

CLERMONT COUNTY AIRPORT ZONING REGULATIONS

Regulations restating and amending the restrictions previously adopted on February 5, 1968 regarding the height of structures and objects of natural growth and other regulations concerning the use of property in the vicinity of the Clermont County Airport; by amending 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 Revised Clermont County Airport Zoning Map which is incorporated in and made a part of these Regulations; providing for enforcement and imposing penalties; and confirming the establishment of the Clermont County Airport Zoning Board of Appeals.

Adopted By the Board of Commissioners of Clermont County
acting as the
Clermont County Airport
Zoning Board

March 25, 1998

Clermont County Airport Zoning Regulations

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PREAMBLE

These restated and amended Regulations are adopted pursuant to the authority conferred by Sections 4563.01 through 4563.99 of the Revised Code of the State of Ohio. It is hereby found that an Obstruction has the potential for endangering the lives and property of users of the Clermont County Airport, and property or occupants of land in its vicinity; that an Obstruction may affect existing and future instrument approach minimums of the Clermont County Airport; and that an Obstruction may reduce the size of areas available for landing, taking off and maneuvering aircraft, thus tending to destroy or impair the utility of Clermont County Airport and the public investment therein.

Accordingly, it is declared:

- (1) that regulations governing the creation, establishment and maintenance of obstructions that could be a hazard to air navigation in the vicinity of Clermont County Airport were duly adopted on February 5, 1968;
- (2) that the creation or establishment of an Obstruction has the potential of being a public nuisance and may injure the region served by Clermont County Airport;
- (3) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of Obstructions that could be a hazard to air navigation be prevented;
- (4) that the prevention of these Obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation;
- (5) that it is timely and appropriate to restate and amend the regulations previously adopted; and
- (6) that the restrictions contained in the Airport Zoning Regulations adopted on February 5, 1968 are incorporated into the Regulations adopted hereby, and no action is intended or taken hereby to lessen the restrictions then adopted with the exception that if any structure or tree which would have been prohibited by the previous regulations does not penetrate any zone established by these Regulations such structure or tree shall not be prohibited.

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, the marking and lighting of Obstructions are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

Clermont County Airport Zoning Regulations

1 DEFINITIONS

The terms used in these Clermont County Airport Zoning Regulations shall have the meanings as set forth below:

- 1.1 Airport - The Clermont County Airport located about 1.7 miles West of downtown Batavia on what is known as Taylor Road.
- 1.2 Airport Elevation - The highest point of an airport's usable landing area measured in feet from sea level. The airport elevation for these Regulations is established as 845 feet above mean sea level.
- 1.3 Airport Manager - The Person who has contracted with the Clermont County Board of Commissioners to manage the Airport.
- 1.4 Approach Surfaces - Surfaces longitudinally centered on the extended Runway centerline, extending outward and upward from the ends of the Primary Surface. The centerline of the Approach Surfaces is the extended centerline of the Runway.
- 1.5 Approach, Transitional, Horizontal, and Conical Zones - These Zones are described in Section 2 of these Regulations.
- 1.6 Clermont County Airport Zoning Board - The Clermont County Airport Zoning Board shall consist of the members of the Board of Commissioners of Clermont County.
- 1.7 Clermont County Airport Zoning Board of Appeals - A Board consisting of five (5) members appointed by the Clermont County Airport Zoning Board as provided in Section 4563.13 of the Revised Code, and as described in Section 8 of these Regulations.
- 1.8 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.
- 1.09 Height - For the purpose of determining the height limits in all Zones set forth in these Regulations and shown on the Revised Clermont County Airport Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.
- 1.10 Horizontal Surface - A horizontal plane 150 feet above the Airport Elevation, the perimeter of which is established by swinging arcs of 10,000 feet radius from the center of each end of the Primary Surface and connecting the adjacent arcs by drawing lines tangent to those arcs.
- 1.11 Nonconforming Use - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of these Regulations or an amendment thereto.

- 1.12 Obstruction - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 3 of these Regulations.
- 1.13 Person - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- 1.14 Primary Surface - A surface longitudinally centered on an end of the Runway. The Primary Surface extends 200 feet beyond each end of the Runway. The width of the primary surface is 500 feet. The elevation of any point on the Primary Surface is the same as the elevation of the nearest point on the runway centerline.
- 1.15 Regulations - These Regulations as originally adopted on February 5, 1968 and hereby as amended and restated herein.
- 1.16 Revised Code - The Revised Code of the State of Ohio as from time to time duly adopted by the Ohio General Assembly.
- 1.17 Runway - A defined area on Clermont County Airport prepared for landing and takeoff of aircraft along its length. The Runway has existing instrument approach procedures utilizing air navigation facilities, or area type navigation equipment, for which non-precision instrument approach procedures have been approved or planned.
- 1.18 Structure - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, smokestacks, earth formations, and overhead transmission lines.
- 1.19 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.
- 1.20 Tree - Any object of natural growth.

