

ORDINANCE NO. 2000-06

A ZONING ORDINANCE PROVIDING FOR THE PROTECTION OF THE AIRSPACE SURROUNDING THE SHARP COUNTY REGIONAL AIRPORT, ESTABLISHING PENALTIES FOR THE VIOLATION THEREOF AND FOR OTHER PURPOSES.

SECTION I: Definitions.

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

Airport means Sharp County Regional Airport.

Airport elevation means seven hundred sixteen (716) feet above mean sea level.

Approach surface means 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 3 of this article. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal and conical zones are those zones set forth in Section 2 of this article.

Planning and Zoning Commission is a board consisting of seven (7) members appointed by the City Council as provided in Arkansas Code Annotated, section 14-56-404.

Conical surface means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand (4,000) feet.

Hazard to air navigation means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Heights: For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface means a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Runway larger than utility means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight, and jet powered aircraft.

Nonconforming use means any pre-existing structure, object of natural growth or use of land which is inconsistent with the provisions of this article.

Obstruction means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 3 of this article.

Person means 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.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS).

Primary surface means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface is set forth in Section 2 of this article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

Transitional surfaces means surfaces which extend outward at ninety-degree angles to the runway center line and the runway center line is extended at a slope of seven (7) feet horizontally for each foot vertically from the side 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 five thousand (5,000) feet measured horizontally from the edge of the approach surface and at ninety-degree angles to the extended runway center line.

Tree means any object of natural growth.

Utility runway means a runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures.

SECTION 2: Airport zones.

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land laying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Sharp County Regional Airport. Such surfaces are shown on the Sharp County Regional Airport Zoning Map consisting of one sheet, prepared by Miller-Newell Engineers, Inc., dated June 1, 2000 which is attached to this article 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 various zones are hereby established and defined as follows:

(a) *Utility runway, visual approach zone:* The inner edge of this approach zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(b) *Runway larger than utility, visual approach zone:* The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of one thousand five hundred (1,500) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(c) *Precision instrument runway approach zone:* The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(d) *Transitional zones:* The transitional zones are the areas beneath the transitional surfaces.

(e) *Horizontal zone:* The horizontal zone is established by swinging arcs of five thousand (5,000) feet radii for all runways designated utility or visual and ten thousand (10,000) feet for all others 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 zone.

(f) *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 four thousand (4,000) feet.

SECTION 3: Airport zone height limitations.

Except as otherwise provided in this article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this article to a height in excess of the applicable height herein established for such zone. Such applicable

height limitations are hereby established as being the applicable approach, transitional, horizontal, or conical surface above the particular zone. Such applicable surfaces, or height limitations, as depicted on the Sharp County Regional Airport Zoning Map, are hereby established for each of the zones in question as follows:

(a) *Utility runway, visual approach zone:* Height limitations slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extended to a horizontal distance of five thousand (5,000) feet along the extended runway center line.

(b) *Runway larger than utility, visual approach zone:* Height limitation slopes twenty (20) 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 five thousand (5,000) feet along the extended runway center line.

(c) *Precision instrument runway approach zone:* Height limitation slopes fifty (50) 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 ten thousand (10,000) feet along the extended runway center line; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of forty thousand (40,000) feet along the extended runway center line.

(d) *Transitional zones:* Height limitation slopes seven (7) feet outward for each foot upward beginning at the side of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation which is seven hundred sixteen (716) 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 side of and the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety-degree angles to the extended runway center line.

(e) *Horizontal zone:* Height limitation established at one hundred fifty (150) feet above the airport elevation or a height of eight hundred sixty six (866) feet above mean sea level.

(f) *Conical zone:* Height limitation slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.

SECTION 4: Use restriction.

Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article 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 intending to use the airport.

SECTION 5: Nonconforming uses.

(a) *Regulations not retroactive.* The regulations prescribed in this article 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 article 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 article, and is diligently prosecuted.

(b) *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 Sharp County Regional Airport Commission 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 Sharp County Regional Airport.

SECTION 6: Permits.

(a) *Future uses.* Except as specifically provided in (1), (2) and (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 created unless a permit 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 shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with subsection (d) below.

(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 (75) 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.

(2) In areas lying within the limits of the approach zones but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(3) In the areas lying within the limits of the transition beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of the 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 this Ordinance except as set forth in subsection (d) below.

(b) 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 article 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.

(c) Nonconforming uses abandoned or destroyed. Whenever the Cherokee Village Planning and Zoning Commission determines that a nonconforming tree or structure has been abandoned or more than eighty (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 the zoning regulations.

(d) 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 article, may apply to the Cherokee Village Planning and Zoning Commission 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 this article. Additionally, no application for variance to the requirements of this article may be considered by the Commission unless a copy of the application has been furnished to the Sharp County Regional Airport Commission for advice as to the aeronautical effects of the variance. If the Sharp County Regional Airport Commission does not respond to the application within thirty (30) days after receipt, the Commission may act on its own to grant or deny said application.

(e) Obstruction marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and is reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in questions to install, operate, and maintain, at the owner's expense, such marking and lights as may be necessary.

SECTION 7: Enforcement.

It shall be the duty of the City Planning and Zoning Commission to administer and enforce the regulations prescribed herein. Applications for permits and variances required by this article shall be filed with the City Planning and Zoning department on forms published for these purposes. (Ord. No. 99-2)

SECTION 8: Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the Planning and Zoning Commission may appeal to the Circuit Court of Sharp County, Arkansas, as provided in A.C.A. section 14-363-208.

SECTION 9: Penalties.

(a) Any person who shall violate any provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined a sum not to exceed one hundred dollars (\$100.00).

(b) Each day a violation continues is a separate offense.

SECTION 10: Severability.

If any of the provisions of this article or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application.

PASSED AND APPROVED BY THE CHEROKEE VILLAGE CITY COUNCIL.

DATED: June 19, 2000

APPROVED:

Maurice A. Lewis

