

RUSHFORD MUNICIPAL AIRPORT
ZONING ORDINANCE
RUSHFORD FILLMORE COUNTY JOINT AIRPORT
ZONING BOARD

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE RUSHFORD MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING ALL BOUNDARIES THEREOF: PROVIDED FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES: DEFINING CERTAIN TERMS USED HEREIN: REFERRING TO THE RUSHFORD MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE: PROVIDING FOR ENFORCEMENT: ESTABLISHING A BOARD OF ADJUSTMENT: AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE RUSHFORD JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES 360.061-360.074 AS FOLLOWS:

SECTION I: PURPOSE AND AUTHORITY

The Rushford Fillmore County Joint Airport Zoning Board, created and established by joint action of the Common Council of the City of Rushford and the Board of County Commissioners of Fillmore County, pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. An airport hazard endangers the lives and property of users of the Rushford Municipal Airport, and property or occupants of land in its vicinity, and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Rushford Municipal Airport and the public investment therein.
- B. The creation or establishment of an airport hazard may be a public nuisance or an injury to the region served by the Rushford Municipal Airport.
- C. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
- D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- E. The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political sub-divisions may raise and expend public funds.

SECTION II: SHORT TITLE

This ordinance shall be known as "Rushford Airport Zoning Ordinance." Those sections of land affected by this Ordinance are indicated in "Exhibit A" which is attached to this Ordinance.

SECTION III: DEFINITIONS

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

AIRPORT means the Rushford Municipal Airport located at Rural Route, Rushford, Minnesota.

AIRPORT HAZARD means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

DWELLING means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

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

LANDING AREA means the area of the airport used for the landing, taking off or taxiing of aircraft.

PRECISIONS INSTRUMENT RUNWAY means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

VISUAL RUNWAY means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

NONCONFORMING USE means any pre-existing structure, tree, natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment hereto.

PERSON means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

RUNWAY means any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

PLANNED as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Aeronautics and the City of Rushford, Minnesota.

SLOPE means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



Slope=3:1-3 ft. horizontal to 1 ft. vertical

STRUCTURE means an object constructed or installed by man, including, but with limitations, buildings, towers, smokestacks, and overhead transmission lines.

TREE means any object of natural growth.

WATER SURFACES for the purpose of this Ordinance shall have the same meaning as land for the establishment of protected zones.

SECTION IV. AIRSPACE OBSTRUCTION ZONING

A. AIRSPACE ZONES: In order to carry out the purpose of this Ordinance, as set forth above, the following airspace zones are hereby established; Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone and whose locations and dimensions are as follows:

- 1; PRIMARY ZONE: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of the runway.
The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet.
- 2: HORIZONTAL ZONE: All that land which lies directly under an imaginary horizontal surface 100 feet above the established airport elevation, or a height of 1312.3 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 6,000 feet.
- 3: CONICAL ZONE; All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.
- 4: APPROACH ZONE: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of 40:1 for all existing or planned visual runways having specifically prepared hard surface or planned hard surfaces. The approach surface expands uniformly to a distance of 2500 feet for all visual runways that have a specially prepared hard surface or planned hard surface to a distance of 10,000 feet.

5: TRANSITIONAL ZONE: All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7 to 1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface. Transitional surfaces for those portions of the precision instrument approach surface 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 precision instrument approach surface and at right angles to the extended precision instrument runway centerline.

B. HEIGHT RESTRICTIONS: Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any airspace zone created in Subsection IVA so as to project above any of the imaginary airspace surfaces described in said Subsection IVA hereof. When an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION V: LAND USE SAFETY ZONING

A. SAFETY ZONE BOUNDARIES: In order to carry out the purpose of this Ordinance, there are hereby created and established the following safety zone boundaries, which are shown on Page 3 of the zoning map attached hereto and made a part hereof:

1. SAFETY ZONE A: All that land in the approach zones of a runway which is located within a horizontal distance of 3,000 feet from each end of the primary zone.

2. SAFETY ZONE B: All that land in the approach zones of a runway which is located within a horizontal distance of 4,500 feet from each end of the primary zone and is not included in Zone A.

3. SAFETY ZONE C: All that land which is enclosed within the perimeter of the horizontal zone and which is not included in Zone A or Zone B.

B. USE RESTRICTIONS:

1. GENERAL: Subject at all times to the height restrictions set forth in Subsection IV B, no use shall be made of any land in any of the safety zones defined in Subsection V A which creates and causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. ZONE A: Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V.B. 1, areas designated as Zone A shall contain no buildings, overhead transmission lines, or temporary structures and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (nonspectator), cemeteries, and auto parking.
3. ZONE B: Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V.B. 1, areas designated as Zone B shall be used for the following purposes only;
3. ZONE B: Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V.B. 1, areas designated as Zone B shall be used for the following purposes only:
- a. For agricultural and residential purposes, provided there shall not be more than one single family dwelling per five (5) acre tract of land.
 - b. Any commercial or industrial use which meets the following minimum standards:
 1. Each single commercial or industrial use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.
 2. Each single commercial or industrial site shall be of a size not less than ten (10) acres.
 3. Each single commercial or industrial site shall contain no dwellings and shall contain no more than one building per three acre tract of land.
 4. The maximum ground area to be covered by a single commercial or industrial building shall not exceed the following minimum ratios with respect to the building site area;

At Least (Acres)	But less Than (Acres)	Ratio of Site Area to 1st Floor Bldg.Areas	1st floor Bldg. area (Sq. ft.)	Max. Site Popl. (15 Persons/A)
10		6:1	72,500	150
	20	6:1		
20	and up	4:1	218,000	300

- c. The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of public or semi-public assembly.

