

LAKEVIEW AIRPORT ZONING ORDINANCE

ORDINANCE NO. 63

AN ORDINANCE ESTABLISHING AIRPORT ZONING REGULATIONS RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH AND OTHERWISE REGULATING THE USE OF STRUCTURES AND OBJECTS OF NATURAL GROWTH AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE LAKEVIEW AIRPORT; PROVIDING FOR THE ALLOWANCE OF VARIANCES FROM SUCH REGULATIONS; DESIGNATING THE ADMINISTRATIVE AGENCY CHARGED WITH THE ADMINISTRATION AND ENFORCEMENT FOR SUCH REGULATIONS; ESTABLISHING AN AIRPORT ZONING BOARD OF APPEALS, PROVIDING FOR ENFORCEMENT; AND IMPOSING PENALTIES FOR VIOLATION OF THIS ORDINANCE.

PURSUANT TO THE AUTHORITY CONFERRED BY THE PROVISIONS OF ACT. NO 23 OF THE PUBLIC ACTS OF THE STATE OF MICHIGAN FOR THE YEAR 1950 (EXTRA SESSION) AND AS AMENDED ACT. NO 158 OF THE PUBLIC ACTS OF THE STATE OF MICHIGAN FOR THE YEAR 1976 FOR THE PURPOSE OF PROMOTING HEALTH, SAFETY AND GENERAL WELFARE OF THE INHABITANTS OF THE COUNTIES OF MONTCALM AND MECOSTA BY PREVENTING THE ESTABLISHING OF AIRPORT HAZARDS AND THEREBY PROTECTING THE GENERAL PUBLIC, USERS OF THE LAKEVIEW AIRPORT AND OCCUPANTS OF LAND IN ITS VICINITY, AND PREVENTING THE DESTRUCTION AND IMPAIRMENT OF THE UTILITY OF SAID AIRPORT AND THE PUBLIC INVESTMENT THEREIN;

THE JOINT LAKEVIEW AIRPORT ZONING BOARD, COMPOSED OF REPRESENTATIVES APPOINTED BY THE COMMISSIONERS OF MONTCALM AND MECOSTA COUNTIES, THE VILLAGE OF LAKEVIEW AND THE STATE AERONAUTICS COMMISSION, 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) AND AS AMENDED ACT NO. 158 OF THE PUBLIC ACTS OF THE STATE OF MICHIGAN FOR THE YEAR 1976 DOES HEREBY ORDAIN THE FOLLOWING TO BE KNOWN AS THE LAKEVIEW AIRPORT ZONING ORDINANCE.

ARTICLE I

Purpose and Limitations

1.01 Title

This ordinance is to be known and may be cited as the "Lakeview" Airport Zoning Ordinance.

## 1.02 Objective

The principle objective of this ordinance is to provide additional safety and protection to the users of the airport and to the people who live and work in its vicinity.

## 1.03 Hazard Area

This ordinance establishes regulations on land within a ten (10) mile radius of the Airport. This ordinance established elevation of the airport at the outer edge and has a minimum height limitation of 25 feet above ground at some locations in the approaches to the runways immediately adjacent to the airport. The height limitations of this ordinance become less severe as the distance from the airport is increased.

## 1.04 Hazards

Structures and trees which project above the height limitations are considered hazards to flying and endanger lives and property. The prescribed height limits are not arbitrarily set, but are based on past experiences and studies made by the Michigan Aeronautics Commission and by the Federal Aviation Administration. Height limits are based upon the established elevation of the airport or upon the elevation of the end of the nearest runway.

#### 1.05 Existing Non-Conforming Objects

This ordinance does not affect existing structures, the height of which exceeded the limits imposed by this ordinance as of the effective date hereof. New construction, and construction increasing the height of existing structures, within ten (10) miles of the airport, must conform to the provisions on height limitations. This ordinance also restricts such use of land within the vicinity of the airport as will unreasonably interfere with radio communications systems and other navigational aids or devices used by the airport and aircraft, or would reduce visibility or would create confusing lights.

#### 1.06 Creation of the Zoning Board

The Joint Lakeview Airport Zoning Board was created by the Board of Commissioners of the counties of Montcalm, Mecosta, the Village of Lakeview and the Michigan Aeronautics Commission for the express purpose of establishing airport zoning regulations. The Joint Board has been charged with the responsibility of administering and enforcing the provisions of this ordinance with the understanding that the Zoning Administrator will seek close cooperation with Counties, Townships and Village Zoning Officials.

#### 1.07 Heights Requiring Permits

To effectively administer this ordinance, the Joint Lakeview Airport Zoning Board established application height which are below the allowable height limits of this ordinance. This was done to make it easier for the local Zoning Boards and the general public to decide whether an application for a permit must be filed with the Zoning Administrator. This was also done to give added insurance to those who are constructing the higher, more costly structures. The establishment of application heights reduces the number of those who must make application.

#### 1.08 Land – Use Types Requiring Permits

To promote the general purpose and objectives of this ordinance and its effective administration, all persons making use of land within the areas shown on sheet 8 of 8 of the Zoning maps are advised to consult section 3.07 of this ordinance as to undesirable land uses within designated Airport Protection Zones.

#### 1.09 Provisions for Variance

This ordinance contains provisions for the variance of the height limits in event of practical difficulty of unnecessary hardship if the relief granted would not be contrary to the public interest and safety. It is the intent of the Zoning Board, with the cooperation of the public, to have this ordinance administered in a reasonable and just manner in keeping with the responsibilities involved.

#### 1.10 Where to Review Copies of this Ordinance

Information regarding height limits and copies of this ordinance are at the offices of the Administrative Agency or the Michigan Aeronautics Commission, Capital City Airport, Lansing, Michigan 48906. A copy

of this ordinance is also on file with the Village Clerk, Montcalm County Clerk – Stanton, Mecosta County Clerk – Big Rapids.

## ARTICLE II Definitions

### 2.01 Words and Phrases

As used in this ordinance, the words, terms and phrases set forth in Sections 2.02 through 2.12 inclusive, shall have the meanings prescribed in such sections unless the context otherwise requires.

### 2.02 Airport

“Airport” means the Lakeview Airport and all appurtenances used or acquired for airport buildings or other airport facilities, and all other appurtenant rights-of-way or other interests either heretofore or hereafter established.

### 2.03 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 of appurtenances thereto within the airport hazard area which interferes with the safe use of the airport by aircraft.

### 2.04 Airport Hazard Area

“Airport Hazard Area” means any area of land or water, or both, lying within a ten (10) mile radius from the established center of the airport.

### 2.05 Airport Protection Zone

“Airport Protection Zone” means an area or zone wherein certain types of land uses are not recommended due to noise, vibrations, fumes, dust, fuel particles and other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at or on the airport.

### 2.06 Board

“Board” means the Board of Appeals as hereinafter created and designated.

### 2.07 Above Mean Seal Level

“Above Mean Sea Level”, when used in this ordinance or on the accompanying maps, denotes elevations above sea level as based upon and determined by reference to United States Coast and Geodetic Survey datum.

### 2.08 Non-Conforming Use

“Non-Conforming Use” means any structure, tree or use of land which does not conform to regulations prescribed in this ordinance or any amendment thereto as of the effective date of such regulations.

#### 2.09 Person

“Person” means any individual, firm, partnership, corporation, company, association, joint stock association, municipal corporation or other body politic, and including any trustee, receiver, assignee or other similar representative thereof.

#### 2.10 Structure

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

#### 2.11 Tree

“Tree” means any object of natural growth.

#### 2.12 Zoning Administrator

“Zoning Administrator” means the Manager of the Airport, who is hereinafter designated and charged with the administration and enforcement of the provisions of this ordinance.

### ARTICLE III

#### Zones

#### 3.01 Airport Hazard Area

There is hereby established an airport hazard area, which area or zone consists of all the lands within Montcalm and Mecosta Counties lying beneath the approach, transitional, 149 feet horizontal, conical and 500 feet horizontal surfaces, said land being located within a circle having a radius extending horizontally ten (10) miles from the established center of the useable landing area of the airport and the boundaries of which surfaces are shown on the Zoning Maps number 1 through 8, which maps are attached hereto and made a part hereof.

#### 3.02 Airport Zoning Maps

There are hereby imposed on the lands within the airport hazard area the height limitations shown on the attached zoning maps, 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 on 2, 4 and 5 of the zoning maps.

#### 3.03 Legal Height Limitations

From and after the effective date of this ordinance, it shall be unlawful for any person to erect any structure 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 provision of this ordinance.

