

Ordinance No. 06-29-09

AN ORDINANCE REGULATING AND RESTRICTING THE USE AND HEIGHT OF STRUCTURES IN AN AREA OF POTENTIAL HAZARDS RELATED TO AIRSPACE NEAR THE MASON CITY MUNICIPAL AIRPORT BY CREATING A WORTH COUNTY TALL STRUCTURES OVERLAY ZONE AND ESTABLISHING BOUNDARIES THEREOF; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE MASON CITY MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; REFERRING TO THE WORTH COUNTY TALL STRUCTURES ZONE REFERENCE MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; AND IMPOSING PENALTIES.

This ordinance is adopted pursuant to the authority conferred upon Worth County, Iowa, by the provisions of Chapter 329 of the Iowa Code, granted to municipalities, and relating to the prevention of hazards and non-compatible land uses in the vicinity of airports by establishing Airport Zoning Regulations. It is hereby found that:

1. The Government of the United States of America has taken unto itself the sole authority to regulate the operation and control of aircraft in flight, and has enacted certain federal regulations for the purpose of protecting the health, safety and general welfare of persons on the ground and of occupants of aircraft in flight, and the property of those persons.
2. The health, safety and general welfare of the residents and occupants of Worth County and the users of the Mason City Municipal Airport, depend upon the knowledge of, and adherence to, federal regulations that have been enacted.
3. Obstructions in the pathway of aircraft in flight, and certain uses of the land underlying those pathways constitute a hazard to the health, safety and general welfare of the occupants and users of the land, and to the property of said occupants and users, and to the users of the Mason City Municipal Airport, and the airspace in its vicinity. The creation, establishment or maintenance of such hazards is a public nuisance and an injury to the people of Worth County.

Accordingly it is declared that:

1. The prevention of obstructions and non-compatible land uses should be accomplished, to the extent legally possible, by proper exercise of the police power, without compensation.
2. The mitigation of non-compatible uses and hazards to safe air navigation by prevention, removal, or alteration, or the marking and lighting of obstructions are public purposes for which Worth County may raise and expend public funds, and acquire land or interests in land.
3. A hazard created by failure to comply with the provisions of this ordinance may be abated in the manner prescribed by law for the abatement of public nuisances.

IT IS HEREBY RESOLVED by the Worth County Board of Supervisors as Follows:

SECTION I: SHORT TITLE:

This ordinance and resolution shall be known and may be cited as "Worth County Tall Structures Zoning Ordinance" or "The Tall Structures Zoning Ordinance."

SECTION II: DEFINITIONS

For the purposes of this ordinance, the following definitions shall apply unless the context requires otherwise. In each case the singular shall include the plural and the plural shall include the singular.

1. AIRCRAFT – Any contrivance used or designed for carrying humans in flight through the air, but not including parachutes.
2. AERIAL NAVIGATION – The movement of an aircraft through the air.
3. AIRPORT HAZARD – Any structure or use of land which would exceed the Federal obstruction standards as contained in 14 CFR FAR, Part 77, and which obstructs or is otherwise hazardous to the operation of any aircraft, or hazardous to persons or property on the ground.
4. AIRPORT HAZARD AREA – Any area of land or water upon which an airport hazard might be established if not prevented as provided by this ordinance.
5. COUNTY – Worth County, Iowa.
6. FAA (AND/OR) FEDERAL AVIATION ADMINISTRATION – An agency of the United States government that administers the federal regulations that relate to the use and flight of aircraft, and related regulations.
7. INNER EDGE – That edge of any imaginary surface that is closest to the runway end to which the surface applies. The inner edge is perpendicular to the runway centerline.
8. NON-CONFORMING STRUCTURE – Any structure or portion of any structure that is located within or underlying the zone created by this ordinance and that does not conform to the height and use provisions of this ordinance.
9. OBSTRUCTION – Any structure, the height of which exceeds that which is allowed by this ordinance.
10. PERSON – Any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, assignee or other similar representative thereof.
11. STRUCTURE – Any object, whether permanent or temporary, stationary or mobile, constructed or installed by humans, including but not limited to; buildings, towers, smokestacks, scaffolds, lighting fixtures, public and private roads, railways, and overhead transmission lines, including poles or other structures supporting the same. Any tethered lighter-than-air device.
12. ZONING ADMINISTRATOR – The Zoning Administrator of Worth County, Iowa, or a duly authorized designee thereof.