4. ZONE C: ZONE C is subject only to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection VB1.

SECTION VI: NONCONFORMING USES

Regulations not retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, 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 VII: PERMITS

A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the zoning administrator, hereinafter provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1. However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.

2. Nothing contained in this foregoing exception shall be construed as permitted or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limitations established by this Ordinance as set forth in Section IV.

B. EXISTING USES: Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established here: a permit shall be granted that would allow the establishment or creation of an airport hazard to air navigation than it was on the effective date of this Ordinance 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 Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 80% 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.

Whether application made by a permit under this paragraph or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his own, expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this ordinance. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight percent per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

SECTION VIII: VARIANCES

Any person desiring to erect 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 to the Board of Adjustment, hereinafter provided for, for a variance from such regulations. Such variances 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 relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this ordinance; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this ordinance.

SECTION IX: HAZARD MARKING AND LIGHTING

- A. NONCONFORMING USES: The owner of any 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 Zoning Administrator 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 Rushford Municipal Airport.
- B. PERMITS AND VARIANCES: Any permit or variance granted by the Zoning Administrator or Board of Adjustment as the case may be, may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, so condition such permit or variance as to require to the owner of the structure or tree in question at his own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

SECTION X: AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Fillmore County Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Administrator upon a form furnished by him. Permit applications shall be promptly considered and granted or denied by him. Variance applications shall be forthwith transmitted by the Administrator for action by the Board of Adjustment hereinafter provided for.

SECTION XI: BOARD OF ADJUSTMENT

- A. ESTABLISHMENT: The Fillmore County Board of Adjustment shall serve as the Board of Adjustment for the Rushford Municipal Airport Zoning Ordinance.
- B. POWERS: The Board of Adjustment shall have and exercise the following powers:
1. To hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
 2. To hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass.
 3. To hear and decide specific variances.
- C. PROCEDURES:
1. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment 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 of Adjustment shall be public. The Board of Adjustment 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 Zoning Administrator and shall be a public record.
 2. The Board of Adjustment 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, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance.
 3. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirements, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.

SECTION XII: APPEALS

- A. Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in his administration of this Ordinance may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the zoning administrator is an improper application of the ordinance as it concerns such governing body or board.

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment 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 Administrator certifies to the Board of Adjustment, 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 except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

D. The Board of Adjustment shall fix a reasonable time for hearing 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 of Adjustment may, in conformity with the provision of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.

SECTION XIV: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal may present to the District Court of Fillmore County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days after the decision is filed in the office of the Board of Adjustment. The Petitioner must exhaust the remedies provided in this Ordinance before availing himself of the right to petition a court as provided by this Section.

SECTION XV: PENALTIES

Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this ordinance, or who having been granted a permit or variance under the provisions of this Ordinance, shall construct, establish substantially change or substantially alter or repair any existing growth or structure or permit the growth of a tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished or fined or both as permitted by law. Each day a violation continues to exist shall constitute a separate offense.

SECTION XVI: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

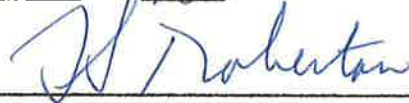
SECTION XVII: SEVERABILITY

In any case in which the provision of this Ordinance although generally reasonable, are held by a Court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to the other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

SECTION XVIII: EFFECTIVE DATE

This Ordinance shall be published on October 28, 1976 in the Tri-County Record, an official newspaper in Rushford, Minnesota, and shall take effect on the 27 day of October, 1976. Copies thereof shall be filed with the Commissioner of Aeronautics, State of Minnesota, and the County Recorder, Fillmore County, Minnesota.

Passed and adopted after public hearing by the Rushford Fillmore County Joint Airport Zoning Board this 20 day of October, 1976.



Chairman



Secretary

EXHIBIT A
RUSHFORD MUNICIPAL
AIRPORT
ZONING ORDINANCE

This ordinance affects all or a portion of the following sections of land:

NAME AND NUMBER OF TWP.	TYPE OF AIRPORT ZONING	
	AIRSPACE OBSTRUCTION ZONING SECTION IV OF ORDINANCE Page 3 of Zoning Map	LAND USE SAFETY ZONING SECTION V OF ORDINANCE Page 4 of Zoning Map
Rushford Village T104 R8W	Sections: 4,5,6,7,8,9, 16,17;18,19,20,21,28,29, 30	Sections: 5,6,7,8,9,16, 17,18,19,20,21
Arendahl Township T104N R9W	Sections 1,12,13,24	Sections: 12,13
Township T N R W	Sections:	Sections: