 establishment of protected zones, **WATER SURFACES** shall have the same meaning as **LAND**.

(Ord. passed 8-6-75)

§ 152.04 VIOLATIONS.

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 provisions of this chapter or who, having been granted a permit or variance under the provisions of this chapter, 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 that permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine or imprisonment, or by both.

(Ord. passed 8-6-75) Penalty, see § 10.99

§ 152.05 CONFLICTS; STRICTER REGULATIONS APPLY.

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter 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.

(Ord. passed 8-6-75)

§ 152.06 AIRPORT ZONING MAP ADOPTED.

The several zones herein established are shown on the Airport Zoning Map consisting of three sheets, prepared by Consulting Engineers Diversified Inc., P.O. Box J, Osseo, Minnesota 55369, and dated October 21, 1974, adopted by reference and made a part hereof, which map, together with any 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 chapter.

(Ord. passed 8-6-75)

§ 152.07 EXCEPTIONS NOT TO VOID PROVISIONS.

In any case in which the provisions of this chapter, 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 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, this holding shall not affect the application of this chapter as to other structures and parcels of land, and to this end the provisions of this chapter are declared to be severable.

(Ord. passed 8-6-75)

§ 152.08 MOTOR VEHICLE WEIGHT RESTRICTIONS.

The City Council may by resolution designate streets and other motor vehicle driving areas within the Milaca Municipal Airport as restricted roadways upon which motor vehicles with single axle weights exceeding a designated weight are prohibited. The designated weight may range from three tons to five tons depending on frost, moisture and compaction, construction of the base and surfacing, amount of traffic and snow cover, road deterioration and any other climactic or traffic condition. The Airport Manager or other person designated by the City Manager shall cause appropriate signs to be posted on designated taxiways, streets, and other motor vehicle driving areas.

(Ord. 386, passed 12-17-09) Penalty, see § 10.99

§ 152.09 MOTOR VEHICLE WEIGHT RESTRICTIONS, SPECIAL PERMIT.

The Airport Manager or other person designated by the City Manager may issue a special permit for good cause shown in writing, authorizing the applicant to operate a motor vehicle upon a restricted roadway as described in § 152.08 in excess of the weight restrictions, provided that the applicant shall be liable for any resultant damage to the restricted roadway. The City Council may by resolution establish a fee for the issuance of such permit. The Airport Manager or designee may request and the

City Council may require a performance contract and financial security as a condition of the issuance of such permit. Any person violating these weight restrictions or any special permit shall be guilty of a misdemeanor and shall be punished by a fine or imprisonment, or both, as provided by § 10.99.
(Ord. 386, passed 12-17-09) Penalty, see § 10.99

§ 152.10 CONFLICT WITH OTHER LAWS.

The weight restrictions and special permit provisions of this chapter take precedence over the restrictions set forth in Chapter 70 of this code of ordinances and M.S. § 169.86, as may be amended from time to time.

(Ord. 386, passed 12-17-09)

AIRPORT ZONING; AIRSPACE OBSTRUCTION AND LAND USE SAFETY ZONES

§ 152.20 AIRSPACE ZONES ESTABLISHED.

(A) In order to carry out the purposes of this chapter, the following airspace zones are hereby established: primary zone, horizontal zone, conical zone, approach zone, and transitional zone.

(B) The locations and dimensions of these zones 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 the NW-SE runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line. The width of the primary surface is 500 feet for the NW-SE 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 1,200 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 6,000 feet for the NW-SE runway;

(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 radially 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 center line 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 the NW-SE runway. The approach surface expands uniformly to a width of 2,500 feet for the NW-SE runway at a distance of 10,000 feet, then continues at the same rate of divergence to the periphery of the conical surface; and

(5) *Transitional zone.* All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway center line and the runway center line 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.

(Ord. passed 8-6-75)

§ 152.21 HEIGHT RESTRICTIONS.

Except as otherwise provided in this chapter, and except as necessary and incidental to airport operations, no structures or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created in § 152.20 so as to project above any of the imaginary airspace surfaces described in § 152.20. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

(Ord. passed 8-6-75) Penalty, see § 10.99

§ 152.22 SAFETY ZONE BOUNDARIES ESTABLISHED.

In order to carry out the purpose of this chapter, there are hereby created and established the following land use safety zone boundaries:

(A) *Safety zone A.* All land in that portion of the approach zones of a runway, as defined in § 152.20, 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 2,000 feet for the NW-SE runway;

(B) *Safety zone B.* All land in that portion of the approach zones of a runway, as defined in § 152.20, which extends outward from safety zone A for a distance equal to one-third of the planned length of the runway, which distance shall be 1,000 feet for the NW-SE runway; and

(C) *Safety zone C.* All that land which is enclosed within the perimeter of the horizontal zone, as defined in § 152.20, and which is not included in safety zone A or safety zone B.

(Ord. passed 8-6-75)

§ 152.23 USE RESTRICTIONS.

(A) *General.* Subject at all times to the height restrictions set forth in § 152.21, no use shall be made of any land in any of the safety zones defined in § 152.22 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 the pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

(B) *Zone A.* Subject at all times to the height restrictions set forth in § 152.21 and to the general restrictions contained in division (A) above, areas designated as zone A shall contain no buildings or temporary structures 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.

