

CHAPTER 2

AIRPORT

ARTICLE I – DEVELOPMENT GUIDELINES

2-1-1 AIRPORT FACILITY, LAND PURCHASE. The City has been presented with a deed conveyance to lands immediate adjacent to the southern City limits, and described as follows:

A part of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Twenty-Two (22), Township Five (5) South, Range Six (6) East of the Third Principal Meridian in Hamilton County, Illinois, lying West of the right of way of the Louisville and Nashville Railroad Company;

EXCEPT the north **five hundred fifty (550) feet** thereof.

The purchase of land described hereinabove was made without the incurrence of any indebtedness on the part of the City, and the said land was and is to be presented to the City by purchase made through funds received from public donations by the Lions Club of the City.

2-1-2 OPERATION OF AIRPORT FACILITY. The City desires to own, maintain, manage and operate, within the scope of the Statutes of the State of Illinois (**See 65 ILCS 5/11-103-1**) applicable thereto, a noncommercial public use airport facility, upon said lands.

2-1-3 STANDARDS FOR PUBLIC USE AND MAINTENANCE. The City shall hereafter and upon the development of said noncommercial public use airport facility maintain, manage and operate the said airport facility and shall provide for the necessary engineering work and engineering services that may be deemed necessary for the public maintenance and use of said airport facility in accordance with the standards of the State of Illinois and/or the standards of the United States Government, whichever shall be applicable.

2-1-4 ADOPTION OF RULES AND REGULATIONS. The City Council shall, upon the completion and formation of said airport facility, adopt such reasonable rules and regulations as shall not be in conflict with the laws of the State of Illinois, the laws or regulations of the United States of America, the regulations of the Illinois Commerce Commission or the rules, regulations, orders or decisions of the Department of Aeronautics of the State of Illinois with regard to air traffic and airport or landing field conduct, the management and control of the airport or landing field and the air navigation facility or property therein or thereon.

2-1-5 DETERMINE MANNER OF OPERATION. The City shall hereafter, upon the formation of said airport facility, determine the advisability of maintaining and operating said airport facility in its own behalf or leasing all or any part of the said facility landing field and other structures thereon and collecting rentals therefor; or to fix, charge or collect rentals, fees and charges to be paid, for the use of the whole or any part of the facility, landing field or building; or to make contracts for the operation and management of said facility, landing field or air navigation facility through its own employees or otherwise, as provided by law.

2-1-6 TAX LEVY. The City shall henceforth provide for a tax levy and collect all direct annual taxes for the maintenance and operation of said airport facility as may be required.

(Ord. No. 327; 01-07-53)

ARTICLE II - GENERAL REGULATIONS

2-2-1 **SHORT TITLE.** This Article shall be known and may be cited as the McLeansboro Municipal Flight Strip Zoning Code.

2-2-2 **DEFINITIONS.** As used in this Article, unless the context otherwise requires:

"Airport". The McLeansboro Municipal Flight Strip.

"Airport Elevation". The highest point on the usable landing area established at **four hundred twelve (412) feet** above mean sea level.

"Airport Hazard". Any structure or growth or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

"Airport Hazard Area". Any area of land or water, or both, upon which an airport hazard might be established if not prevented as provided in this Article, including any such area which has been declared to be an "airport hazard area" by the Department of Aeronautics of the State of Illinois in connection with any airport approach plan adopted by said Department.

"Authority". The City of McLeansboro, Illinois.

"Growth". Any object of natural growth.

"Landing Area". That area of the airport that is used for landing, take-off or taxiing of aircraft.

"Landing Strip". That portion of the usable area within the airport boundary which, either in its natural state or as a result of construction work, is suitable for the landing and take-off of aircraft under favorable weather conditions, said landing strip having a width of **two hundred (200) feet, one-half (1/2)** of which shall be parallel to and on either side of the center line.

"Map". The McLeansboro Municipal Flight Strip Approach and Zoning Plan, consisting of **one (1) sheet**, which is on file in the office of the City Clerk, approved on **March 9, 1954** by the Mayor and City Clerk, and approved on **March 9, 1954** by the Director and Chief Engineer, Department of Aeronautics, State of Illinois, as the same may be amended and supplemented, said Map being incorporated herein and made a part hereof by reference.

"Nonconforming Use". Any structure or growth or use of land which does not conform to a regulation prescribed in this Article or an amendment thereto, as of the effective date of such regulations.

"Person". Any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, including any trustee, receiver, assignee or other similar representative thereof, and including the State of Illinois and the Department of Aeronautics of the State.

"Structure". Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, aerals and overhead transmission lines.

"Zone". The air space delimited by the airport-referenced imaginary surfaces.

"Zoning Administration". The City Council.

