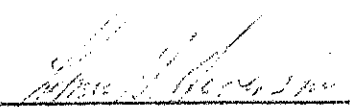


FOSSTON, MINNESOTA

MUNICIPAL AIRPORT ZONING ORDINANCE

Adopted by the Village of Fosston - Polk County Airport
Zoning Board of Polk County, Minnesota, this 14th day
of February, 1978.



Chairman

Prepared

by

WEBSTER, FOSTER & WESTON

Consulting Engineers

Crookston, Minnesota

I hereby certify that this plan, specification or report
was prepared by me or under my direct supervision and that
I am a duly Registered Professional Engineer under the
laws of the State of Minnesota.



Date April 6, 1973 Reg. No. 5814

FOSSTON, MINNESOTA

MUNICIPAL AIRPORT ZONING ORDINANCE

AN ORDINANCE ADOPTING A ZONING MAP AND REGULATING THE USE OF LAND AND THE HEIGHT OF STRUCTURES AND OBJECTS OR NATURAL GROWTH IN THE VICINITY OF THE FOSSTON MUNICIPAL AIRPORT

THE JOINT VILLAGE OF FOSSTON - POLK COUNTY AIRPORT ZONING BOARD CREATED BY THE JOINT ACTION OF THE VILLAGE COUNCIL OF FOSSTON, MINNESOTA, AND THE POLK COUNTY BOARD OF COMMISSIONERS PURSUANT TO THE PROVISIONS OF MINNESOTA STATUTES 360.063, ORDAINS:

Section 1. AUTHORITY. The joint Village-County Airport Zoning Board of Polk County, Minnesota, finds that an airport hazard endangers the lives and property of users of the Fosston Municipal Airport and of occupants of land or property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the Fosston Municipal Airport and the public investment therein. Accordingly it is declared: (1) that the creation or establishment of an airport hazard is a public nuisance and is injurious to the area served by the Fosston Municipal Airport; (2) that it is necessary in order to promote public health, safety and general welfare and to protect the lives and property of the users of the Fosston Municipal Airport and of the owners and occupants of land in its vicinity to adopt the following Airport Zoning Ordinance as authorized by the Laws of Minnesota 1953, Sections 360.061 through 360.074 inclusive.

Section 2. SHORT TITLE. This ordinance shall be known and may be cited as "The Fosston Municipal Airport Zoning Ordinance."

Section 3. DEFINITIONS. As used in this ordinance and the accompanying zoning map, unless the context otherwise requires, the following terms shall have the following meaning:

Fosston, Minnesota
Municipal Airport Zoning Ordinance

- A. Airport means the Fosston Municipal Airport located in the East half of Section Thirty-two (32), Township One Hundred Forty-eight North (T148N), Range Forty West (R40W) of the Fifth Principal Meridian, Polk County, Minnesota.
- B. Airport Elevation means the established elevation of the highest point on the usable landing area which elevation is established to be 1,277 feet above sea level.
- C. Airport Hazard means any structure, tree or use of land which obstructs the air space 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 person or property because of its proximity to the airport.
- D. Board of Adjustment means a board consisting of three (3) to five (5) members as provided in Section 13 of this ordinance and resolution.
- E. Dwelling means any building or portion thereof designed or used as a residence or sleeping place for one or more persons.
- F. 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.
- G. Landing Area means the area of the airport used for the landing, take off and taxiing of aircraft.
- H. Landing Strip is the grass or turf covered area of the airport which is designed for and used for taking off and landing aircraft. This term shall have the same meaning throughout this ordinance as does the term "runway."
- I. 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 thereto.

Fosston, Minnesota
Municipal Airport Zoning Ordinance

- J. Person means an individual, firm, partnership, corporation, company, association, joint stock association, or body public, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- K. Runway means the paved surface of an airport landing strip.
- L. Structure means an object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structure supporting the same.
- M. Tree means any object of natural growth.
- N. Airport Zoning Map means the Airport Zoning Map consisting of one (1) page dated April 6, 1973, together with such amendments thereto as may from time to time be made.
- O. Airport Approach Zones comprise all lands under the approach surfaces defined in Section 4 hereof.
- P. Airport Transition Zones comprise all lands under the transitional surfaces as defined in Section 4 hereof.
- Q. Airport Turning Zones comprise all land under the horizontal and conical surfaces as defined in Section 4 hereof.
- R. Water Surfaces for the purpose of this ordinance shall have the same meaning as land for the establishment of protected zones.

Section 4. AIRPORT REFERENCE SURFACES. DEFINITION AND DESCRIPTION. In order to carry out the purposes of this ordinance, the following imaginary airport reference surfaces are hereby established: Primary Surface, Approach Surfaces, Horizontal Surface, Transitional Surfaces and Conical Surfaces and are defined as follow:

- A. PRIMARY SURFACE. A surface longitudinally centered on a runway and extending in length two hundred (200) feet beyond each end of each runway. The elevation of any point on the longitudinal profile of the primary surface is the same as the elevation of the nearest point on the runway centerline, or extension, as

Fosston, Minnesota
Municipal Airport Zoning Ordinance

appropriate. The width of the primary surface is five hundred (500) feet for all runways.

- B. APPROACH SURFACE. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the primary surface. This surface is applied to each end of each runway and its dimensions are measured horizontally.

The approach surface for the runways have the following dimensions:

- a. NW-SE Runway, designation 16-34

The inner edge of the approach surfaces is the same width as the primary surface and extends uniformly to a width of thirty-five hundred (3,500) feet at a distance of ten thousand (10,000) feet and then continuing at the same rate of divergence to the periphery of the conical surface. The approach surface rises at a slope of forty (40) feet horizontally for each one (1) foot vertically.

- b. E-W Runway, designation 10-28

The inner edge of the approach surface is the same width as the primary surface and extends uniformly to a width of two thousand five hundred (2,500) feet at a distance of ten thousand (10,000) feet and then continuing at the same rate of divergence to the periphery of the conical surface. The approach surface rises at a slope of forty (40) feet horizontally for each one (1) foot vertically.

- C. HORIZONTAL SURFACE. The horizontal surface is a horizontal plane one hundred (100) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs from four (4) interior radius points, one on each end of each runway, extended, the radius points being located at the intersection of the ends of the primary surfaces with the runway centerlines and then connecting the exterior points of tangency

Fosston, Minnesota
Municipal Airport Zoning Ordinance

of each adjoining arc. The radii for the arcs shall be five thousand (5,000) feet for the runway designated as 10-28 and ten thousand (10,000) feet for the runway designated as 16-34. When a 5,000 foot arc is encompassed by tangents connecting two (2) adjacent 10,000 foot arcs the 5,000 foot arc shall be disregarded in the construction of the perimeter of the horizontal surface.

D. CONICAL SURFACE. The conical surface is a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 (twenty (20) feet horizontally for each one (1) foot vertically) for a horizontal distance of four thousand (4,000) feet. The conical surface does not include the approach surfaces and transitional surfaces.

E. TRANSITIONAL SURFACE. The transitional surface is a surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 (seven (7) feet horizontally for each one (1) foot vertically) 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.

Section 5. HEIGHT LIMITATIONS. Except as otherwise provided in this ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be erected, altered, allowed to grow, or maintained so as to project above any of the airport referenced surfaces described in Section 4.

Section 6. LAND USE ZONES AND AIRPORT ZONING MAP. In order to carry out the purposes of this ordinance, the following protective zones are established:

A. Zone A. All of that land below the approach surfaces of the runways and which is located within a horizontal distance of each end of the runways as follows:

Fosston, Minnesota
Municipal Airport Zoning Ordinance

- a. Runway 16-34 - One and one-half ($1\frac{1}{2}$) miles.
- b. Runway 10-28 - One (1) mile.
- B. Zone B. All of that land below the approach surfaces of the runway and which is located within a horizontal distance as noted below and which is not included in Zone A.
 - a. Runway 16-34 - Two (2) miles from the airport boundary.
 - b. Runway 10-28 - Two (2) miles from either end of the runway.
- C. Zone C. All of that land below the approach surfaces of the runway and which is located within a horizontal distance as noted below and which is not included in Zone A or Zone B.
 - a. Runway 10-28 - Two (2) miles from the airport boundary.
 - b. Zone C also includes all of that land which is within one-half ($\frac{1}{2}$) mile of the airport boundary and which is not included in any Zone A or Zone B.
- D. Zone D. All of that land which is between one-half ($\frac{1}{2}$) and one (1) mile of the airport boundary and is not located in Zone A, B or C.
- E. AIRPORT ZONING MAP. The several zones which are established are shown on the airport zoning map attached hereto and made a part hereof, which map, together with all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this ordinance.

Section 7. LAND USE RESTRICTIONS

- A. IN GENERAL. Subject at all times to the height restrictions set forth in Section 5, no use shall be made of any land in any of the zones defined in Section 6 which creates or causes interference with the operations of radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights,

Fosston, Minnesota
Municipal Airport Zoning Ordinance

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.

B. ZONE A. Land included in Zone A shall be used for the following purposes only:

- (1) Agricultural purposes except dwellings are prohibited; light recreation and auto parking.

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

C. ZONE B. Land included in Zone B shall be used for the following purposes only:

- (1) For agricultural and residential purposes provided there shall not be more than one single family dwelling and accessory buildings (accessory farm buildings may include one single family tenant building) per five (5) acre tract of land.
- (2) Any commercial or industrial use which meets with the following minimum standards:
 - (a) Each single commercial or industrial site shall contain no dwellings;
 - (b) The use shall not permit, require, cause or attract an assembly or concentration, public or private, at any one time, regardless of duration, or more than fifty (50) persons in any commercial or industrial building or of more than ten (10) persons in any one acre of such site.

The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums and other

places of public or semi-public assembly; hotels, motels, trailer courts, campgrounds and multi-unit dwellings.

D. ZONE C. Land included in Zone C may be used for any agricultural, residential, commercial or industrial purpose, subject to the limitation that dwellings are restricted to single family dwellings constructed on not less than one (1) acre lots.

E. ZONE D. Land included in Zone D may be used for any of the uses noted for Zone C, except no limitation shall be placed on residential uses by this ordinance. The general restrictions defined in Subsection 7A are the only restrictions placed on the lands included in Zone D.

Section 8. NON-CONFORMING USES. Except as provided in Section 10, the provisions of Sections 5 and 7 of this ordinance shall not be construed to require the removal, lowering or other change or alteration of any non-conforming use, or otherwise interfere with the continuance of any non-conforming use as of the effective date hereof. Nothing herein contained shall require any change in any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and which is diligently prosecuted and completed within two (2) years thereof.

Section 9. VARIANCES. Any person desiring to erect or increase the height of any structure or permit the growth of any tree, or otherwise use his property not in accord with the regulations prescribed in this ordinance may apply to the board of adjustment hereinafter established for a variance from the regulation in question. 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 the regulations; provided, any variance may be allowed subject to a reasonable condition that the

board of adjustment may deem necessary to effectuate the purposes of this ordinance.

Section 10. PERMITS.

A. Future Uses. Except as specifically provided in Paragraphs 1, 2 and 3 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 therefor shall have been applied for and granted. Each application for 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.

- (1) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 100 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 zone.
- (2) In the areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zone.
- (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 100 feet of 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, alteration or growth of any structure or tree in excess of any of the height limits established by this ordinance except as set forth in Section 4.

- B. Existing Uses. Before any existing use or structure may be replaced, substantially altered or repaired or rebuilt within any zone established in Section 4, a permit must be secured authorizing such replacement, change or repair. No permit shall be issued which would allow the establishment or creation of an airport hazard or permit a non-conforming use of structure to be made higher, enlarged, intensified, or become a greater hazard to air navigation than it was on the effective date of this ordinance or than it was when the application for a permit is made.
- C. Non-conforming Uses Abandoned or Destroyed. Whenever the Airport Zoning Board determines that a non-conforming structure or tree has been abandoned, 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.

Section 11. HAZARDS, MARKING AND LIGHTING. Any permit issued, or variance granted, under Sections 9 and 10, 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 land or structure in question to permit the Village of Fosston, Minnesota, 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 12. AIRPORT ZONING ADMINISTRATION. The Airport Commission created under the authority of Ordinance No. 208 of the Village of Fosston amending NONE is hereby charged with the duty of administering and enforcing the provisions of this ordinance. The duties of the Airport Commission shall include that of receiving applications for and the granting or denying of permits as provided in Section 10. The Airport Commission shall not have or exercise any of the powers or duties herein delegated to the Board of Adjustment.

Section 13. AIRPORT BOARD OF ZONING ADJUSTMENT.

- A. The Board of Zoning Adjustment established by the provisions of Exhibit A attached. shall be the Airport Board of Zoning Adjustment and shall have and exercise the following powers:
- (1) To hear and decide appeals from any order, requirement, decision or determination made by the Airport Commission in the enforcement of this ordinance.
 - (2) To hear and decide requests for variances.
- B. The Board of Zoning Adjustment shall adopt such rules in addition to its existing rules as it deems appropriate for its government and procedures so that the same shall be in harmony with the provisions of this ordinance and with the applicable state law. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact, shall keep all records of the examination of witnesses and other official actions all of which shall be immediately filed in the office of the Board and shall be of public record.
- C. 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, affirming, or modifying any matter which shall come before it on appeal.

Fosston, Minnesota
Municipal Airport Zoning Ordinance

- D. A simple majority vote of the members of the Board of Adjustment shall be sufficient to decide any matter which should come before the Board.

Section 14. APPEALS.

- A. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Commission made in the administration of this ordinance, shall have the right of appeal to the Board of Adjustment.
- B. All appeals hereunder must be taken within fifteen (15) days from the date of the making and filing of any order or decision, by filing with the Village Clerk of the Village of Fosston, a notice of appeal specifying the grounds thereof. The Village Clerk 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 Airport Commission certified 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 its 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 Airport Commission and on due cause shown.
- D. The Board of Adjustment shall fix a reasonable time for hearing appeals; shall give public notice and due notice to the parties in interest, and shall 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 provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed

Fosston, Minnesota
Municipal Airport Zoning Ordinance

from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

F. On appeal from a decision of the Airport Commission, the Board shall make findings of fact and conclusions of law as provided in Paragraph D of Section 13.

Section 15. JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by a decision of the Board of Adjustment, may appeal to the District Court as provided in Minn. Stat. Chapter 360-072.

Section 16. CONFLICTS. In the event of a conflict within this ordinance or between the regulations of this ordinance and any other applicable federal, state or local regulations, the more stringent limitation or regulation shall govern and prevail.

Section 17. PENALTIES. Any person who violates any provision of this ordinance, or who violates any ruling or order made thereunder, shall be guilty of a misdemeanor as provided in Minnesota Statutes, Section 360.073, shall be punished by a fine of not more than \$100.00 or imprisonment for not more than 90 days or by both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.

Section 18. SEVERABILITY. If any of the provisions of this ordinance or its application is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions on application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 19. DATE EFFECTIVE. This ordinance shall be effective ten (10) days following the date of its publication and copies thereof shall be filed with the Minnesota Department of Aeronautics and the Register of Deeds, Polk County, Minnesota.

Fosston, Minnesota
Municipal Airport Zoning Ordinance

Adopted by the Village of Fosston - Polk County Airport Zoning
Board of Polk County, Minnesota, this 14 day of Feb,
1978. Published in the Thirteen Towns on the 22nd day of
February, 1978.

151

Lynn H. Levinson, Chairman

EXHIBIT A

RESOLUTION NO. _____

At a regular meeting of the Board of Commissioners of the County of Polk, held the 7th day of April, 19 75, Commissioner Moen offered the following resolution which was seconded by Commissioner Driscoll.

WHEREAS, Subdivision 8 of Section 32 of the Appropriations Bill passed by the Minnesota Legislature effective July 1, 1973, provides that no moneys shall be expended by the Commissioner of Aeronautics of the State of Minnesota to improve and maintain an airport unless the governmental unit owning the airport has or is establishing a zoning authority for the airport; and

WHEREAS, Polk County, Minnesota has four such municipal owned airports, to wit, Crookston, Erskine, Fertile and Fosston; and

WHEREAS, the Polk County Board of Commissioners becomes involved in airport zoning by appointing county citizens in accordance with State law to serve on each individual airport zoning board; and

WHEREAS, each individual airport zoning ordinance must establish an Airport Zoning Board of Adjustment; and

WHEREAS, it would be of benefit to Polk County and the individual municipalities to have a single Board of Adjustment to provide consistent and experienced exercise of the powers granted to said Board of Adjustments; and

WHEREAS, the County Board of Commissioners can provide a means of coordination and cooperation in establishing a county wide Airport Zoning Board of Adjustment,

NOW THEREFORE, BE IT RESOLVED by the Polk County Board of Commissioners, subject to the approval of the governing bodies of the named communities, the Board of Adjustment for airport zoning in Polk County shall consist of five citizen members appointed as follows:

Four members of said Board to be appointed by each of the effected communities appointing one person, and

One member of said Board to be appointed by the Polk County Board of Commissioners.

The member named by the Polk County Board of Commissioners shall serve as temporary chairman to act and place the call for formal organization of the said Board of Adjustment.

The Board of Adjustment upon organization shall establish its own by-laws consistent with its purpose, shall establish the term of its members, shall establish its functional procedures and shall accomplish its purpose within the framework of the powers granted by the State, and judicial precedents.

Each community represented by a member on the Board of Adjustment shall be financially responsible for the costs incurred by the Board of Adjustment when the Board is acting on a particular problem, question, appeal, variance or decision on the specific community's specific airport. Costs involved shall be limited to travel expense for the members of the Board of Adjustment at \$0.15 per mile from the member's home to the meeting place and return to home; publication costs for public notices initiated by the Board; legal fees incurred if judicial review of the Board's decisions are forthcoming and legal counsel is needed; and any other direct costs which may be experienced by the Board (but in this instance only upon prior mutual consent with the governing body of the community involved).

The Board of Commissioners encourages each community to place its Board of Adjustment member on a \$25.00 per diem basis when engaged on Board of Adjustment business at the call of the chairman. Each community sponsor shall, if it chooses to pay diem, be responsible for payment to its representative regardless of the airport under consideration at the chairman's call. A claim for per diem with a simple statement of the purpose of per diem draw over the member's signature and the signature of the Chairman of the Board of Adjustment's shall be evidence of a justifiable claim.

The Board of Adjustment shall be a functioning Board upon the appointment of one member by Polk County and by appointment of a member by two of the effected airport operating communities.

Upon the call of ayes and nays the vote stood as follows:

Commissioners voting in the affirmative: Moer, Hanson, Reitmaier, Driscoll

Commissioners voting in the negative: none

Upon this vote the resolution was declared passed by the Chairman of the Polk County Board of Commissioners.

Passed this 7th day of April, 19 75.

Approved this 7th day of April, 19 75.

Lloyd E. Wold
Chairman Chairman of the Board

ATTEST:

Walter J. ...
County Auditor

Accepted by the Governing Bodies of:

Crookston, Minnesota:

(1) By Motion
Resolution Number 14981 Dated 2-11-75

By David Thompson Mayor

Attest: W. H. Schubert City Clerk

Erskine, Minnesota:

(1) By Motion
Resolution Number _____ Dated _____

By _____ Mayor

Attest: _____ City Clerk

Fertile, Minnesota:

(1) By Motion
Resolution Number 783 Dated Feb. 3, 1975

By Walter K. ... Mayor

Attest: W. E. ... City Clerk

Fosston, Minnesota:

(1) By Motion
Resolution Number _____ Dated Feb. 3, 1975

By David ... Mayor

Attest: Lois ... City Clerk

(1) Cross out the one which does not apply to your community.