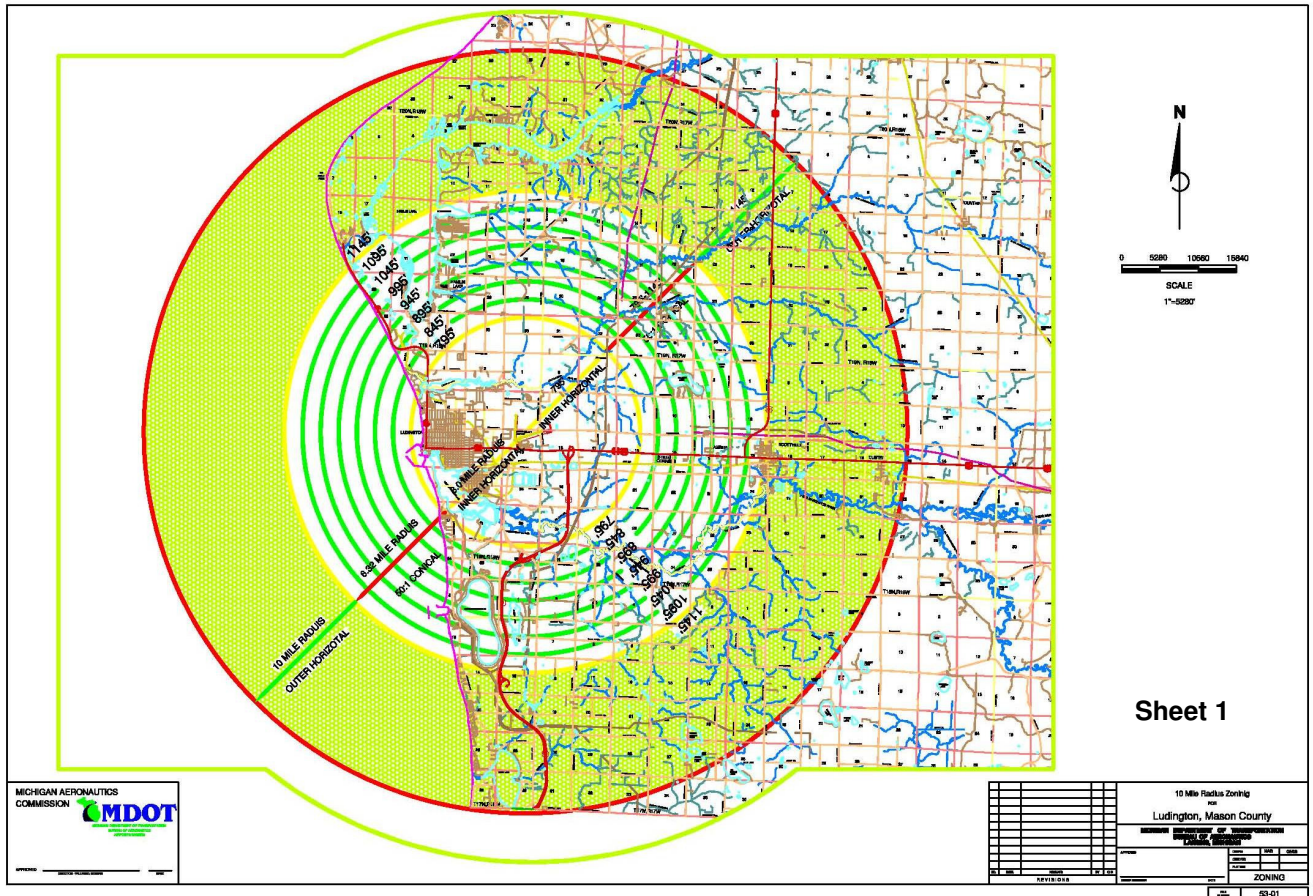


ARTICLE XV
AIRPORT ZONING OVERLAY ZONE

Section 15.01 Intent.