2-2-3 **AIRPORT REFERENCED IMAGINARY SURFACES.**

(A) In order to carry out the purposes of this Article, there are hereby established **three (3)** airport referenced imaginary surfaces, as shown on the Map, which consist of and are described as follows:

- (1) **Datum Plane.** The datum plane is a horizontal plane or surface, which includes the surface point of the airport elevation established to be at **four hundred twelve (412) feet** above mean sea level.
- (2) **Approach Surface.** The approach surface is an inclined plane located directly above the approach area extending upward and outward from its point of beginning at the near end of the landing strip, at a slope ratio of **one (1) foot** vertical to **twenty (20) feet** horizontal, or at an angle of 2°51'54" from the horizontal, said approach area being symmetrically located with respect to the extended landing strip center line. The dimensions of said approach area, measured horizontally are as follows:

- (a) **North End.** A length of **five thousand (5,000) feet** beginning **one hundred (100) feet** from the north end of the landing strip, and extending outward, ending at a point **five thousand one hundred (5,100) feet** from said north end of the landing strip; having a total width of **two hundred (200) feet** at the end nearest the north end of the landing strip and flaring out uniformly to a total width of **one thousand two hundred (1,200) feet** at the end of the **five thousand (5,000) foot** section.
- (b) **South End.** A length of **five thousand one hundred (5,100) feet** beginning **one hundred (100) feet** from the south end of the landing strip, and extending outward, ending at a point **five thousand two hundred (5,200) feet** from said south end of the landing strip; having a total width of **two hundred (200) feet** at the end nearest the south end of the landing strip and flaring out uniformly to a total width of **one thousand two hundred twenty (1,220) feet** at the end of the **five thousand one hundred (5,100) foot** section.
- (3) **Transition Surfaces.** The transition surfaces are inclined planes, symmetrically located about the center line of the landing strip, extending from the lateral boundaries of the approach surfaces, upward and outward at a slope ratio of **one (1) foot** vertical to **seven (7) feet** horizontal, or at an angle of 8°7'48" from the horizontal, until they reach an elevation established at **six hundred sixty-two (662) feet** above mean sea level. The transition surfaces also extend upward and outward at the same slope ratio and angle noted above, from the edges of the landing strip, until they reach an elevation established at **six hundred sixty-two (662) feet** above mean sea level.

(B) The boundaries and areas of these airport referenced imaginary surfaces are hereby established as shown on the Map.

2-2-4 HEIGHT LIMITATIONS.

(A) Except as otherwise provided in this Article, no structure or growth shall be erected, altered, allowed to grow or maintained in any zone created by this Article to a height in excess of the height limit herein established for such zone. The reference plane for determinations and establishment of the height limits, for the approach and transition surfaces shall be the elevations (mean sea level) of the near end of the respective landing strip.

(B) The height limit for each type of zone is hereby established as follows:

- (1) **Approach-Surface Zones.** **One (1) foot** of height for every **twenty (20) feet** in horizontal distance, measured outward from the inner boundary of the respective approach surfaces.
- (2) **Transitional-Surface Zones.** **One (1) foot** of height for every **seven (7) feet** in horizontal distance, measured outward from the inner boundary of the respective transitional surfaces.

2-2-5 USE RESTRICTIONS. Notwithstanding any other provisions of this Article, it shall be unlawful to put any land or body of water located within or partly within any zone hereby created to any of the following uses:

(A) Any use which would materially reduce the visibility within any of the aforementioned zones.

(B) Any use which would make it difficult for fliers in the vicinity of or on the airport to distinguish between airport lights or markers or other navigational lights or markers in the vicinity of the airport, and others, or which would result in glare in the eyes of fliers using the airport.

(C) Any use which would cause unreasonable interference with navigational aids or devices used by the airport or by aircraft commonly using said airport.

(D) Any business, structure, growth or occupation which by its very nature is inherently dangerous or hazardous as respects likelihood of causing or resulting in injury or damage to aircraft or persons using the airport or flying in the vicinity thereof, except as hereinafter in **Section 2-2-9** of this Article provided.

(E) Any other use or uses which would be detrimental, hazardous or injurious to the safety of aircraft using the airport or maneuvering in the vicinity thereof or to the health, safety or general welfare of airport personnel and other persons using said airport, except as hereinafter in **Section 2-2-9** provided.

2-2-6 SPACING ADJACENT AIRPORTS. No airport shall be established within **two (2) miles** from the boundaries of the McLeansboro Municipal Flight Strip, unless a permit therefor shall have been applied for and granted by the Zoning Administration.

2-2-7 EXISTING NONCONFORMING USES.

(A) **Regulations Not Retroactive.** The regulations prescribed by this Article shall not be construed to require the removal, lowering or other change or alteration of any structure or growth not conforming to the regulations as of the effective date hereof, or to otherwise interfere with the continuance of any nonconforming 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 hereof and is diligently prosecuted and completed within **one (1) year** thereof.