SECTION III: TALL STRUCTURE OVERLAY ZONE

- A. In order to carry out the provisions of this section there is hereby created and established a tall structures overlay zone which is described herein and depicted on the Mason City Airport Zoning Map, which is hereby made a part of this ordinance, and which is further depicted on the Worth County Tall Structures Overlay Zone Map and which is hereby made a part of this ordinance. The zone hereby established and defined is as follows.
- B. Worth County Tall Structures Overlay Zone: Within Worth County, that portion of an airport hazard area beginning in Cerro Gordo County at a point 200 feet north of the paved portion of the runway known as Runway 18/36 at the Mason City Municipal Airport, centered on the extended centerline of the runway, and extending northward. The inner edge of said area is 1,000 feet wide, expanding uniformly to an outer edge width of 16,000 feet, for a total distance of 50,000 feet. The zone begins at the Worth County/Cero Gordo county line and extends northward to the northern edge of the airport hazard area.

- C. Height Limitations: Except as otherwise provided herein, no person shall construct or alter any structure so as to exceed 500 feet total height, measured from the ground at the base of the structure, or 1,900 feet above mean sea level, within the Tall Structures Overlay Zone created herein.
- D. Use Limitations: Except as otherwise provided herein, no person shall use, or cause to be used, or construct or alter any structure in or underlying the Tall Structures Overlay Zone created herein that:
1. Would create a hazard.
 2. Would endanger the general safety, health and welfare of persons on the ground, or occupants of aircraft in flight.
 3. Establishes any putrescible waste landfill of any size, or open air composting facility three (3) acres in size, or larger.
1. Would create, alter, or maintain any structure or use that would create a bird strike hazard.
 2. Would create, alter, or maintain any structure or use in such a manner as to create electrical or radio interference with aviation navigational signals or aircraft communications.
 3. Would install, align or use any lighting devices that creates glare in the eyes of pilots, or otherwise impair visibility.
 4. Would produce steam, smoke, or other visual hazard that would impair visibility.
 5. Creates, alters, or maintains any structure or use that would endanger or interfere with landing, takeoff or maneuvering of any aircraft.

SECTION IV: LIGHTING AND MARKING

- A. Notwithstanding any other provision of this ordinance, any person constructing or altering any structure located in the Tall Structures Overlay Zone created by this ordinance shall install all lighting or markings upon said structure as shall be recommended by the FAA. Such lighting or markings shall be made in a manner consistent with FAA Regulations and Advisories.
- B. No exception or variance granted under the provisions of this ordinance shall exempt the owner of land or structure in question from installing and maintaining such lighting and/or markings as are prescribed by the FAA, in a manner consistent with FAA Regulations and Advisories, to indicate to operators of aircraft the presence of an airport obstruction.

SECTION V: ADMINISTRATIVE PROCEDURE

The Zoning Administrator shall perform the administration of these zoning regulations.

SECTION VI: NON-CONFORMITIES

- A. The regulations prescribed herein are not retroactive and shall not be construed to require the reconstruction or alteration of any structure, or the discontinuation of any use of any structure made non-conforming by the adoption of this ordinance.
- B. Nothing contained herein shall require any change in the construction or alteration, or the intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and which is completed within one year thereafter.
- C. No pre-existing non-conforming structure, or use, shall be rebuilt or altered, so as to constitute a greater airport hazard than it was at the time that these regulations were adopted.
- D. Whenever the Zoning Administrator determines that a non-conforming structure has been abandoned, or more than 50% torn down, physically deteriorated, damaged, or decayed, such structure shall not be altered or reconstructed in a manner to exceed the applicable height and use provisions of this ordinance.
- E. Notwithstanding the previous provisions of this section the owner of any pre-existing non-conforming structure or tree shall be required to permit the installation, operation, or maintenance by others thereon of any markers and/or lights as shall be deemed necessary by the County to indicate to the operators of aircraft, the presence of such structure.