1. An Ordinance establishing airport zoning regulations restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Mason County Airport; providing for the allowance of variances from such regulations; designating the Zoning Administrator charged with the administration and enforcement of such regulations; authorizing an Airport Zoning Board of Appeals; providing for enforcement; and imposing penalties for violation of this Ordinance.
2. Pursuant to the authority conferred by the provisions of the Airport Zoning Act, being Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session), and for the purpose of promoting the health, safety, and general welfare of the inhabitants of Mason County by preventing the establishment of airport hazards and thereby protecting the general public, users of the Mason County Airport, and occupants of land in its vicinity, and preventing the destruction and impairment of the utility of said airports and the public investment therein.
3. The Mason County Board of Commissioners, under the provisions of Section 13 of Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session), does hereby ordain as follows:
4. Title.
 - a. This Ordinance includes all airport zoning plans attached hereto and is to be known and may be cited as the "Mason County Airport Zoning Ordinance."
5. Objective.
 - a. The principle objective of this Ordinance is to prevent the creation or establishment of airport hazards and thereby to provide additional safety and protection to the users of the airport and to the people who live and work in its vicinity.
6. Hazard Area.
 - a. The Ordinance establishes regulations on land within a ten (10) mile radius of the Mason County Airport (see Sheet 1). This Ordinance establishes a huge air bowl with a maximum height limitation of five-hundred (500) feet above the established elevation of the airport at the outer edge and has a minimum height limitation of twenty-five (25) feet above the ground at some locations in the approaches to the runways immediately adjacent to the airports. The height limitations of this Ordinance become less severe as the distance from the airports is increased.



7. Hazards.

- a. Structures and trees which project above the height limitations under this Ordinance are considered hazards to flying and endanger lives and property. The prescribed height limits are not arbitrarily set, but are based on past experience and studies made by the Michigan Aeronautics Commission and by the Federal Aviation Administration. Height limits are based upon the established elevation of the airport or upon the elevation of the end of the nearest runway.

8. Existing Non-Conforming Objects.

- a. The Ordinance does not affect existing structures, the height of which exceeded the limits imposed by this Ordinance at the time it became effective. New construction, and construction increasing the height of existing structures, within the hazard area, must conform to the provisions on height limitations. The Ordinance also restricts such uses of land within the vicinity of the airport as will unreasonably interfere with radio communications systems, navigational aids, or other devices used by the airport and aircraft, or would reduce visibility, or would create confusing lights, or would be subject to undesirable effects that may be caused by the operation of aircraft.

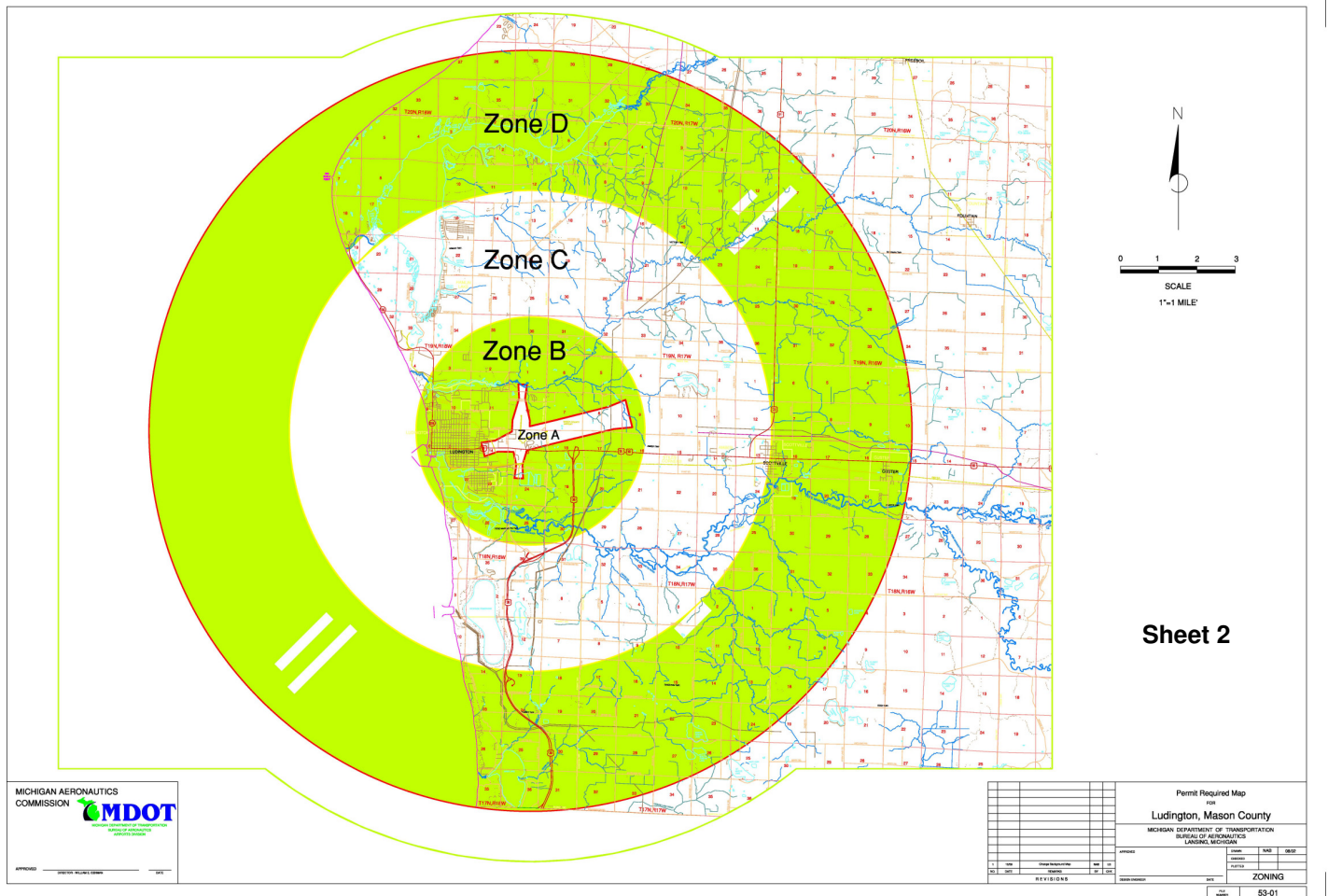
9. Administration.

