

ZONING RESOLUTION TO LIMIT HEIGHT OF OBJECTS AROUND
UNION COUNTY AIRPORT, MARYSVILLE, OHIO

A RESOLUTION REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE UNION COUNTY AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE UNION COUNTY AIRPORT AIRSPACE ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS RESOLUTION; PROVIDING FOR ENFORCEMENT; ESTABLISHING AN AIRPORT ZONING BOARD AND AN AIRPORT ZONING BOARD OF APPEALS; AND IMPOSING PENALTIES.

This Resolution is adopted pursuant to the authority conferred by Chapter 4563, Section 4563.01 through 4563.99 of the Revised Code of the State of Ohio and replaces the previous Airspace Hazard Zoning Regulations adopted on February 27, 1967 and amended on August 1, 1988. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Union County Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Union County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Union County Airport and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Union County Airport;
- (2) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- (3) that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or making and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY RESOLVED BY THE UNION COUNTY COMMISSIONERS THAT:

SECTION I: SHORT TITLE

This Resolution shall be known and may be cited as the Union County Airport Airspace Hazard Zoning Resolution.

SECTION II: DEFINITIONS

As used in this Resolution, unless the context otherwise requires:

1. AIRPORT - Means the Union County Airport.
2. AIRPORT AUTHORITY - Means the Union County Airport Authority or their successors.
3. AIRPORT ELEVATION - 1021.22 feet above mean sea level.
4. AIRPORT ZONING BOARD - Means the Union County Commissioners.
5. AIRPORT ZONING ENGINEER - Means the Union County Engineer.
6. APPROACH SURFACE - A surface longitudinally centered on the existing and proposed extended runway centerlines, extending outward and upward from the ends of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Resolution. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
7. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are set forth in Section III of this Resolution.
8. BOARD OF AIRPORT ZONING APPEALS - A board consisting of 5 members appointed by the Airport Zoning Board as provided in Section 4563.13 of the Ohio Revised Code.
9. CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
10. HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
11. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Resolution and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
12. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
13. LARGER THAN UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
14. NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Resolution or an amendment thereto.

15. NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
16. OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Resolution.
17. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
18. PRIMARY SURFACE - A surface longitudinally centered on the existing and proposed runways. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section III of this Resolution. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
19. PROPOSED FACILITIES - For purposes of these regulations, any reference to proposed runway or proposed surfaces or zones means the proposed facilities as depicted on the Airport Layout Plan in effect the date these regulations were passed.
20. RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.
21. STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
22. TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
23. TREE - Any object of natural growth.
24. UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
25. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

SECTION III: AIRPORT ZONES

In order to carry out the provisions of this Resolution, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Union County Airport. Such zones are shown on the Union County Airport Airspace Hazard Zoning Drawing consisting of one sheet, prepared by R. D. Zande & Associates, Inc., dated November 5, 1993, which is attached to this Resolution and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the proposed primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the proposed primary surface. Its centerline is the continuation of the centerline of the proposed runway.
2. Utility Runway With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
4. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
5. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Resolution, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Resolution to a height in excess of the applicable height herein established for such zone. Unless a permit or variance was granted for a structure to be erected or tree to be planted or to grow to a height in excess of the applicable zone, the structure or tree shall be lowered or removed at the property owner's expense. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the proposed primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the proposed primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1021.22 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface.
4. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 1171.22 feet above mean sea level.
5. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation (1171.22' AMSL) and extending to a height of 350 feet above the airport elevation (1371.22' AMSL).

SECTION V: USE RESTRICTION

Notwithstanding any other provision of this Resolution, no use may be made of land or water within any zone established by this Resolution in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. No highway shall be located within 1,000 feet of the end of a runway or less than 15 feet below the plane of the approach surfaces. No railroad shall be located within 1,000 feet of the end of a runway or less than 25 feet below the plane of the approach surface.

SECTION VI: NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed in this Resolution shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as the effective date of this Resolution, or amendment thereto, or otherwise interfere with the continuance of a nonconforming use, unless the structure or tree is nonconforming under the current Airport Airspace Hazard Zoning Regulations.

Nothing contained herein shall require any change in the construction, alterations, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Resolution, and is diligently prosecuted, unless this construction is in violation of existing Airport Airspace Hazard Zoning.

2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Union County Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Union County Airport Authority.

SECTION VII: PERMITS

1. Future Uses - Except as specifically provided in a through d hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Resolution shall be granted unless a variance has been approved in accordance with Section VII, 4.
 - a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
 - b. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the existing or proposed runways, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
 - c. In areas lying within the limits of the approach zones but at a distance between 1000 feet and 4200 feet (inclusive) from each end of the existing or proposed runways, no permit shall be required for any tree or structure less than fifty feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

- d. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Resolution except as set forth in Section IV, 10. In addition, compliance with this section does not relieve a proponent of growth or erection of structures from the requirement to obtain a permit from the Ohio Department of Transportation, as required under O.R.C. Section 4561.33-4561.39 or the requirement to file a "Notice of Proposed Construction or Alteration (Form 7460-1) with the Federal Aviation Administration.

2. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction 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 Resolution or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming Uses Abandoned or Destroyed - Whenever the Airport Zoning Board determines that a nonconforming tree or structure has been abandoned, voluntarily discontinued for 2 years or more, or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. Variances - Once a permit has been denied by the Airport Zoning Board, any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use the property, not in accordance with the regulations prescribed in this Resolution, may apply to the Board of Airport Zoning Appeals for a variance from such regulations. The application for variance shall be accompanied by a copy of the determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace in response to the filing of the "Notice of Proposed Construction or Alteration". Such variances shall be allowed where it is fully found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Resolution. Additionally, no application for variance to the requirements of this Resolution may be considered by the Board of Airport Zoning Appeals unless a copy of the application has been furnished to the Airport Authority for advice as to the

aeronautical effects of the variance. If the Airport Authority does not respond to the application within 15 days after receipt, the Board of Airport Zoning Appeals may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Resolution and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Airport Zoning Appeals, this condition may be modified to require the owner to permit the Union County Airport Authority, at its own expense, to install, operate, and maintain the necessary markings and lights.

SECTION VIII: ENFORCEMENT

It shall be the duty of the staff of the Union County Engineer, as the administrative agency of the Airport Zoning Board to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the staff of the Union County Engineer upon a form published for that purpose. Applications required by this Resolution to be submitted to the staff of the Union County Engineer shall be promptly considered and granted or denied. Application for action by the Board of Airport Zoning Appeals shall be forthwith transmitted by the staff of the Union County Engineer.

All applications shall be submitted in duplicate accompanied by accurate plans showing the height above ground, the height above mean sea level and the location of the proposed structure as well as such other information as may be necessary to determine and provide for the enforcement of these regulations. Application forms for permits and variances shall be provided by the Airport Zoning Board and its administrative agency.

All applications for permits, variances, and appeals shall be accompanied by a fee as determined by the Airport Zoning Board, to be paid to the administrative agency.

SECTION IX: BOARD OF AIRPORT ZONING APPEALS

1. There is hereby created a Board of Airport Zoning Appeals to have and exercise the following powers: (1) to hear and decide appeals, filed pursuant to Section 4563.18 of the Revised Code, from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning resolution, as provided in Sections 4563.11 and 4561.12 of the Revised Code; (2) to hear and allow, refuse, or allow with modifications or conditions, any variance from the terms of the airport zoning regulations which the Board of Airport Zoning Appeals may be authorized to pass upon pursuant to such regulations; (3) to hear and decide specific variances under Section 4563.16 of the Revised Code.

2. The Board of Airport Zoning Appeals shall consist of five members appointed by the Airport Zoning Board and each shall serve for a term of three years until a successor is duly appointed and qualified. The first members of such Board of Airport Zoning Appeals shall be so designated that two shall serve for one year, two shall serve for two years, and one shall serve for three years. Members shall be removable by the appointing authority for cause, upon written charges after a public hearing.
3. The Board of Airport Zoning Appeals shall adopt rules for its governance and in harmony with the provisions of this Resolution, all in accordance with Section 4563.01 through 4563.99 of the Ohio Revised Code. Meetings of the Board of Airport Zoning Appeals shall be held at the call of the Chairperson and at such other times as the Board of Airport Zoning Appeals may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Airport Zoning Appeals shall be public. The Board of Airport Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Clerk, Union County Commissioners and on due cause shown.
4. The Board of Airport Zoning Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Resolution.
5. The concurring vote of a majority of the members of the Board of Airport Zoning Appeals shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency or decide in favor of the application on any matter upon which it is required to pass under this Resolution, or to effect variation to this Resolution.

SECTION X: APPEALS

1. Any person aggrieved, or any taxpayer affected, by any decision of the administrative agency, made in the administration of the Resolution, may appeal to the Board of Airport Zoning Appeals.
2. All appeals hereunder must be taken within twenty days after an order is filed in the office of the administrative agency, as provided by the rules of the Board of Airport Zoning Appeals, by filing with the Administrative Agency a notice of appeal specifying the grounds thereof. The Administrative Agency shall forthwith transmit to the Board of Airport Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrative Agency certifies to the Board of Airport Zoning Appeals, 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 opinion of the Administrative Agency cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Airport Zoning Appeals or notice to the Administrative Agency and on due cause shown.
4. The Board of Airport Zoning Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
5. The Board of Airport Zoning Appeals may, in conformity with the provisions of this Resolution, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

SECTION XI: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Airport Zoning Appeals, may appeal to the Union County Common Pleas Court.

SECTION XII: PENALTIES

Each violation of this Resolution or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than 100 dollars; and each day a violation continues to exist shall constitute a separate offense.

SECTION XIII: CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Resolution and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees; and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION XIV: SEVERABILITY

If any of the provisions of this Resolution or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this Resolution are declared to be severable.

SECTION XV: EFFECTIVE DATE

This resolution shall be in full force and affect from and after the earliest period allowed by law.

ADOPTED BY THE UNION COUNTY BOARD OF COMMISSIONERS ACTING AS THE UNION COUNTY AIRPORT ZONING BOARD ON THE 4 DAY OF 25, 1994, AFTER PUBLIC HEARING AND RECOMMENDATION BY THE AIRPORT ZONING ENGINEER.

THIS RESOLUTION SHALL BE AN AMENDMENT TO THE AIRPORT ZONING REGULATIONS ADOPTED ON 8-1-88; AND INTENDED TO COMPLY WITH THE REQUIREMENTS OF O.R.C. SECTION 4563.

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