(B) **Marking and Lighting.** Notwithstanding the preceding provisions of this Section, the owner of any nonconforming structure or growth is hereby required to permit insofar as practicable the installation, operation and maintenance thereon, or adjacent thereto, considering such clearances as are required by the Illinois Commerce Commission and the National Electrical Code, of such markers or lights as shall be deemed necessary by the Zoning Administration to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the City. **(See 620 ILCS 25/22)**

2-2-8 ADMINISTRATION.

(A) Zoning Administration is hereby created, and it shall consist of **three (3) members** who shall be appointed by the Mayor. Each member shall be appointed and serve for a term of **three (3) years**, except that of the members first appointed, **one (1)** shall be appointed for a term of **one (1) year**, **one (1)** for a term of **two (2) years** and **one (1)** for a term of **three (3) years**. No compensation shall be paid the members of the Zoning Administration, except reimbursement of actual expenses. Members of the Zoning Administration shall be removable by the Mayor as provided in **Section 1-2-47** of the City Code.

(B) Applications for permits shall be made to the Zoning Administration upon a form furnished by such Administration. Applications which are by this Article to be decided by the Zoning Administration shall be promptly considered and granted or denied by it. Applications for action by the Board of Appeals shall be forthwith transmitted by the Zoning Administration to the Board of Appeals for hearing and decision. The office of the City Clerk shall be the office of the Zoning Administration. **(See Sec. 1-2-21)**

2-2-9 PERMITS AND REPORTS.

(A) **When Required.** Permits shall be obtained in each of the following instances:

- (1) Where it is desired to increase the height of an existing structure to a point which is less than **ten (10) feet** below the height limit within any zone hereby created; provided, that in any such instance it is determined

by the Zoning Administration that such structure should be marked or lighted in the interest of safe air navigation, the Zoning Administration may make a condition to the granting of any permit so applied for that marking or lighting shall be accomplished as it shall direct and the cost and expense of installation, operation and maintenance shall be allocated between the authority and the owner as the circumstances may require.

- (2) Where it is desired to increase the height of any structure which already projects upward to a point which is less than **ten (10) feet** below the height limit within any zone hereby created; provided, that in such instance it is determined by the Zoning Administration that such structure should be marked or lighted in the interest of safe air navigation, the Zoning Administration may make a condition to the granting of any permit so applied for that marking or lighting should be accomplished as it shall direct and the cost and expense of installation, operation and maintenance shall be allocated between the authority and the owner as the circumstances may require.
- (3) Where it is desired to erect a new or additional structure which will project upward to a point which is less than **ten (10) feet** below the height limit within any zone hereby created; provided, that in any such instance it is determined by the Zoning Administration that such structure should be marked or lighted in the interest of safe air navigation, the Zoning Administration may make a condition to the granting of any permit so applied for that marking or lighting shall be accomplished as it shall direct and the cost and expense of installation, operation and maintenance shall be paid by the owner.

(B) **How Obtained.**

- (1) Application for such permit shall be made to the Zoning Administration created hereunder.
- (2) Each such application shall indicate the purpose for which the permit is desired with sufficient particularity to permit a determination of whether the structure will conform to the regulations herein prescribed.

(C) **Exceptions.** Where an emergency installation, repair or replacement is required to be made by any public utility company, which would ordinarily require a permit as above set forth, but the interest of the public from the standpoint of health, safety or general welfare does not permit of sufficient time to obtain such permit, then in that event the requirement shall not apply, but a report shall be given as hereinafter set forth in Paragraph (D) of this Section.

(D) **Reports.** Whenever a new structure is erected or the height of an existing structure is increased in any of the zones hereby created and the proposed height of such structure does not require a permit as above set forth, a written report shall be given to the Zoning Administration within **ten (10) days** after the completion of such alteration or erection, setting forth the facts relating thereto with sufficient particularity to permit a determination as to whether such structure conforms to the regulations prescribed herein.

(E) **Nonconforming Uses Abandoned or Destroyed.** Whenever the Zoning Administration determines that a nonconforming structure or growth has been abandoned or more than **eighty percent (80%)** has been torn down, physically deteriorated or decayed, (1) no permit shall be granted that would allow such structure or growth to exceed the applicable height limit or otherwise deviate from the zoning regulations, and (2) the Zoning Administration may by appropriate action compel the owner of the nonconforming structure or growth, at his own expense, to lower, remove, reconstruct or equip such object as may be necessary to conform to the regulations; or, if the owner of the nonconforming structure or growth shall neglect or refuse to comply with such an order after **ten (10) days'** notice thereof, the Zoning Administration may proceed to have the object so lowered, removed, reconstructed or equipped, and shall have a lien upon behalf of the City upon the land whereon it is or was located, and in the amount of the cost and expense thereof. Such a lien may be enforced by the authority by suit in equity for the enforcement thereof, as in the case of other liens. Except as provided

herein, all applications for permits for replacement, change or repair of nonconforming uses shall be granted. **(See 620 ILCS 25/23)**

