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AIRPORT SAFETY ZONING ORDINANCE
OF
WYTHE COUNTY

ARTICLE I - Title, Authority, and Jurisdiction

1.1 Title. This ordinance shall be known and cited as Wythe County Airport Safety Zoning Ordinance.

1.2 Authority. This ordinance is adopted pursuant to the authority conferred by Title 15.1-427 through 15.1-503 of the Code of Virginia 1950, as amended.

1.3 Jurisdiction. The provisions of this ordinance shall apply to all areas affected as herein defined by this ordinance, and outlined on the attached map.

ARTICLE II - Purpose

2.1 The purpose of this ordinance is to prevent any obstruction that has the potential to endanger lives and property of the users of the airports and residents in Wythe County.

ARTICLE III - Rules

3.1 In the construction of the ordinance, the rules contained in this section shall apply, except where the context clearly indicates otherwise:

3.1-1 Words in the present tense shall include the future, and words in the singular shall also include the plural;

3.1-2 The word "shall" is mandatory, and not discretionary;

3.1-3 The word "may" is permissive;

3.1-4 The word "approve" shall be considered to be followed by the words "or disapproved";

3.1-5 The masculine gender includes both the feminine and neuter;

3.1-6 Any reference to this ordinance includes all ordinances amending and supplementing the same.
ARTICLE IV - Definitions

4.1 For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

Administrator. The official designated by the governing body to serve as its agent to administer the ordinance.

Airport. Mountain Empire Airport.

4.4 Airport elevation. The highest point on any usable landing surface expressed in feet above sea level.

4.5 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 zone set forth in Article 7 of this ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal, and conical zones.

4.7 Conical surface. A surface extending horizontally twenty feet for every one foot vertically from the perimeter of the horizontal surface.

4.8 Hazard to air navigation. An obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of navigable airspace in the Commonwealth.

Height. For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the attached zoning map, the datum shall be mean sea level (M. S. L.) elevation unless otherwise specified.

4.10 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.

4.11 Nonconforming use. Any preexisting structure or object of natural growth which is inconsistent with the provisions of this ordinance or any amendment to this ordinance.

4.12 Obstruction. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, or penetrates any surface or zone floor, set forth in Article 7 of this ordinance.
4.13 Permit. A document issued by Wythe County allowing a person to begin an activity which may result in any structures or vegetation exceeding the height limitations provided for in this ordinance.

4.14 Person. Any individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. The term includes a trustee, a receiver, an assignee, or a similar representative or any of them.

4.15 Primary surface. A surface, with a specified width as provided in Article 6 of this ordinance, longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

4.16 Runway. A specified area on an airport prepared for landing and takeoff of aircraft.

4.17 Structure. Any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, poles, and electric lines or overhead transmission routes, flag poles, and ship masts.

4.18 Transitional surfaces. Surfaces which extend outward perpendicular to the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

4.19 Vegetation. Any object of natural growth.

4.20 Zone. All areas provided for in Article 6 of this ordinance, generally described in three dimensions by reference to ground elevation, vertical distances from the ground elevation, horizontal distances from the runway centerline and the primary and horizontal surfaces, with the zone floor set a specific vertical limits by the surfaces found in Article 7 of this ordinance.

ARTICLE V - INTERPRETATION

5.1 The provisions of this ordinance shall be interpreted to regulate the height of structures and objects or natural growth, and otherwise incidentally regulate the use of the property in the vicinity of the airport in Wythe County by creating the appropriate zones and establishing the boundaries thereof; 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 the airports and the public investment therein. Accordingly it is declared:

5.1-1 That is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of obstructions that are hazards to air navigation be prevented;

5.1-2 That the creation or establishment of an obstruction has the potential for being a public nuisance and may injure the area served by the airports;

5.1-3 That Wythe County derives economic development and enhanced interstate commerce from Mountain Empire Airport that are held strictly to the highest possible safety standards; and

5.1-4 That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

ARTICLE VI - Airport Safety Zones

In order to carry out the provisions of this ordinance, there are hereby established certain zones which include all of the area and airspace of Wythe County lying equal to and above the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Mountain Empire Airport. These zones are established as overlay zones, superimposed over any existing base zones, being more specifically zones or airspace that do not affect the uses and activities of the base zones except as provided for in Article 8 of this ordinance. An area located in more than one of the following zones is considered to be only in the zone with the most restrictive height limitation. These zones are as follows:

Airport zone. A zone that is centered about the runway and primary surface, with the floor set by the horizontal surface.

Approach zone. A zone that extends away from the runway ends along the extended runway centerline, with the floor set by the approach surfaces.

Transitional zone. A zone that fans away perpendicular to the runway centerline and approach surfaces, with the floor set by the transitional surfaces.

Conical zone. A zone that circles around the periphery of and outward from the horizontal surface, with the floor set by the conical surface.
The source of the specific geometric standards for these zone are to be found in Part 77.25, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations. A copy of these standards is found in Appendix A of this ordinance.

ARTICLE VII - Airport Safety Zone Height Limitations

Except as otherwise provided in this ordinance, in any zone created by this ordinance no structure shall be erected, altered, or maintained, and no vegetation shall be allowed to grow to a height so as to penetrate and referenced surface, known as the floor, of any zone provided for in Article 6 of this ordinance at any point.