#### 3.04 Unlawful Land Use

Notwithstanding any other provisions of this ordinance, it shall be unlawful to put any lands within the airport hazard area to any use which would:

I. Create electrical interference with radio communication between the airport and aircraft or create interference with navigational aids employed by aircraft;

A. Make it difficult for flyers to distinguish between airport lights and other lights or result in glare in the eyes of flyers using the airport;

B. Create air pollution in such amounts as to impair the visibility of flyers in the use of the airport; or

C. Would otherwise endanger the landing, taking off or maneuvering of aircraft.

#### 3.05 Non-Conforming Existing Uses

The provisions of Section 3.03 of this ordinance shall not apply to structures, trees, or other non-conforming uses as the same may exist in the airport hazard area on the effective date hereof, unless subsequent thereto the Zoning Administrator determines the same to be abandoned, or 80% torn down, destroyed, deteriorated, or decayed.

#### 3.06 Alterations to Non-Conforming Land Use

The provisions of Section 3.03 of this ordinance shall apply to changes or alterations in existing structures, tress or other non-conforming uses after the date hereof, and any increase in the height thereof, with the same force and effect as though the same were new uses.

#### 3.07 Airport Protection Zones

##### (a) Purpose

The purpose of Airport Protection Zones as defined in Section 2.05, is to designate areas wherein certain types of land uses are not recommended due to undesirable effects that may be caused due to the operation of aircraft within such zones.

##### (b) Acceptable Land Use

The use of land within the areas shown on the zoning maps and designated as Airport Protection Zones is not recommended.

Protection Zone No. 1

1. Churches
2. Convent – Monastery – Rectory
3. Dormitory – Resident Halls
4. Hospitals
5. Low Density Housing – One Acre or More
6. Mobile Homes
7. Multi-Family Apartments or Dwelling
8. Orphanages
9. Retirement Homes
10. Schools
11. Single Family House – Subdivision
12. Universities
13. Factories – Scientific Instrument
14. Research Laboratories
15. Factories – Soft Goods – Food
16. Aircraft Sales
17. Aircraft Repair Service
18. Air Terminals – Passenger
19. Aviation Schools
20. Aviation Services – Photo, etc.
21. Auditoriums – Exhibit Halls
22. Banks
23. Bus Terminals – Passenger
24. Hotels & Motels
25. Marine Terminals – Passenger
26. Office Buildings
27. Public Buildings
28. Railroad Terminals – Passenger
29. Restaurants
30. Retail Stores
31. Shopping Centers
32. Theatres
33. Athletic Fields
34. Bowling Alleys
35. Fairgrounds
36. Golf Courses
37. Marinas



38. Outdoor Theatres
39. Playgrounds
40. Race Tracks
41. Riding Academics & Trails
42. Stadiums
43. Swimming Pools – Public
44. Tennis Courts – Public
45. Dairy Farming
46. Landscape Nurseries
47. Poultry Farming
48. Stock Farming
49. Stock Yards

Protection Zone No. 2

1. Churches
2. Convents – Monastery – Rectory
3. Dormitory – Resident Halls
4. Hospitals
5. Low Density Housing – One Acre or More
6. Mobile Homes
7. Multi-Family Apartments or Dwellings
8. Orphanages
9. Retirement Homes
10. Schools
11. Single Family House – Subdivision
12. Universities
13. Factories – Scientific Instrument
14. Research Laboratories
15. Air Terminals – Passenger
16. Auditoriums – Exhibit Halls
17. Banks
18. Bus Terminals - Passenger
19. Hotels & Motels
20. Marine Terminals – Passenger
21. Office Buildings
22. Public Buildings
23. Railroad Terminals – Passenger
24. Restaurants
25. Retail Stores
26. Shopping Centers
27. Theatres

28. Athletic Fields
29. Bowling Alleys
30. Fairgrounds
31. Outdoor Theatres
32. Playgrounds
33. Race Tracks
34. Stadiums
35. Poultry Farms

### Protection Zone No. 3

1. Churches
2. Convent – Monastery – Rectory
3. Dormitory – Resident Halls
4. Hospitals
5. Mobile Homes
6. Orphanages
7. Schools
8. Single Family House – Subdivision
9. Universities
10. Factories – Scientific Instrument
11. Research Laboratories
12. Theatres
13. Outdoor Theatres
14. Poultry Farms

(c) A person or persons who elect to establish any land use within an Airport Protection Zone which is not recommended by this Section shall have no claim or cause of action against the Airport, nor any municipality or governmental agency operating said airport or responsible for the administration of this ordinance. Any person or persons electing to establish

## ARTICLE IV Ordinance Administration

### 4.01 Approach Standards

The approach, transitional, conical and horizontal surfaces are denoted on sheets 2,4 and 5 of the zoning maps and are described in Approach Standards and/or Regulations of the Michigan Aeronautics Commission and/or the Federal Aviation Administration. It is intended that in acting upon applications for permits, the Zoning Administrator will arrive at proper height limitations by interpolating between aerial contours shown on the zoning maps.