2 AIRPORT ZONES

In order to carry out the provisions of these Regulations, there are hereby created, established and defined certain zones which include all of the land lying beneath the Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and Conical Surface as they apply to the Airport. Such zones are known as the Approach Zones, Transitional Zones, Horizontal Zone, and Conical Zone and are shown on the Clermont County Airport Zoning map consisting of 1 sheet prepared by the office of the Clermont County Engineer, and dated March, 1998, which is attached to these Regulations and made a part hereof. An area located in more than one (1) of the zones is considered to be only in the zone with the more restrictive height limitation.

3 AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in these Regulations, no Structure shall be erected, altered, or maintained, and no Tree shall be allowed to grow in any zone created by these Regulations to a height in excess of the applicable height limit herein established for such zone. An area located in more than one (1) of the zones is considered to be only in the zone with the more restrictive height limitation. Such applicable height limitations are hereby established for each of the zones in question as follows:

3.1 Approach Zones - Approach Zones are hereby established as follows:

3.1.1 Northeast Approach Zone - The height limitation is a slope thirty-four (34) feet outward for each foot upward beginning at the northeast end of and at the same elevation as the northeast end of the Primary Surface and extending to a horizontal distance of 10,000 feet along the extended Runway centerline.

3.1.2 Southwest Approach Zone - The height limitation is a slope twenty (20) feet for each foot upward beginning at the southwest end of and at the same elevation as the southwest end of the Primary Surface and extending to a horizontal distance of 5,000 feet along the extended Runway centerline.

3.2 Transitional Zones - The height limitations are 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 Surfaces, extending to a height of 150 feet above the Airport Elevation of 845 feet above mean sea level, and extending to where they intersect the Horizontal Surface.

- 3.3 Horizontal Zone - The height limitation is established at 150 feet above the Airport Elevation or at a height of 995 feet above mean sea level.
- 3.4 Conical Zone - The height limitation is a slope 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.
- 3.5 Excepted Height Limitations - Nothing in these Regulations shall be construed as prohibiting the construction or maintenance of any Structure, or growth of any Tree within the height limitations as identified on the Clermont County Airport Zoning Map.

4 USE RESTRICTIONS

Notwithstanding any other provisions of these Regulations, no use may be made of land or water within any zone established by these Regulations 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 or in any other manner constitute an airport hazard to anyone intending to use the Airport.

5 NONCONFORMING USES

- 5.1 Regulations not Retroactive - These Regulations shall not apply to existing structures or objects of natural growth so as to be construed to require the removal, lowering, or other change or alteration of any structure or Tree. However, no nonconforming structure shall be made higher nor shall any nonconforming object of natural growth be allowed to become higher or become a greater hazard than it is at the time these regulations are adopted. If any nonconforming use is voluntarily discontinued for two years or more, any future use of the premises shall be in conformity with the provisions of these regulations. Any nonconforming structure or Tree which is hereafter damaged by any means to an extent exceeding fifty (50) per cent of its then reproduction value may not be restored or reconstructed to a height greater than permitted under the provisions of these regulations. Trees and Structures not conforming to the Regulations as of February 5, 1968 to the extent such Structure or Tree was nonconforming as of such date, or the effective date of these Regulations as restated and amended shall be permitted to continue as a legal nonconforming use. Trees and structures not conforming to the regulations after February 5, 1968 shall be considered to be in violation of these Regulations. Nothing contained herein 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 applicable effective date of these Regulations, and is diligently prosecuted.
- 5.2 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 Clermont County Chief Building Official to indicate to the operators of aircraft in the vicinity of the Airport the presence of such Airport Obstruction or hazard to air navigation.

6 PERMITS

6.1 Future Uses - Except as specifically provided in 6.1.1, 6.1.2 and 6.1.3 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 established unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient detail to determine 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 these Regulations shall be granted unless a variance has been approved in accordance with Section 6.4.

6.1.1 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.

6.1.2 In areas lying within the limits of the Approach Zones, but a horizontal distance of not less than 4,200 feet from each end of the Runway, 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.

6.1.3 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 these Regulations except as set forth in Section 3.5.

6.2 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 these Regulations or any amendments thereto or than it is when the application for a permit is made.

6.3 Nonconforming Uses Abandoned or Destroyed- Whenever the Clermont County Building Inspector determines that a nonconforming Tree or Structure has been abandoned 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 these Regulations.

6.4 Variances - Any person desiring to erect or increase the height of any Structure, or permit the increase in height of any Tree, or use property, not in accordance with these airport zoning Regulations, adopted under Sections 4563.01 to 4563.21 of the inclusive of the Revised Code may apply to the Clermont County Airport Zoning Board of Appeals for a variance from the these Regulations in question. Such variances shall be allowed where it is duly found that a literal application or enforcement of these Regulations will result in unnecessary hardship and the relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and would not be in conflict with factors set down for consideration in Sections 4563.07 and 4563.08 of the Revised Code. A copy of the application for variance shall be furnished to the Airport Manager for advice as to aeronautical effect at least ten days prior to the date of hearing.

6.5 Obstruction Marking and Lighting - Any permit or variance granted may, 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 deemed necessary.