- a. The Zoning Administrator shall administer and enforce the provisions of the Ordinance and shall

seek the close cooperation of and work through the local County, Township, and City Zoning Boards.

10. Heights Requiring Permits.

- a. The County Board hereby establishes application heights which are below the allowable height limits of the Ordinance. Without a permit issued by the airport zoning administrator, a person shall not construct a structure that is, or that increases the height of an existing structure, higher than the following:
 - 1) All structures greater than Twenty-five (25) feet or higher **above ground level** within Area A as shown on sheet (2).
 - 2) All structures greater than 746 feet **above mean sea level** in Area B as shown sheet (2).
 - 3) All structures greater than 796 feet **above mean sea level** in Area C as shown on sheet (2).
 - 4) All structures greater than 200 feet **above ground level** in Area D as shown on sheet (2).



11. Land-Use Types Requiring Permits.

- a. To promote the general purpose and objectives of this Ordinance and its effective administration, all persons making use of land within the areas shown on Sheets 7 and 8 of the Zoning Plans are required to consult the Land Use Guidance Charts as to undesirable land uses within designated airport land-use guidance zones.

12. Provisions for Variance.

- a. The Ordinance contains provisions for the variance of the regulations in event of practical difficulty or unnecessary hardship if the relief granted would not be contrary to the public interest and safety. It is the intent of the Administration and Zoning Administrator, with the cooperation of the public, to have the Ordinance administered in a reasonable and just manner in keeping with the responsibilities involved.

13. Where to Obtain Copies of this Ordinance

- a. Information regarding height limits and copies of the Ordinance are available at the offices of the Mason County Airport, or the Michigan Department of Transportation, 2700 East Airport Service Drive, Lansing, Michigan 48906. A copy of the Ordinance is on file with the County Clerk of Mason County and the Mason County Zoning Department.

Section 15.02 Definitions.

Words and Phrases: For the purposes of this Ordinance, the words, terms, and phrases set forth in Section 15.02 inclusive, shall have the meanings prescribed in those sections.

Airport: The term "Airport" means the Mason County Airport and all appurtenances used or acquired for airport buildings or other airport facilities, and all other appurtenant rights-of-way or other existing or future interests.

Airport Hazard: "Airport Hazard" means any structure or tree within the airport hazard area which exceeds the height limitations established by this Ordinance, or any use of land or appurtenances within the airport hazard area which interferes with the safe use of the airport by aircraft.

Airport Hazard Area: The term "airport hazard area" means any area of land or water, or both, lying within a ten (10) mile radius from the established center of the Mason County Airport in which an airport hazard might exist if not prevented by this Ordinance.

Airport Zoning Act: The term "Airport Zoning Act" refers to Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session).

Board: The term "Board" means the Airport Zoning Board of Appeals as hereinafter created and designated below.

Land-Use Guidance Zone: The term "land-use guidance zone" means an area or district in which certain types of land uses are recommended due to safety, noise, vibrations, fumes, dust, fuel particles, light, and other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at the Mason County Airport.

