

DUPLIN COUNTY AIRPORT
HEIGHT RESTRICTION ORDINANCE

PREPARED BY:

THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY PLANNING DEPARTMENT

EFFECTIVE June 30, 2003

ENACTMENT

This is an ordinance establishing height regulations for structures and vegetation within the vicinity of the Duplin County Airport and providing for the administration, enforcement and amendment thereof;

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the height of obstructions within the vicinity of the Duplin County Airport, and;

WHEREAS, the Duplin County Planning Board in conjunction with the Duplin County Airport Commission has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and;

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I - AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121, pursuant to the authority conferred under Chapter 63 of the North Carolina General Statutes, Article 4.

ARTICLE II - JURISDICTION

SECTION 20

This ordinance shall be applicable to the area designated within Duplin County in the vicinity of the Duplin County Airport as shown on a map entitled Duplin County Airport Height Restriction Ordinance Map dated May 2003 as maintained by the Duplin County Airport Commission and herein made a part of this ordinance.

ARTICLE III - TITLE

SECTION 30

This ordinance shall be known as and referred to as the Duplin County Airport Height Restriction Ordinance of Duplin County, North Carolina.

ARTICLE IV – INTERPRETATIONS

SECTION 40

Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 41

Word Interpretations

For the purposes of this Ordinance, the following words shall be interpreted as specified below:

- (1) The word “may” is permissive,
- (2) The words “shall” and “will” are mandatory.
- (3) The word “County” shall mean the County of Duplin, North Carolina.
- (4) The words “Airport Commission” shall refer to the Duplin County Airport Commission.
- (5) The words “Planning Board” shall refer to the Duplin County Planning Board.
- (6) The words “County Commissioners” shall refer to the Duplin County Board of Commissioners,
- (7) The word “person” shall include firm, organization, association, company, trust, corporation or other entity.
- (8) The words “used” or “occupied” includes intended, designed and arranged.

SECTION 42

Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Airport means the Duplin County Airport (KDPL).
- (2) Airport Elevation means the highest point of an airport’s usable landing area measured in feet (tenths) from mean sea level.
- (3) Airport obstruction means any structure or tree which obstructs the aerial approaches of the airport exceeding the maximum height of structures permitted in the airport operation area or is otherwise hazardous to its use for landing or taking off.
- (4) Height means the vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon expressed as feet above mean sea level (MSL).
- (5) Airport operation area refers to “ZONES ESTABLISHED” as noted below.
- (6) Nonconforming structure means any structure or tree which does not conform to this Ordinance as of the effective date of these regulations.

- (7) Structure means any object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
- (8) Tree means any object of natural growth.
- (9) Height limitations means no structure or tree shall be erected, altered, allowed to grow or maintained in any airport surface zone, with a height in excess of the height established for such zone. 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
- (10) Enforcement Officer - This ordinance shall be enforced by the Duplin County Planning Department.
- (11) Runway End – means existing physical end of the hard-surfaced asphalt runway, having a defined coordinate and elevation as noted on the Duplin County Airport Height Restriction Ordinance Map.
- (12) Non-Precision Instrument Runway - means a runway end having instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
- (13) Precision Instrument Runway - means a runway end having instrument approach procedure utilizing air navigation facilities with horizontal and vertical guidance, or area type navigation equipment, for which a straight-in precision instrument approach procedure has been approved or planned.

Zones Established

In order to carry out this ordinance, certain zones are hereby created and established, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surface, and conical surface as they apply to the Duplin County Airport. Such zones are shown in plan and profile view on the Duplin County Airport Height Restriction Ordinance Map consisting of one (1) sheet, prepared by Talbert & Bright, Inc., dated May 2003. Such applicable height limitations are hereby established for each of the zones as follows:

- (1) Approach Surface Zone – means an inclined plane symmetrically centered along the extended runway centerline, longitudinally extending outward and upward from the end of the primary surface. The perimeter of the approach surface coincides with the perimeter of the approach zone, extending at a slope as shown on the Duplin County Airport Height Restriction Ordinance Map.

Runway End - Inner Width / Approach Length / Outer Width (Slope)

Runway 5 approach surface zone: 1,000' x 10,000' x 3,500'
(0'-10,000' @ 34:1)

Runway 23 approach surface zone: 1,000' x 50,000' x 16,000'
(0'-10,000' @ 50:1)
(10,001' to 50,000' @ 40:1)

- (2) Horizontal Surface Zone – means a plane, circular in shape, with its height one hundred fifty (150) feet above the established airport elevation and having a radius from the end of the primary surface for each runway end. The perimeter of the horizontal surface coincides with the perimeter of the horizontal zone as indicated on the Duplin County Airport Height Restriction Ordinance Map.

Runway 5-23 horizontal radius: 10,000'

- (3) Conical Surface Zone – means a surface radially extending outward and upward from the periphery of the horizontal surface zone at a slope of twenty to one (20:1) for a horizontal distance of 4,000 feet. The periphery of the conical surface zone is shown on the Duplin County Airport Height Restriction Ordinance Map.
- (4) Transitional Surface Zones – means inclined planes with a slope of seven to one (7:1) measured upward and outward in a vertical plane at right angles to the centerline of the runway and approach surfaces. The transitional surface zones, located on either side of the runway and symmetrically parallel to and level with the runway center line, extend upward and outward from the primary surface and approach surface elevation to a point intersecting the horizontal or conical surface. The transitional surface zones for each runway are shown on the Duplin County Airport Height Restriction Ordinance Map.