#### 4.02 Administrative Agency

The manager of the Lakeview Airport is hereby designated the Zoning Administrator charged with the duty of administering and enforcing the provisions of this ordinance. The duties of the Zoning Administrator shall include those of issuing permits as hereinafter required, but the Administrator shall not have or exercise any of the powers or duties herein delegated to the Board. The Zoning Administrator may adopt such administrative procedures as may be necessary in connection with the administration and enforcement of this ordinance.

#### 4.03 Board of Appeals

There is hereby created a Board of Appeals consisting of five members, each to be appointed for a term of three (3) years and until his successor is appointed and qualified, one of whom shall be designated as Chairman and one whom shall be designated as Vice-Chairman, which appointments shall be made by the Joint Airport Zoning Board and provided that upon such appointments being initially made, one member of said Board shall be appointed for a term of one (1) year, two for terms of two (2) years each, and two for terms of three (3) years each. Said members shall be removable by the Airport Zoning Board for cause shown, upon written charges and after notice and an opportunity to be publically heard. The Board of Appeals shall exercise such powers as hereinafter in this ordinance are conferred upon it.

I. Official Name: The Board of Appeals shall be officially known as the Lakeview Airport Zoning Board of Appeals.

II. Compensation: The Board of Appeals shall receive such compensation and expense reimbursement for attendance at meetings and hearings, and may employ such necessary personnel, as may be provided for by resolution of the Airport Operating Agency.

III. Rules and Procedures: The Board of Appeals shall adopt rules concerning its organization and procedure, appeal forms, and other authorized matters, consistent with the provisions of this ordinance. Such rules shall include, but not be limited to, providing a reasonable period of time from which an appeal may be taken to it from an action of the Administrator. Meetings of the Board shall be held at the call of the Chairman and at such other times as said board may determine, and notice of all meetings shall be given by the Chairman to all members. The Chairman, or in his absence the Vice-Chairman, 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, indicating such fact, and 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.

IV. 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 hereinafter

contained, or to otherwise head and decide appeals from any order, requirement, rule, regulations, decision or determination made by the Administrator under the powers conferred upon it by this ordinance.

V. Who May Appeal: Any person aggrieved, or the governing body of any political subdivision affected by any decision of the Administrator made in the administration of this ordinance, may appeal to the Board of Appeals.

VI. Appeal Procedure: All appeals from actions of the Administrator shall be taken within the time and in the manner provided by the rules of the Board of Appeals, by filing with the Administrator and with the Board a notice of appeal specifying the ground therefore. The Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies reason of the facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or irreparable damage to property. In such 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 same within a reasonable time. Upon hearing, the Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from as it deems advisable to make, and to that end shall have all the powers of the Administrator.

VII. Certificates of Variance: Applications for certificates of variance shall be submitted on such forms as shall be provided for by the rules of the Board of Appeals, and if the application be granted the applicant shall be provided a certificate of variance in such form as shall be prescribed by such rules. Provided, that said certificate shall provide that it not be effective for a period of thirty (30) days following the date of its issuance, and immediately upon issuance a copy thereof shall be filed with the Michigan Aeronautics Commission and a copy with the political subdivision affected by such certificate. In acting upon applications shall be allowed where a literal application of such regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest and approach protection standards, but would do substantial justice and be in accordance with the spirit of the regulations of this ordinance; provided, however, that any such 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. Provided further that nothing in this section shall be construed to permit a use which would conflict with any other general zoning ordinance or regulations applicable to the same area.

#### ARTICLE V Permits

### 5.01 Permit Maps

There are attached hereto as sheets 3, 6 and 7 of the zoning maps, "Permit Maps" showing applicable height limitations within the airport hazard areas according to city blocks or land sections on unplatted areas. Said permit maps are affixed hereto for the information of and should be consulted by all persons proposing to make uses of land within the airport hazard areas, whether the same be new uses or changes in existing uses, and it shall be no defense in action brought hereunder that a person charged with violation of this ordinance, whether the action be criminal or civil in nature, failed to consult said permit maps prior to the action giving rise to such violations.

