

ZONING RESOLUTION TO LIMIT HEIGHT OF OBJECTS AROUND CLEVELAND MUNICIPAL AIRPORT

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 CLEVELAND MUNICIPAL 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 CLEVELAND MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS RESOLUTION; PROVIDING FOR ENFORCEMENT; AND IMPOSING PENALTIES.

This Resolution is adopted pursuant to the authority conferred by Title 42 Chapter 6 of Statutes of the State of Tennessee. It is hereby found that an obstruction has the potential for endangering the lives and property of users of Cleveland Municipal Airport, and property or occupants of land in its vicinity; that obstruction may affect existing and future instrument approach minimums of Cleveland Municipal 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 Cleveland Municipal 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 Cleveland Municipal 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 marking 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 ORDAINED BY THE BRADLEY COUNTY COMMISSION AS FOLLOWS:

SECTION 1: SHORT TITLE

This Resolution shall be known and may be cited as Cleveland Municipal Airport Zoning Resolution.

SECTION II: DEFINITIONS

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

- 1. AIRPORT – Means Cleveland Municipal Airport, generally located in the vicinity of Dry Valley Road and Michigan Avenue Road in Bradley County, TN.**
- 2. AIRPORT ELEVATION - 860 feet above mean sea level.**
- 3. 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 IV of the Resolution. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.**

4. **APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES** – These zones are set forth in Section III of this Resolution.
5. **BOARD OF ZONING APPEALS** – The Board consisting of 5 members appointed by the Bradley County Mayor and confirmed by the Bradley County Commission as provided in Title 13 Chapter 7 of the Laws of the State of Tennessee.
6. **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.
7. **HAZARD TO AIR NAVIGATION** - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. **HEIGHT** - For the purpose of determining the height limits in all zones set forth in the Resolution and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. **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.
10. **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.
11. **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.
12. **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.
13. **OBSTRUCTION** - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Resolution.
14. **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.
15. **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.
16. **PRIMARY SURFACE** – A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of the runway, extending from a width of 250 feet uniformly from each side of the centerline of the runway. The width of the runway is further described 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.
17. **RUNWAY** – A defined area on an airport prepared for landing and take-off of aircraft along its length.
18. **STRUCTURE** – An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestack, earth formation, and overhead transmission lines.

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. 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.
20. **TREE** – Any object of natural growth.
21. **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.
22. **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 Cleveland Municipal Airport. Such zones are shown on Cleveland Municipal Airport Zoning Map consisting of one sheet, prepared by the Airport Authority, dated September 2006, which is attached 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 regulations prescribed herein shall apply only to those portions of zones located outside the corporate limits of the city of Cleveland, while the remaining portions are subject to corresponding regulations of the city of Cleveland. The various zones are hereby established and defined as follows:

1. **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.
2. **Transitional Zones** – The transitional zones are the areas beneath the transitional surfaces.
3. **Horizontal Zone** – The horizontal zone is established by swinging arcs of 10,000 feet 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.
4. **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 airport approach surface zone, transitional surface zone, or horizontal surface zone to a height in excess of the applicable height herein established for such zone. Additionally, no structure shall be erected or altered within the conical surface zone to a height in excess of the height limit herein established for zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **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.

2. **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 860 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. 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 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.
3. **Horizontal Zone** – Established at a height of 150 feet above the airport elevation or at a height of 1010 feet above mean sea level.
4. **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.
5. **Excepted Height Limitations** – Nothing in this Resolution shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

SECTION V: USE RESTRICTION

Notwithstanding any other provisions of the 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 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.

SECTION VI: NONCONFORMING USES

1. **Regulations Not Retroactive** – The regulations prescribed in the 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 otherwise interfere with the continuance of a nonconforming use. 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 effective date of this Resolution, and is diligently prosecuted.
2. **Marking and Lighting** – Notwithstanding the preceding provision of the 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 Airport Manager 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 Cleveland Municipal Airport Authority.

SECTION VII: PERMITS

1. **Future Uses** – In addition to any prerequisites for obtaining any permit already established by Bradley County, all permits will additionally be reviewed for conformity with the requirements of this Resolution. Furthermore, any request for a permit meeting the provisions of a, b, and c hereunder shall furthermore be granted upon request subject to any other requirements of the County.

- a. In the area lying within the limits of the horizontal zone and conical zone, 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 limit prescribed for such zones, shall be permitted.
- 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 runway, 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, shall be permitted.
- c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, 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, shall be permitted.

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 the Resolution except as set forth in Section IV, 5. Additionally, no permit for any use inconsistent with the provisions of this resolution shall be granted unless a variance has been approved in accordance with Section VII, 4.

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 Bradley 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 to be reconstructed or replaced to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. **Variances** – Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Resolution, may apply to the Board of Zoning Appeals for a variance from such regulations. The application for variance shall be accompanied by a 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. Such variances shall 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 the Resolution. Additionally, no application for variance to the requirements of this Resolution may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the Board of 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 to permit the 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 Bradley County Planning & Building Inspection Office to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Bradley County Planning Office upon a form published for that purpose. Applications required by this Resolution to be submitted to the County shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the County Planner.

SECTION IX: BOARD OF ZONING APPEALS

In addition to the duties conferred upon the Bradley County Board of Zoning Appeals in Article VIII of the Bradley County Zoning Resolution, the Board of Zoning Appeals shall also have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Building Inspector or their agent in the enforcement of this Resolution; (2) to hear and decide special exceptions to the terms of this Resolution upon which such Board of Zoning Appeals under such regulations may be required to pass; and (3) to hear and decide specific variances.

SECTION X: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Zoning Appeals, may appeal to either the Circuit Court or Chancery Court as provided in Tennessee Code Annotated, Title 27 Chapter 9.

SECTION XI: PENALTIES

Each violation of this Resolution or of any regulation, order, or ruling promulgated hereunder shall be punishable in accordance with the guidelines established in Article VII of the Bradley County Zoning Resolution.

SECTION XII: 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 XIII: 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 application of the Resolution which can be given effect without the invalid provision or application, and to this end, the provisions of the Resolution are declared to be severable.

SECTION XIV: EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public health, public safety, and general welfare, therefore this Resolution shall be in full force and effect from and after its passage by the Bradley County Commission and publication and posting as required by law. Adopted by the Bradley County Commission this 17th day of August, 2009.