(C) *Zone B.* Subject at all times to the height restrictions set forth in § 152.21, and to the general restrictions contained in division (A) above, areas designated as zone B shall be restricted in use as follows.

(1) Each use shall be on a site whose area shall not be less than three acres.

(2) Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

(3) Each site shall have no more than one building plot upon which any number of structures may be erected.

(4) 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 for the total site area:

<i>At Least (Acres)</i>	<i>But Less Than (Acres)</i>	<i>Ratio of Site Area to First Floor Building Area</i>	<i>First Floor Building Area (Sq. Ft.)</i>	<i>Maximum Site Population (15 Persons/Acre)</i>
3	4	12:1	10,900	45
4	6	10:1	17,400	60
6	10	8:1	32,600	90
10	20	6:1	72,500	150
20	and up	4:1	218,000	300

(5) The following uses are specifically prohibited in zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of public or semi-public assembly.

(D) *Zone C.* Areas designated as zone C are subject only to the height restrictions set forth in § 152.21, and to the general restrictions contained in division (A) above.

(Ord. passed 8-6-75) Penalty, see § 10.99

PERMITS; NONCONFORMING USES AND VARIANCES

§ 152.35 NONCONFORMING USES; EXISTING.

(A) *Regulations not retroactive.* The regulations prescribed by this chapter 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 chapter, or to 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 chapter, and which is diligently prosecuted and completed within two years thereof.

(B) *Existing nonconforming uses.* Hydropillar (elevated water tower), with location as shown on zoning maps in the north half of Section 25, Township 38 North, Range 26 West; its elevation exceeds limits in the horizontal zone.

(Ord. passed 8-6-75)

§ 152.36 FUTURE USES; PERMIT REQUIRED.

(A) Except as specifically provided in division (B) below, 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 therefor 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 the determination is in the affirmative, the permit shall be granted.

(B) (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 that 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 chapter as set forth in §§ 152.20 and 152.21.

(Ord. passed 8-6-75) Penalty, see § 10.99

§ 152.37 EXISTING USES; PERMITS FOR ALTERATION.

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 this 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 chapter or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for this type of permit shall be granted.

(Ord. passed 8-6-75)

§ 152.38 NONCONFORMING USES ABANDONED OR DESTROYED.

(A) 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 this structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(B) Whether application is made for a permit under this subchapter or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed nonconforming structure at

his or her own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this chapter. In the event the owner of the nonconforming structure shall neglect or refuse to comply with this order for 10 days after receipt of written notice of the 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 this assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of 8% 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.

(Ord. passed 8-6-75)

§ 152.39 VARIANCES.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property, not in accordance with the regulations prescribed in this chapter, may apply to the Board of Adjustments and Appeals, hereinafter provided for, for a variance from these regulations. 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 chapter; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustments and Appeals may deem necessary to effectuate the purposes of this chapter.

(Ord. passed 8-6-75)

§ 152.40 NONCONFORMING USES; HAZARD MARKING AND LIGHTING.

The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of those 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 these airport hazards. The markers and lights shall be installed, operated, and maintained at the expense of the city.

(Ord. passed 8-6-75)

§ 152.41 PERMITS AND VARIANCES; HAZARD MARKING AND LIGHTING.

Any permit or variance granted by the Zoning Administrator or Board of Adjustments and Appeals, as the case may be, may, if such an action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, so condition the permit or variance as to require the owner of

the structure or tree in question at his or her own expense, to install, operate, and maintain thereon any markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.
(Ord. passed 8-6-75)

ADMINISTRATION

§ 152.55 AIRPORT ZONING ADMINISTRATOR.

It shall be the duty of the city Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by him or her. Permit applications shall be promptly considered and granted or denied by the Zoning Administrator. Variance applications shall be forthwith transmitted by the Zoning Administrator for action by the Board of Adjustments and Appeals hereinafter provided for.
(Ord. passed 8-6-75)

§ 152.56 AIRPORT ZONING BOARD OF ADJUSTMENTS AND APPEALS; POWERS.

(A) *Establishment.* The City Council shall serve as the Board of Adjustments and Appeals for the Municipal Airport Zoning Ordinance.

(B) *Powers.* The Board of Adjustments and Appeals shall have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirements, decision, or determination made by the Zoning Administrator in the enforcement of this chapter;
- (2) To hear and decide special exceptions to the terms of this chapter upon which the Board of Adjustments and Appeals under these regulations may be required to pass; and
- (3) To hear and decide specific variances.

(Ord. passed 8-6-75)

§ 152.57 BOARD OF ADJUSTMENT AND APPEALS; PROCEDURES.

Appeals and requests for variances shall be heard in the manner provided in §§ 156.165 *et seq.*

§ 152.58 JUDICIAL REVIEW.

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustments and Appeals, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustments and Appeals is illegal, may present to the District Court of the 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. The petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustments and Appeals. The petitioner must exhaust the remedies provided in this chapter before availing himself or herself of the right to petition a court as provided by this section.

(Ord. passed 8-6-75)