### 5.02 Administrative Agency

Applications for Zoning Administrator permits shall be made upon forms furnished by said Administrator, and the Administrator shall within 15 days from the filing thereof determine whether the height limitations as designated by the Zoning Maps and this ordinance, would or would not be violated if such application be granted and shall grant or deny said application accordingly (said Administrator not being vested with authority to permit a variance) and advise applicant of the action within three (3) days after the same has been taken. The force and effect of a denial shall be to leave the applicant free to apply to the Board of Appeals for the certificate of variance. Provided, that the 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 said 25 feet above the ground levels existing on the date of this ordinance. Provided that violates any other general zoning ordinance or regulations applicable to the same area.

### 5.03 Permit Procedures

Three procedures are hereinafter provided, to be taken by persons desiring to create new uses, or to change existing uses, after they have consulted the applicable permit map, namely:

#### Procedure One:

If it appears, after consulting such permit map, that the proposed new use, or changed existing use clearly would not violate the terms of this ordinance, then such new use may be created, or existing use changed, without further reference hereto.

#### Procedure Two:

If it appears, after consulting the permit map, that the proposed new use, or changed existing use may possibly violate the terms of this ordinance, then such new use shall not be created, or existing use changed until there has first been obtained from the Zoning Administrator a proper permit in accordance with the provisions of this ordinance hereinafter contained. Inasmuch as the height limitations imposed in the airport hazard area steadily incline from the airport hazard area and therefore a height limitation may be somewhat greater than accorded by said maps, depending

upon the particular parcel of land involved. The purpose of this second procedure is, therefore, to enable the Zoning Administrator to make exact mathematical determinations and enable users of land within the hazard area to avoid violations of this ordinance.

Procedure Three:

If it appears, after consulting the permit maps, that the proposed new use, or change in existing use, clearly will violate the provisions of this ordinance, then no such new or changed use shall be undertaken unless the person proposing to undertake same shall first apply to the Board of Appeals and obtain from said board a certificate of variance in accordance with the further procedures hereinafter provided.

5.04 Exception for Emergency Utility Repairs

No permit shall be required for the emergency repair or replacement of non-conforming public utility structures, other than buildings, when the height of such structures will not be increased by such emergency 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 VI  
Judicial Action

6.01 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 as provided in Section 30 of Act No. 23, of the Public Acts of the State of Michigan for the year 1950 (Extra Session).

6.02 Penalties

Any person who shall violate this ordinance or any regulations, orders or rulings promulgated or 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 \$100.00 and imprisonment for a term not to exceed 90 days, and each day a violation continues to exist after notice shall constitute a separate offense. Such notice may be given by the Zoning Administrator by registered or certified mail addressed to the person maintaining such violation at the last known address.

6.03 Civil Action Available

The Joint Airport Zoning Board may, in addition to any criminal action taken, institute in the Circuit Court, an action to prevent, restrain, correct or abate any violation of this ordinance, or of airport zoning regulations adopted under this ordinance, or of any order 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 facts and circumstances of the case, in order to effectuate fully the purpose of this ordinance and regulations adopted and orders and rulings made pursuant thereto.

ARTICLE VII  
Federal Regulation

7.01 Federal Regulation (FAR Part 77)

This ordinance is not intended to conflict with existing Federal approach protection regulations. The Federal Aviation Administration requires that they be given notice of any construction or alteration:

- I. That would be more than 200 feet above ground level at its site.
- II. That would be above an imaginary surface extending outwards and upward at 100 to 1 slope within 20,000 feet of the nearest point of a runway more than 3200 feet in length.

ARTICLE VIII  
Severability of Provisions

8.01 Severability of Provisions

If any of the provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity 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 this end the provisions of this ordinance are declared to be severable.

ARTICLE IX  
Amendments

9.01 Amendments

This ordinance, and the regulations prescribed herein, may be amended by a majority vote of all members of the Joint Lakeview Airport Zoning Board after a public hearing is held in relation to the proposed amendment.

ARTICLE X  
Effective Date

10.01 Effective Date

This ordinance was adopted on the 23 day of August, 1977, to become effective on the 23 day of August, 1977.

Bud Farrell

Chairman,

Joint

Lakeview

Airport

Zoning

Board

Ray Christiansen

Secretary, Joint

Lakeview

Airport Zoning

Board