SECTION VII: SPECIAL EXCEPTIONS, VARIANCES

- A. Any person desiring to construct or alter any structure, or otherwise use property in a manner that would constitute a violation of this ordinance, may apply to the Worth County Board of Supervisors (Board) for a special exception or variance from these regulations. The Board shall consider no application for a special exception or variance to the requirements of this ordinance unless a copy of the application has been submitted to the Mason City Airport Commission for their opinion as to the aeronautical effects of such a variance. If the Mason City Airport Commission fails to respond to the Board within sixty (60) days from its receipt of the copy of the application, the Board may make its decision in the absence of the Airport Commission opinion. Such special exceptions or variances may be granted by the Board only where the literal application of these regulations would result in unnecessary hardship, and are subject to the following:
 - 1. Any height or use limitations contained in this ordinance that is modified by the Board shall not result in an obstruction to any aircraft in flight.
 - 2. No use of land shall be permitted that would not be compatible with aircraft operations.
 - 3. Such special exception or variance would not be contrary to the public interest.
 - 4. Such special exception or variance would be in the spirit of this ordinance and of Chapter 329 of the Iowa Code.
 - 5. Such special exception or variance shall be granted subject to any reasonable conditions that the Board may deem necessary to effectuate the purposes of this ordinance and of Chapter 329 of the Iowa Code.

6. Such special exception or variance shall be subject to the requirement that the applicant shall install, operate, and maintain such markings and lighting, at the applicant's own expense, as may be necessary to indicate to aircraft operators the existence of an obstruction as determined by the Board.
7. Such special exception or variance shall be subject to the reservation of the right of the County and the Mason City Municipal Airport, at their own expense, to go onto applicant's property to install, operate, and maintain thereon such FAA approved markers and lights as may be necessary to indicate to operators of aircraft the existence of an airport obstruction.

B. Any person aggrieved or affected by any decision of Board may appeal such decision, pursuant to the provisions of the Iowa Code.

SECTION VIII: ENFORCEMENT

Enforcement of the provisions of this ordinance shall be the responsibility of the Zoning administrator, or such person(s) as the Zoning Administrator shall, from time to time, direct.

SECTION IX: EQUITABLE REMEDIES.

The County or the Mason City Municipal Airport may, pursuant to Section 329.5 of the Iowa Code, maintain an action in equity to restrain and abate as a nuisance the creation, establishment or maintenance of an airport hazard, in violation of any provision established by this ordinance, on any property, whether within or without the territorial limits of the County.

SECTION X: PROHIBITED ACTS

Except as herein provided, it shall be unlawful for any person to construct or alter any structure, use any land, in violation of the provisions of this ordinance.

SECTION XI: PENALTIES

Each violation of these regulations shall constitute a misdemeanor and the perpetrator thereof, upon conviction, shall be punished by a fine not to exceed \$100 or by imprisonment in the county jail for not more than 30 days, or both. Each day a violation occurs or continues to exist shall constitute a separate offense.

SECTION XII: CONFLICTING REGULATIONS

In the event of any conflict between regulations contained in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, use of structures or land, or any other matter, the more stringent limitation or requirement shall prevail.

SECTION XIII: REPEALER

All ordinances and parts of ordinances of Worth County, Iowa, that are in conflict with any provision of this ordinance are hereby repealed.

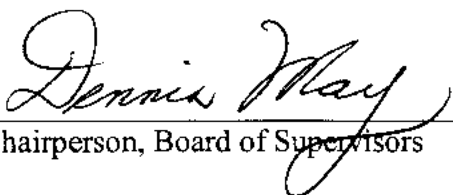
SECTION XIV: SEVERABILITY

If any section, provision, or part of this ordinance shall be adjudged to be invalid, such adjudication shall not affect the validity of this ordinance as a whole, nor any section, provision or part thereof not adjudged invalid.

SECTION XV: EFFECTIVE DATE

This ordinance shall be in effect immediately after its final passage by the Worth County Board of Supervisors, and publication, as required by law.

Passed and approved by the Board of Supervisors of Worth County, Iowa, on June 29, 2009.



Chairperson, Board of Supervisors

ATTEST:



County Auditor

