

FILED
BETTY J. WRIGHT
RECORDED
BENTON COUNTY IA 00000607

ORDINANCE NO. 35

1998 JUL 31 P 12: 04

AN ORDINANCE ADOPTED BY THE BOARD OF SUPERVISORS OF BENTON COUNTY TO ADOPT UNDER PROVISIONS OF CHAPTER 329 OF THE CODE OF IOWA TO ADMINISTER AND ENFORCE, IN THE MANNER AND UPON THE CONDITIONS PRESCRIBED BY THAT CHAPTER, UPDATED ZONING REGULATIONS FOR THE PREVENTION OF AIRPORT HAZARDS PERTAINING TO THE EASTERN IOWA AIRPORT RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, BY CREATING AIRPORT APPROACH ZONES, TRANSITION ZONES, HORIZONTAL ZONES AND CONICAL ZONES, AND ESTABLISHING THE BOUNDARIES THEREOF IN ORDER TO PREVENT AIRPORT HAZARDS; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR AIRPORT ZONING BOARDS OF ADJUSTMENT AND AIRPORT ZONING COMMISSIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATION.

BE IT ORDAINED BY THE BENTON COUNTY BOARD OF SUPERVISORS AS FOLLOWS:

Section 1. Any prior ordinance relating to this airport is hereby repealed.

Section 2. That the following shall be adopted as Ordinance #35 of the Benton County, Iowa, Code::

**ORDINANCE #35
AIRPORT ZONING REGULATIONS**

35.01 SHORT TITLE.

These regulations* shall be known and may be cited as "The Eastern Iowa Airport Zoning Regulations."

*Ordinance # 35

35.02 PURPOSE.

These regulations are adopted by the City Council of the City of Cedar Rapids, Iowa, and Board of Supervisors of Benton County, Iowa, for the purpose of exercising to the fullest extent possible the power granted by Chapter 329 of the State Code of Iowa 1997 pertaining to the restriction of airport hazards in the vicinity of airports and creating airport hazard zones.

35.03 DEFINITIONS.

For the purpose of these regulations, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural the singular and the word "shall" is mandatory and not directory.

1. **Airport** - The Eastern Iowa Airport as now exists or as may hereafter be added to or changed, located in Cedar Rapids, Iowa, and Linn County, Iowa, and owned by the City of Cedar Rapids, and under the management and control of The Eastern Iowa Airport Commission by the provisions of Chapter 330 of the Iowa Code. The airport includes the area of land designed and set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes. The word "Airport" as used in these regulations also means and includes The Eastern Iowa Airport as shown in the Cedar Rapids Municipal Airport Master Plan adopted by the Cedar Rapids Airport Commission on November 25, 1996, which is now on file in the office of the Airport Director in the Administration Building at said Airport.
2. **Airport elevation** - The established elevation of the highest point on the usable landing area which is 863.9 feet above mean sea level.
3. **Airport hazard** - Any structure or tree which obstructs the air space required for the flight of aircraft in landing or taking off at the airport as herein defined, or is otherwise hazardous to such landing or taking off of aircraft. It shall also include any use of land within any zone established by these regulations in such a manner as to create electrical interference with radio communication between the Airport and aircraft, or unreasonably interfere with electronic navigation aids, or make it difficult for pilots to distinguish between airport lights and others; or result in glare in the eyes of pilots using the airport, or impair visibility in the vicinity of the Airport while engaged in landing or taking off at the Airport; or any other use within any zone established by these regulations which is otherwise hazardous to such landing or taking off of aircraft at the Airport.
4. **Airport hazard area** - An area of land or water within the territorial limits of The Eastern Iowa Airport Zoning Map, which is made a part of these regulations, upon which an airport hazard might be established if not prevented, as provided by these regulations.
5. **Approach surface** - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 35.06 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
6. **Approach, transitional, horizontal, and conical zones** - These zones are set forth in Section 35.04 of this Ordinance.
7. **Board of Adjustment** - A Board consisting of 5 members appointed as provided in Section 35.10.
8. **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.
9. **Hazard to air navigation** - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
10. **Height** - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
11. **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.
12. **Instrument runway** - A runway equipped or to be equipped with precision or non-precision electronic navigation aid or landing air, or other air navigation facilities, suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.
13. **Landing area** - The general area of the Airport used for the landing, take-off, or taxiing of aircraft, as indicated upon the Airport Zoning Map.
14. **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.
15. **Municipalities** - The City of Cedar Rapids, Iowa, and any city, town, or county within the territorial limits of The Eastern Iowa Airport Zoning Map hereinafter described, within which an airport hazard area might be established.
16. **Nonconforming use** - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
17. **Noninstrument runway** - A runway other than an instrument runway.
18. **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.
19. **Obstruction** - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 35.06 of this Ordinance.
20. **Person** - An individual firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, or other similar representative thereof.

21. **Precision instrument runway** - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
22. **Primary surface** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 35.04 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
23. **Runway** - A defined area on an airport prepared for landing and takeoff of aircraft along its length.
24. **Structure** - An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, and the poles or other structures supporting the same.
25. **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 precision 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.
26. **Tree** - Any object of natural growth.
27. **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.
28. **Visual runway** - A runway intended solely for the operation of aircraft using visual approach procedures.

35.04 AIRPORT ZONES.

In order to carry out the provisions of this Ordinance, 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 Eastern Iowa Airport. Such zones are shown on the Airport Zoning Map dated December 30, 1997, and prepared by the Howard R. Green Company. An area located in more than one (1) 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. **Runway Larger Than Utility Visual 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 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. **Runway Larger Than Utility 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 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. **Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4. **Precision Instrument Runway Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. **Transitional Zones** - The transitional zones are the areas beneath the transitional surfaces.
6. **Horizontal Zone** - The horizontal zone is established by swinging arcs of 10,000 feet radii 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.

7. **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.

35.05 AIRPORT ZONING MAP.

There is hereby adopted and enacted an airport zoning district map dated December 30, 1997, signed by the Mayor, Chairman of the Board of Supervisors and attested by the County Auditor, which map is on file in the office of the County Auditor, and is hereby incorporated into and made a part of these regulations and that the boundaries of the various zoning districts are herewith enacted and established as shown on said map subject to the provisions hereafter set out relating to subsequent boundary changes and amendments. Said map is designed and intended as a method and means of setting forth the boundaries of the various airport zoning districts as the same are now shown on said map. All modifications, references, markings and other information shown thereon are hereby enacted and established as a part of the official district map for The Eastern Iowa Airport and are made a part of these regulations.

As relates to Ordinance # 35, said district map shall not be set out in the County Code and shall remain on file in the office of the County Auditor after adoption and publication and shall constitute a part of Ordinance # 35 of the County Code the same as if set out herein.

35.06 AIRPORT ZONE HEIGHT LIMITATIONS.

Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this Ordinance to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

1. **Runway Larger Than Utility Visual Approach Zone** - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. **Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone** - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
3. **Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone** - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
4. **Precision Instrument Runway Approach Zone** - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
5. **Transitional Zones** - Slopes 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 863 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 at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
6. **Horizontal Zone** - Established at 150 feet above the airport elevation or at a height of 1,013.9 feet above mean sea level.
7. **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 and extending to a height of 350 feet above the airport elevation.
8. **Excepted Height Limitations** - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

35.07 USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance 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.

35.08 NONCONFORMING USES.

1. **Regulations not Retroactive.** The regulations prescribed herein shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulation as of the effective date of these regulations, or otherwise interfere with the continuance of any nonconforming use. However, no pre-existing nonconforming structure, tree, or use shall be replaced, rebuilt, altered, allowed to grow higher, or be replanted so as to constitute a greater airport hazard than it was when these regulations were adopted. 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 these regulations and resolution is completed within one year thereafter.
2. **Marking and Lighting.** Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and light as shall be necessary to indicate to the operator of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of The Eastern Iowa Airport Commission.

35.09 AIRPORT ZONING COMMISSION

An Airport Zoning Commission shall be provided as follows:

The Zoning Commission shall consist of 5 members, 2 of whom shall be appointed by the Benton County Board of Supervisors and 2 of whom shall be selected by the City Council of Cedar Rapids, and one additional member to act as Chairman who shall be selected by a majority vote of the members appointed by the Board of Supervisors of Benton County and the City of Cedar Rapids. The terms of such members shall be as provided by Section 329.9 of the Iowa Code of 1997. Such Airport Zoning Commission shall follow the procedures as provided in Sections 414.4 and 414.6 of the Iowa Code, as required by Section 329.9 of the Iowa Code of 1997.

35.10 BOARD OF ADJUSTMENT

A Board of Adjustment is hereby appointed as follows:

The Board shall consist of 5 members, 2 of whom shall be appointed by the Benton County Board of Supervisors and 2 of whom shall be appointed by the City Council of Cedar Rapids, and one additional member to act as Chairman who shall be selected by a majority vote of the members appointed by the Board of Supervisors of Benton County and the City of Cedar Rapids. The terms of such members shall be as provided in Section 329.12 of the Iowa Code of 1997. Each such Board shall have the powers and duties, and shall follow the procedures, provided by Sections 329.11 and 329.12 of the Iowa Code of 1997.

35.11 VARIANCES.

Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in a manner which would constitute a violation of these regulations, may apply to the Board of Adjustment having jurisdiction of the area where such violation would occur for a variance from these regulations. Such variances shall be allowed where a literal application or enforcement of these regulations would result in practical difficulty or unnecessary hardship, and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of these regulations and of Chapter 329 of the Iowa Code; provided, however, that any such variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of Chapter 329 of the Iowa Code, including but not limited to the following:

1. The reservation of the right of the City of Cedar Rapids, and The Eastern Iowa Airport Commission, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

2. To require the person requesting the variance at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

Any appeal from the decision of the Board of Adjustment shall be in accordance with the provisions of Section 414.15 et seq. of the Iowa Code.

35.12 FINDING CONCERNING PUBLIC INTEREST.

The City Council of Cedar Rapids and Board of Supervisors of Benton County specifically find that an airport hazard, as herein defined, within its territorial limits would endanger the lives and property of users of The Eastern Iowa Airport and all occupants of land, and other persons in the vicinity, and would also tend to destroy or impair the utility of the airport and the public investment therein; accordingly each municipality does hereby declare:

1. That the creation or establishment of an airport hazard, as herein defined, within its territorial limits is a public nuisance and an injury to the community served by The Eastern Iowa Airport.
2. That it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards, as herein defined, be prevented.
3. That this should be accomplished to the extent legally possible by proper exercise of the police power.
4. That each municipality expressly declares that it shall not become liable for the expenditure of its public funds unless such expenditure shall be approved in advance by its governing body.

35.13 ADMINISTRATION AND ENFORCEMENT.

The administration and enforcement of these zoning regulations shall be performed by The Eastern Iowa Airport Commission acting through the Airport Director, or through such other persons or representatives as The Eastern Iowa Airport Commission may from time to time by resolution direct, but as provided by Section 329.13 of the Iowa Code such duties of enforcement and administration may not be delegated to any person who is a member of any Board of Adjustment.

35.14 EQUITABLE REMEDIES.

The City of Cedar Rapids and The Eastern Iowa Airport Commission may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards pertaining to The Eastern Iowa Airport in violation of these regulations for any area, whether within or without the territorial limits of the City of Cedar Rapids, as authorized by Section 329.5 of the Iowa Code.

35.15 CONFLICTING REGULATIONS.

In the event of any conflict between these Airport Zoning Regulations 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 requirements shall govern and prevail.

35.16 PROHIBITED ACTS.

It shall be unlawful for any person to do any of the acts hereinafter stated unless a variance from the provisions of these regulations shall have been previously allowed by the Board of Adjustment.

1. No person shall erect or increase the height of any structure, or permit the growth of any tree, to a height in excess of that provided by Section 35.06 of these regulations for the zone or area where such act occurs.
2. No person shall hereafter place or cause to be placed, above ground, transmission lines or poles or other structures supporting the same within 200 feet of the outer boundary of the airport as said boundary is shown on the Airport Zoning Map.
3. No person shall otherwise use his property within a zone established by these regulations in such a manner as to create an airport hazard as defined herein.

The doing of any of the foregoing acts shall constitute a misdemeanor and the perpetrator thereof, upon conviction, shall be punished as hereafter provided.

35.17 PENALTIES.

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

Section 3. SEVERABILITY.

It is the intention of the Board of Supervisors that each section, paragraph, sentence, clause, and provision of this ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance, nor any part thereof than that affected by such decision.

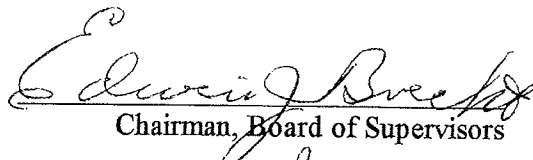
Section 4. That the afore described Chapter shall be included as part of the pages of the County Code, Benton County, Iowa, and made a part of said Code as provided by law.

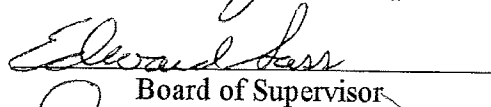
Section 5. EFFECTIVE DATE

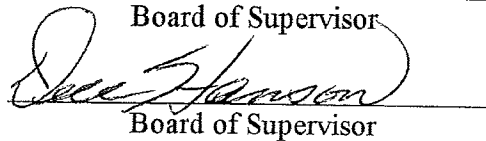
This ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

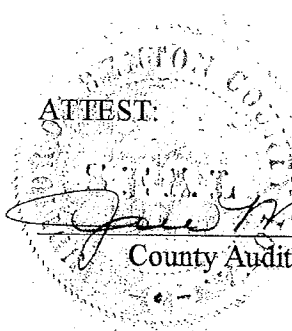
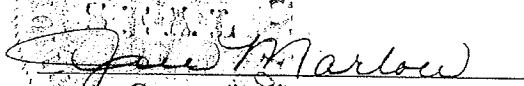
Introduced this 10th day of July, 1998.

Passed this 10th day of July, 1998.


Chairman, Board of Supervisors

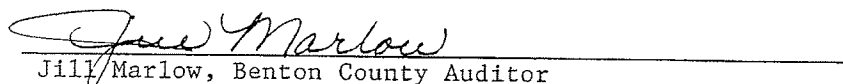

Board of Supervisor


Board of Supervisor

ATTEST:


County Auditor

Published Summary of Ordinance #35	June 24, 1998
First Consideration of Ordinance #35	July 10, 1998
Waived Further Considerations of Ordinance #35	July 10, 1998
Adopted Ordinance #35	July 10, 1998
Published Ordinance #35	July 22, 1998

I, Jill Marlow, do hereby certify the above to be a true and correct copy of Ordinance #35 and the dates of consideration and publication are correct.


Jill Marlow, Benton County Auditor