7 ENFORCEMENT

7.1 The Board of Commissioners of Clermont County hereby delegates to the Clermont County Building Official the duty to administer and enforce these Regulations. Applications for permits and variances shall be made to the Clermont County Building Official in such a manner as may be prescribed by the Clermont County Building Official. Applications required by these Regulations to be submitted to the Clermont County Building Official shall be promptly considered and granted or denied. Application for action by the Clermont County Airport Zoning Board of Appeals shall be forthwith transmitted by the Clermont County Building Official.

7.2 The Clermont County Airport Zoning Board shall consist of the members of the Clermont County Board of County Commissioners.

8 CLERMONT COUNTY AIRPORT ZONING BOARD OF APPEALS

8.1 There is hereby created pursuant to Section 4563.13 of the Revised Code a Clermont County Airport Zoning Board of Appeals (hereinafter called Board of Appeals) to have and exercise the following powers: (1) to hear and decide appeals filed pursuant to Sections 4563.11 and 4563.12 of the Revised Code from any order, requirement, decision, or determination made by the Clermont County Building Official in the enforcement of these Regulations; (2) to hear, allow, refuse, or allow with modification or conditions, any variance from the terms of the airport zoning regulations and (3) to hear and decide specific variances under Section 4563 of the Revised Code.

8.2 The Clermont County Airport Zoning Board of Appeals shall consist of five (5) members appointed by the Clermont County Airport Zoning Board. The members of the Board of Appeals shall each be appointed for a term of three (3) years except that the first members of such Board of Appeals shall consist of two (2) members appointed to serve for a term of one (1) year, two members to serve for a term of two (2) years, and one member for a term of three (3) years or until a successor is duly appointed and qualified. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

8.3 The Clermont County Airport Zoning Board of Appeals shall apply or adopt appropriate rules for its governance in harmony with the provisions of these Regulations. Meetings of the Clermont County Airport Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Clermont County Airport Zoning Board of 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 Clermont County Airport Zoning Board of Appeals shall be public. The Clermont County Airport Zoning Board of 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 Board of Commissioners of

Clermont County and on due cause shown.8.4 The Clermont County Airport Zoning Board of 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 these Regulations.

9 APPEALS

9.1 Any person aggrieved, or any taxpayer affected, by any decision of the Clermont County Building Official made in the administration of these Regulations, may appeal to the Clermont County Airport Zoning Board of Appeals.

9.2 All appeals hereunder must be taken within a reasonable time as provided by the rules of the Clermont County Airport Zoning Board of Appeals, by filing with the Clermont County Airport Zoning Board of Appeals a notice of appeal specifying the grounds thereof. The Clermont County Building Official shall forthwith transmit to the Clermont County Airport Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

9.3 An appeal shall stay all proceedings in furtherance of the action appealed from unless the Clermont County Building Official certifies to the Clermont County Airport Zoning Board of 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 Clermont County Building Inspector cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Clermont County Airport Zoning Board of Appeals on notice to the Clermont County Building Inspector and on due cause shown.

9.4 The Clermont County Airport Zoning Board of 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.

9.5 The Clermont County Airport Zoning Board of Appeals may, with a concurring vote of a majority of its members in conformity with the provisions of these Regulations, 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.

10 JUDICIAL REVIEW

Any person aggrieved, or any taxpayer or any legislative authority or any airport zoning board affected, by any decision of the Clermont County Airport Zoning Board of Appeals, may appeal within thirty (30) days to the Court of Common Pleas of the county in which the affected real estate lies, as provided for by Section 4563.19 of the Revised Code.

11 PENALTIES

Each violation of these Regulations or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than one thousand (\$1,000.00) dollars or imprisonment for not more than thirty (30) days or both; and each day a violation, continues to exist shall constitute a separate offense.

12 Changes to Regulations

The Board of County Commissioners, by a majority vote of its members, may from time to time, on its own motion or on the written application of any affected taxpayer or political subdivision located within the area affected by these regulations, amend, change, or supplement these regulations. But no such amendment or change shall be made except after public hearing at which parties in interest and citizens shall have an opportunity to be heard and after proper notice has been published all as provided in Section 4563.06 of the Revised Code.

13 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in these Regulations 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 best calculated to ensure safety shall govern and prevail.

14 SEVERABILITY

If any of the provisions of these Regulations or the application thereof to any Person or circumstances are decided by the Courts to be unconstitutional or are held invalid, such invalidity shall not affect the validity of other provisions or applications of these Regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these Regulations are declared to be severable.

15 EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of these Regulations is necessary for the preservation of the public health, public safety, and general welfare, an EMERGENCY is hereby declared to exist, and these Regulations shall be in full force and effect from and after the earliest period allowed by law following publication, posting, and its passage thereof by the Clermont County Board of Commissioners acting as the Clermont County Airport Zoning Board.

Adopted by the Clermont County Board of Commissioners acting as the Clermont County Airport Zoning Board this 25 day of March , 1998.

Attest:

Board of County Commissioners
Clermont County, Ohio

_____ Judith Kocica, Clerk _____ Date

Approved as to Form:

Thomas Blust
Assistant Prosecuting Attorney
Clermont County, Ohio

Date