(F) **Variances.** Any person desiring to erect or increase the height of any structure, or permit a growth, or use his property, not in accordance with the regulations prescribed in this Article, may apply to the Board of Appeals for a variance from such regulations. Such variance shall be allowed where it is duly found that 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 and safety, but would do substantial justice and be in accordance with the spirit of this Article; provided, that any variance may be allowed subject to any reasonable conditions that the Board of Appeals may deem necessary to effectuate the purposes of this Article. **(See 620 ILCS 25/24)**

(G) **Hazard 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 growth to install, operate and maintain thereon such markers and lights as may be necessary in the interest of safe air navigation, as shall be determined by the Zoning Administration, to indicate to flyers the presence of any airport hazard; the cost and expense of installation, operation and maintenance shall be paid by the owner. **(See 620 ILCS 25/25)**

2-2-10 BOARD OF APPEALS.

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

- (1) To hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administration in the enforcement of this Article.
- (2) To hear and decide any special exceptions to the terms of this Article upon which such Board may be required to pass under such regulations.
- (3) To hear and decide special variances under **Section 2-2-9(F)** of this Article.

(B) The Board of Appeals shall consist of **five (5) members**, each to be appointed by the City Council for a term of **three (3) years** and until his successor is duly appointed and qualified, **one (1)** of whom shall be designated Chairman, and **one (1)** of whom shall be designated Vice-Chairman. Members shall be removable by the authority for cause, upon written charges and after notice and opportunity for public hearing before the authority. The City Clerk shall act as secretary of the Board of Appeals. No compensation shall be paid the members of the Board, except reimbursement of actual expenses incurred in the fulfillment of their duties.

(C) The Board shall adopt rules for its governance, procedure and other authorized matters, consistent with and in harmony with the provisions of this Article. 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 Vice-Chairman, may administer oaths or affirmations and issue subpoenas to 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 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 and shall be a public record. The office of the City Clerk shall be the office of the Board of Appeals.

(D) The Board of Appeals 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 Article.

(E) All questions and matters presented to the Board of Appeals for its determination shall be decided by the vote of a majority of the members of the Board. **(See 620 ILCS 25/27 and 25/28)**

2-2-11 **APPEALS.**

(A) Any person, including the Department of Aeronautics of the State of Illinois and the Civil Aeronautics Administration, aggrieved by any decision of the Zoning Administration made in its administration of this Article, or any governing body of a political subdivision, if of the opinion that a decision of the Zoning Administration is an improper application of these regulations of concern to such governing body, may appeal to the Board of Appeals.

(B) All appeals hereunder must be taken within a reasonable time, as provided by the rules of the Board, by filing with the agency from which the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administration shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administration 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 its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the Board and on due cause shown.

(D) The Board shall fix a reasonable time for hearing of 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.

(E) The Board may, in conformity with the provisions of this Article, 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, and to that end shall have all the powers of the Zoning Administration. **(See 620 ILCS 25/29)**

2-2-12 **JUDICIAL REVIEW.**

(A) Any person, including the Department of Aeronautics, on behalf of and in the name of the State of Illinois, aggrieved by any decision of the Board of Appeals, or any governing body of a political subdivision which is of the opinion that a decision of the Board of Appeals is erroneous, after first exhausting the remedies provided by such Board, may present to the Circuit Court of Hamilton County, Illinois, a verified petition setting forth that the decision is erroneous, in whole or in part, and specifying the grounds of that error. Such petition shall be presented to the Court within **thirty (30) days** after the decision is filed in the office of the Board. Any judicial review sought by the Department of Aeronautics, on behalf of and in the name of the State of Illinois under this Section, shall be without prejudice to action by the Department under **Chapter 620 ILCS** of the Airport Zoning Act.

(B) Anything in this Article to the contrary notwithstanding, judicial review proceedings under this Article shall be governed by the "Administrative Review Act" (**735 ILCS 5/3-101 et seq.**) of the State of Illinois.

(C) Upon presentation of the petition hereinabove mentioned, the Court may allow a writ of certiorari directed to the Board of Appeals to review such decision of the Board. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board, and on due cause shown, grant a supersedeas order.

(D) The Board of Appeals shall not be required to return the original papers action upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(E) The Court shall have exclusive jurisdiction to affirm, modify or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the Board of Appeals. The findings of fact of the Board, if supported by substantial evidence, shall be presumed to be correct, and no objection to a decision of the Board shall be considered by the Court unless such objection shall have been urged, unless there were reasonable grounds for failure to do so.