The height restrictions, or floors, for the individual zones shall be those planes delineated as surfaces in Part 77.25, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations. A copy of these standards is found in Appendix A of this ordinance.

ARTICLE VIII - Use Restrictions

Notwithstanding any other provision of this ordinance, and within the area below the horizontal limits of any zone established by this ordinance, no use may be made of land or water in such a manner as to:

8.1-1 Create electrical interference with navigational signals or radio communication between the airport and airborne aircraft;

8.1-2 Diminish the ability of pilots to distinguish between airport lights and other lights;

8.1-3 Result in glare in the eyes of pilots using the airport;

8.1-4 Impair visibility in the vicinity of the airport;

8.1-5 Create the potential for bird strike hazards; or

8.1-6 Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

ARTICLE IX - Nonconforming Uses

9.1 Except as provided in Section 9.2 of this ordinance, the regulations prescribed by this ordinance shall not require the removal, lowering, or other change or alteration of any or vegetation 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 in this ordinance 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 this ordinance, and is diligently prosecuted.

9.2 Notwithstanding the provisions in Section 9.1, the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator to indicate to operators of aircraft the presence of that airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the airport owners, and not the owner of the nonconforming structure in question.

ARTICLE X - Permits

10.1 Except as provided in Sections 1, 2, and 3 of this Article, no structure shall be erected or otherwise established in any zone created by this ordinance unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which desired with and sufficient geometric specificity to determine whether the resulting structure would conform to the regulations prescribed in this ordinance. No permit for a structure inconsistent with this ordinance shall be granted unless a variance has been approved as provided in Section 10.4.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto other than with relief as provided for in Section 10.4.

Whenever the administrator determines that a nonconforming structure has been abandoned or more than fifty percent destroyed, physically deteriorated, or decayed, no permit shall be granted that would enable such structure to be rebuilt, reconstructed, or otherwise refurbished so as to exceed the applicable height limit or otherwise deviate from the zoning regulations contained in this ordinance, except with the relief as provided for in Section 7.4.

Any person desiring to erect or increase the height or size of any structure not in accordance with the regulations prescribed in this ordinance may apply for a variance from such regulations to the Wythe County
Planning Commission. Such application shall be properly advertised and reviewed and considered through a public hearing. Planning Commission shall recommend to the Board of Supervisors either the granting or denial of the variance. Prior to being considered by the Wythe County Planning Commission, the application for variance shall be accompanied by a determination from the Virginia Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall only be allowed where it is duly 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 ordinance. Additionally, no application for a variance to the requirements of this ordinance may be considered by the Wythe County Planning Commission, until a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within forty-five days after receipt, the Wythe County Board of Supervisors may act independent of the airport owner's position to grant or deny the variance.

10.5 Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator. If deemed proper with reasonable cause by the Wythe County Board of Supervisors, this condition may be modified to require the owner of the structure in question to permit the airport owner, at his own expense, to install, operate, and maintain the necessary markings and lights.

ARTICLE XI - Enforcement

11.1 The administrator shall administer and enforce the regulations prescribed in this ordinance. He or she shall be vested with the police power incident to carry out and effectuate this ordinance, including the action of injunction, prosecution and other available means through the Wythe County Board of Supervisors. Applications for permits and variances shall be made to the administrator on a form published for that purpose.
ARTICLE XII — Appeals

12.1 Any person aggrieved, or any officer, department, board, or bureau of Wythe County affected by a decision of the administrator may appeal such decision to the Wythe County Board of Supervisors.

ARTICLE XIII — Judicial Review

13.1 Any person aggrieved or any taxpayer adversely affected by any decision of the Wythe County Board of Supervisors may appeal to the Circuit Court of Wythe County.

ARTICLE XIV — Penalties

14.1 Each violation of this ordinance or of any regulation, order, or ruling promulgated under this ordinance shall constitute a misdemeanor and be punishable by a fine of no more than five hundred dollars. Each day on which a violation occurs shall constitute a separate offense.

ARTICLE XV — Conflicting Regulations

15.1 Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same subject, where the conflict is with respect to the height of structures or vegetation, and the use of land, or any other matter, the more stringent limitation or requirement shall govern.

ARTICLE XVI — Legal Status Provisions

16.1 Should any portion or provision of this ordinance be held by any court of competent jurisdiction to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole, or any part of the ordinance other than the part held to be unconstitutional or invalid.

Certified copies of this ordinance and all amendments thereto shall be filed in the offices of the Planning Commission, the County Administrator, and the Clerk of the Circuit Court of Wythe County, Virginia.

All ordinances or portions thereof in conflict with this ordinance are hereby repealed to the extent of their conflict.

16.4 Effective Date. This ordinance was duly considered following the required public hearing held on February 4, 1991, and was adopted by the Board of Supervisors of Wythe County Virginia, on February 4, 1991, the members voting:
This ordinance shall become effective on and after 12:01 a.m., on February 5, 1991.

I certify that this is a true and correct copy taken from the February 4, 1991, minutes of the Wythe County Board of Supervisors.

Billy R. Branson, Clerk