

AIRPORT ZONING REGULATIONS

for

DEAN MEMORIAL AIRPORT

In pursuance of the authority conferred by Chapter 51 of the Revised Laws and for the purpose of promoting the health, safety and general welfare of the inhabitants of Haverhill, by preventing the creation or establishment of airport hazards, thereby protecting the lives and property of users of the Dean Memorial Airport and of occupants of land in its vicinity and preventing destruction or impairment of the utility of the Airport and the public investment therein;

THE FOLLOWING ORDINANCE IS HEREBY ENACTED BY THE VOTERS OF THE TOWN OF HAVERHILL, as follows:

Section 1. Short Title. This ordinance shall be known and may be cited as the "Airport Zoning Ordinance of the Town of Haverhill".

Section 2. Definitions. As used in this ordinance, unless the context otherwise requires:

(1) "Airport" means the Dean Memorial Airport.

(2) "Approach Zone" means an area having dimensions of 500 feet in width at the end of the landing strip and 2500 feet in width at a distance of two miles. The centerline of this area shall coincide with the center line of the landing strip extended.

(3) "Airport Hazard" means any structure or tree which obstructs the aerial approaches of a publicly owned airport.

(4) "Non-conforming use" means any structure, tree, or use of land which does not conform to a regulation prescribed in this ordinance or an amendment thereto, as of the effective date of such regulations.

(5) "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(6) "Structure" means any object constructed or installed by man, including such objects although regulated or licensed by other provisions of law.

(7) "Tree" means any object of natural growth.

Section 3. Zones. In order to carry out the purposes of this ordinance, all of the land within the boundaries of the approach zones and all of the land within a distance of two miles of the boundaries of the landing area shown on the Dean Memorial Airport Approach Plan dated March 1, 1947, which is attached hereto and made a part hereof, is hereby declared subject to the restrictions of this ordinance.

Section 4. Height Limits. No structure or tree shall be erected, altered or allowed to grow within the areas described in Section 3 hereof, above a slope ratio of 20 feet to one foot measured from the end of the landing strip served by an approach zone or above a slope ratio of seven feet to one foot measured from the side of the landing strips and the approaches, or within a distance of two miles from the boundaries of the landing area above a height of 150 feet above the nearest point of the landing area, except the Board of Appeals shall have the power to grant a variance of this regulation where literal application or enforcement of the same would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this regulation.

Section 5. Use Restrictions. Notwithstanding any other provisions of this ordinance, no use may be made of the land described in Section 3 hereof in such manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the Airport, impair visibility in the vicinity of the Airport, or otherwise endanger the landing, taking-off, or maneuvering of aircraft.

Section 6. Non-conforming Uses. The regulations prescribed in Sections 4 and 5 of this ordinance 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 hereof, or otherwise interfere with the continuance of any non-conforming use. 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 this ordinance, and is diligently prosecuted and completed within two years thereof.

Section 7. Variances. Any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this ordinance, may apply for a variance therefrom. Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this ordinance.

Section 8. Permits.

(1) Future uses. No material change in violation of Section 4 or 5 hereof shall be made in the use of land, and no structure or tree shall be erected, altered, planted, or otherwise established, in violation of Section 4 or 5 hereof in any of the areas of land described in Section 3 hereof unless a permit therefor 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 herein prescribed. If such determination is in the affirmative, the permit applied for shall be granted.

(2) Existing Uses. Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, within any of the areas of land described in Section 3 hereof, a permit must be secured authorizing such replacement, change or repair if it is in violation of Section 4 or 5 hereof. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this ordinance 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 existing use, structure, or tree shall be granted.

Section 9. Hazard Marking and Lighting. Any permit or variance granted under Section 7 or 8 may, if such action is deemed advisable to effectuate the purposes of this ordinance and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Airport Commission at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

Section 10. Appeals.

(1) Any person aggrieved, or taxpayer affected, by any decision of the Airport Commission made in its administration of this ordinance, or the voters of Haverhill, if of the opinion that a decision of the Airport Commission is an improper application of this ordinance, may appeal to the Board of Appeals for which provision is made in Section 12.

(2) All appeals taken under this Section must be taken within a reasonable time, as provided by the rules of the Board, by filing with the Commission and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Commission shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the appellant certifies to the Board after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of the Board on notice to the appellant and on due cause shown.

(4) The Board shall fix a reasonable time for the hearing of the appeal, 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.

(5) The Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made.

- (6) The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, or affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this ordinance.

(7) The concurring vote of a majority of the members of the Board shall be sufficient to reverse any order, requirement, decision, or determination of the Commission, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to affect any variation in this ordinance.

Section 11. Administrative Agency. The Airport Commission is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations herein prescribed. The duties of the Commission shall include that of hearing and deciding all permits under Section 8, but the Commission shall not have or exercise any of the powers or duties herein delegated to the Board of Appeals.

Section 12. Board of Appeals.

(1) There is hereby created a Board of Appeals, to have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the Commission in the enforcement of this ordinance;

(b) To hear and decide special exceptions to the terms of this ordinance upon which such Board may be required to pass under such ordinances.

(c) To hear and decide specific variances under Section 8.

(2) The Board of Appeals shall consist of 5 members, each to be appointed for a term of 3 years and to be removable for cause by the Town of Haverhill upon written charges and after public hearing. In the first instance, one member shall be appointed for a term of 3 years, 2 for the term of 2 years, and 2 for a term of one year. Thereafter each member appointed shall serve for a term of 3 years or until his successor is duly appointed and qualified.

(3) The Board shall adopt rules for its governance and procedure in harmony with the provisions of this ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating each 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 and shall be a public record.

Section 13. Judicial Review. Any person aggrieved, or taxpayer affected, by any decision of the Board of Appeals, or the vote of the Town, may appeal to the superior court as provided in Section 64 of Chapter 51 of the Revised Laws.

Section 14. Penalties. Each violation of this ordinance or of any regulation, order or ruling promulgated hereunder shall be punishable by a fine of not more than \$25.00 or imprisonment for not more than 60 days, or both such fine and imprisonment, and each day a violation continues shall be a separate offense.

Section 15. Conflicting Regulations. Where this ordinance imposes a greater or more stringent restriction upon the use of land than is imposed or required by any other ordinance or regulation, the provisions of this ordinance shall govern.

Section 16. Severability. If any of the provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 17. Effective Date. This ordinance shall take effect May 1, 1947.