Above Mean Sea Level: The term "above mean sea level" denotes elevations above sea level based upon and determined by reference to United States Coast and Geodetic Survey datum.

Non-Conforming Use: The term "non-conforming use" means any structure, tree, or use of land which does not conform to a regulation prescribed in this Ordinance or any amendment as of the effective date of such regulation.

Person: The term "person" means any individual, firm, partnership, corporation, company, association, joint stock association, municipal corporation, or other body politic, including any trustee, receiver, assignee, or other similar representative.

Structure: The term "structure" means any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, overhead transmission lines, and radio and television aerials and antennae, but not including highways and their appurtenances.

Tree: The term "tree" means any object of natural growth.

Section 15.03 Zones.

1. Airport Hazard Areas.

- a. An airport hazard area is established, which area or zone consists of all the lands within Mason County lying beneath the approach, transitional, one-hundred and forty-nine (149) feet horizontal, conical and five-hundred (500) feet horizontal surfaces, said land being located within a circle having a radius extending horizontally ten (10) miles from the established center of the usable landing areas of the airport, known as the airport reference point. The boundaries of the hazard areas are shown on the Airport Zoning Plans numbered 1 through 8, which maps are attached and made a part of this Ordinance.

2. Airport Zoning Plans.

- a. The height limitations shown on the attached Airport Zoning Plans are imposed on the lands in the airport hazard areas, the same being based upon the elevations above mean sea level at the ends of the respective airport runways and the established elevation of the airport, which elevations are shown on Sheets 1 through 6 of the Airport Zoning Plans.

3. Legal Height Limitations.

- a. No person may erect or maintain any structure to a height in excess of the limitations prescribed by the terms of this Ordinance and the maps on file with the Mason County Zoning Administrator, or to plant or allow any tree to grow to a height in excess of the limitations prescribed by the terms of this Ordinance and the attached maps; or to establish any use of lands contrary to the provisions of this Ordinance.

4. Unlawful Land Use.

Notwithstanding any other provisions of this Ordinance, no person may use any lands within any Airport Hazard Area which:

- a. Would create electrical interference with radio communications between the airport and aircraft or create interference with navigational aids employed by aircraft;
- b. Would make it difficult for flyers to distinguish between airport lights and others or result in glare to the eyes of flyers using the airport;
- c. Would create air pollution in such amounts as to impair the visibility of flyers in the use of the airport;
- d. Would locate or permit the operation of a dump, waste disposal site, sanitary landfill, hazardous waste facility, solid waste transfer station, or recycling facility within ten-thousand (10,000) feet of any runway at the airport, unless the construction, location, and operation of the site is approved or authorized by the Federal Aviation Administration as not being in violation of its orders, rules,

or regulations applicable to the airport, or unless a waiver is issued by the Federal Aviation Administration.

- e. Would otherwise endanger the landing, taking off, or maneuvering of aircraft;
- f. Would attract birds;
- g. Would raise the descent minimums of any instrument approach procedure to the airport, or otherwise limit operations at the airport, as determined by an airspace study conducted by the Federal Aviation Administration.

5. Non-Conforming Existing Uses.

- a. The provisions of Section 3.3 of this Ordinance shall not apply to structures, trees, or other non-conforming uses existing in an airport hazard area on the effective date of this Ordinance, unless the Zoning Administrator determines it to be abandoned, or eighty (80) percent torn down, destroyed, deteriorated, or decayed. The definition of "abandon" shall be the same as that definition used by each respective local land use zoning agency.

6. Alterations to Non-Conforming Land Use.

- a. The provisions of Section 3.3 of this Ordinance shall apply to changes or alterations which increase the height of existing structures, trees, or other non-conforming uses after the effective date of this Ordinance, with the same force and effect as though the same were new uses.

7. Land-Use Guidance Zone.

- a. The purpose of Land-Use Guidance Zones as defined in Section 2.7, is to designate areas in which certain types of land uses are recommended due to undesirable effects that may be caused by the operation of aircraft. See the Land-Use Guidance Chart I, as shown on Sheets 7 and 8 of the Airport Zoning Plans, for recommended land uses.

Section 15.04 Ordinance Administration.

1. Approach Standards.

- a. The approach, transitional, conical, and inner horizontal surfaces which establish the height limitations under this Ordinance are denoted on Sheets 1 through 6 of the Zoning Plans, and are established in conformance with approach standards or regulations of the Michigan Aeronautics Commission or the Federal Aviation Administration. In acting upon applications for permits, the Zoning Administrator will arrive at proper height limitations by interpolating between contours shown on the Zoning Plans.

2. Zoning Administrator as Administrative Agency.

- a. The Mason County Zoning Administrator is designated the Zoning Administrator charged with the duty of administering and enforcing this Ordinance. The Zoning Administrator shall act as the "administrative agency" referred to in the Airport Zoning Act. The duties of the Zoning Administrator shall include those of issuing permits as provided below, but the Zoning Administrator shall not have or exercise any of the powers or duties delegated to the Board of Appeals. The Airport Manager is granted sole authority to approve land uses on airport property in accordance with State and Federal guidelines. The Zoning Administrator may adopt such rules of procedure as may be necessary in connection with the administration and enforcement of this Ordinance.

3. Board of Appeals.

- a. The Mason County Zoning Board of Appeals, by concurring vote of a majority of its members, is hereby authorized to issue certificates of variance or to otherwise decide appeals from any order, requirement, rule, regulation, decision, or determination made by the Zoning Administrator.

Section 15.05 Permits.

1. Application for Permits.

- a. Applications for permits shall be made to the Zoning Administrator in three (3) copies upon forms furnished by the Zoning Administrator, and the Zoning Administrator shall, within 15 days from the application, determine whether the height limitations as designated by the Airport Zoning Maps and this Ordinance, would or would not be violated if the application were granted, and shall grant or deny the application accordingly (the Zoning Administrator not being vested with authority to permit a variance). The Zoning Administrator shall advise applicant of its action within three (3) days after the action has been taken. In the event of a denial, the applicant may apply to the Board of Appeals for a certificate of variance.

2. Permit Procedures.

- a. Persons desiring to create new uses, or to change existing uses, must file an application for a permit if the proposal involves objects that exceed twenty-five (25) feet within 6.32 miles of the airport or exceed one-hundred (100) feet between 6.32 miles and ten (10) miles from the airport or in any case where an object may be in violation of Section 3.4 or 3.7 of this Ordinance.

3. Exception for Emergency Repairs.

- a. No permit is required for the emergency repair or emergency replacement of nonconforming public utility structures, other than buildings, when the height of such structures will not be increased by such repairs or replacement. It is intended that in the application of this provision, any combination of circumstances calling for immediate action or remedy in the repair or replacement of such non-conforming public utility structures shall be deemed an emergency.

Section 15.06 Judicial Action.

1. Appeals to Circuit Court.

- a. Any person, including the Michigan Aeronautics Commission, in behalf of, and in the name of the State, aggrieved by any decision of the Board of Appeals, may appeal to the Circuit Court of Mason County as provided in Section 30 of the Airport Zoning Act.

2. Penalties.

- a. Any person who violates this Ordinance or any regulations, orders, or rulings made pursuant to this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five-hundred (500) dollars or imprisoned for a term not to exceed ninety (90) days, or both. Each day a violation continues to exist after notice shall constitute a separate offense. Such notice may be given by the Zoning Administrator by certified mail, return receipt requested, addressed to the person maintaining the violation at the last known address.

3. Civil Action Available.

- a. The Mason County Prosecutor, on behalf of and in the name of the County may, in addition to any criminal action taken, institute in the Circuit Court of Mason County, an action to prevent, restrain, correct, or abate any violation of this Ordinance or the Airport Zoning Act, or of airport

zoning regulations adopted under this Ordinance or under the Airport Zoning Act, or of any order or ruling made in connection with their administration or enforcement, and the Court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order to effectuate fully the purposes of this Ordinance or the Airport Zoning Act and the regulations adopted and orders and rulings made pursuant thereto.

Section 15.07 Federal Laws and Federal Aviation Regulations.

1. Federal Laws (Part 77, 14 C.F.R. §77.1 *et seq.*).

The airport zoning ordinance is not intended to conflict with existing federal approach protection laws. The Federal Aviation Administration requires that it be given notice of any construction or alteration:

- a. That would be more than two-hundred (200) feet above ground level at its site.
- b. That would be above an imaginary surface extending outward and upward at 100:1 slope within twenty-thousand (20,000) feet of the nearest point of a runway more than three-thousand two-hundred (3200) feet in length.
- c. That would be above an imaginary surface extending outward and upward at 50:1 slope within ten-thousand (10,000) feet of the nearest point of a runway less than three-thousand two-hundred (3200) feet in length.