ARTICLE V – NONCONFORMITIES

SECTION 50

Nonconforming Uses – Regulations Not Retroactive

This regulation 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 of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this ordinance.

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installations operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Duplin County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Duplin County Airport. Reference FAA Advisory Circular 70-7460-1 for further guidance.

SECTION 51

Existing Structures

Except as specifically provided in this section, it not permissible for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. Physical alteration of structures or the placement of new structures on open land is unlawful if they result in, an increase in the total amount of space devoted to a nonconforming use, or greater nonconformity with respect to height limitation.

Whenever the Duplin County Building Inspector determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down (or damaged more than 80 percent of the current County tax value), 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.

ARTICLE VI - PERMIT REQUIREMENTS

SECTION 60

Permits Required – Existing Uses

Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted within the inner-portion of the airport approach surface zone (up to 50' above ground level) and transitional surface zone extending laterally from the runway primary surface (area noted on Duplin County Airport Height Restriction Ordinance Map), a permit shall be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement change or repair of an existing use, structure or tree shall be granted.

Permits Required – Future Uses

No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted or otherwise established in the any inner-portion of the airport approach surface zone (up to 50' above ground level) and transitional surface zone extending laterally from the runway primary surface (reference area noted on area noted on Duplin County Airport Height Restriction Ordinance Map) unless a permit therefore shall have been applied for and granted. /Each such application 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 prescribed in this article.

No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with SECTION 74.

- 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 50 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 the approach, transitional, horizontal and conical surface zones.
- b. 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 50 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.

The Duplin County Building Inspector shall not issue a building permit for the construction of any new obstruction within the airspace zones established in SECTION 42, and as depicted on the Duplin County Airport Height Restriction Ordinance Map unless approved by the Duplin County Airport Commission and the Enforcement officer.

SECTION 61

Permit Application

A permit application, as required per SECTION 42, must be completed and submitted for each obstruction. The following information shall accompany the application:

- (1) Map drawn to scale showing or including the following information: Name, address and telephone number of applicant and property owner. Exact location (referenced coordinates) and height (ground elevation and above ground height certified by a Professional Land

Surveyor) of existing and proposed buildings and structures,
highway, right-of-way, intersection and other land uses

- (2) Nonrefundable application fee of \$50.00
- (3) Any additional information which may be necessary to determine compliance with this Ordinance.

SECTION 62

Review by Airport Commission

No permit for construction replacement or altering an existing structure regulated by this ordinance shall be issued by the enforcement officer unless approved by the Duplin County Airport Commission or its designee.

SECTION 63

Violations

Permits shall be valid until revoked. The enforcement officer may periodically inspect the obstruction to determine continued compliance with this ordinance. If the obstruction is in violation, the enforcement officer shall advise the owner in writing of the violations and of action necessary to bring the obstruction into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit.

SECTION 64

Revocation of Permit

Valid permits may be revoked by the enforcement officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application.
- (2) Failure to construct obstruction in accordance with application and permit,
- (3) Any other violation of this ordinance.

In the event the permit is revoked, the enforcement officer shall advise the obstruction owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. Maintaining an obstruction in violation of this ordinance is a misdemeanor subject to enforcement action as provided by state law. When the enforcement officer determines that the obstruction has been brought back into compliance with this ordinance, he shall reinstate the permit.

ARTICLE VII - LEGAL PROVISIONS

- SECTION 70 Enforcement
The ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123.
- SECTION 71 Complaints
Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.
- SECTION 72 Separability
Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.
- SECTION 73 Amendment
Petitions for amendment may be filed with the Planning Department by any citizen of the County, any county department or agency, the County Planning Board or Board of Commissioners.
- SECTION 73.1 Commissioners Review
The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth:
(1) Planning Board Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.
(2) Airport Commission Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Airport Commission.
(3) Commissioners Review - No amendment shall become effective until after being adopted by the County Commissioners.
- SECTION 74 Variance and Exception
Upon recommendations of the Airport Commission, the Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of

the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance, the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or buildings.
- (2) The literal interpretations of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other- lands or- buildings.

SECTION 75

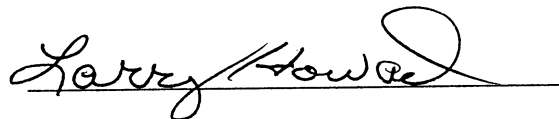
Appeal

The County Planning Board shall hear and decide appeals and review any orders, requirements, decisions or determinations made by the enforcement officer responsible for administration or enforcement of this ordinance. The Planning Board's decision is subject to review by the Duplin County Board of Commissioners.

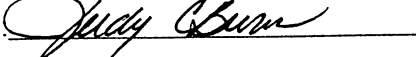
SECTION 76

Effective Date

This ordinance shall become effective and be in full force from and after the 30th day of June, 2003. Adopted by the Duplin County Board of County Commissioners this the 2nd day of June, 2003.



Chairman, Duplin County
Board of Commissioners

ATTEST 

Clerk

