

Chapter 17.132

AIRPORT OVERLAY ZONE

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17.132.010 Purpose.

The purpose of this overlay zone is to encourage and support the continued operation and vitality of the Decorah Municipal Airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near the airport. (Ord. 1048 (part), 2002)

17.132.020 Definitions.

"Airport" means the strip of land making up the Decorah Municipal Airport used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

"Airport direct impact area" means the area located within five thousand feet of an airport runway, excluding lands within the runway protection zone and approach surface.

"Airport elevation" means the highest point of an airport's usable runway, which is established to be 1,156.6 feet above mean sea level.

"Airport imaginary surfaces" means imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.

"Airport secondary impact area" means the area located between five thousand and ten thousand feet from the airport runway.

"Airport sponsor" means the owner, manager, or other person or entity designated to represent the interests of the airport.

"Antenna" means any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this chapter, the term "antenna" does not include any tower and antenna under fifty feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, any device designed for over-the-air reception of radio or television broadcast signals, multi-channel multi-point distribution service or direct broadcast satellite service, or any cable television headend or hub towers and antennae used solely for cable television services.

"Approach surface" means a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

- A. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of two thousand feet.
- B. The approach surface extends for a horizontal distance of five thousand feet at a slope of twenty feet outward for each foot upward.
- C. The outer width of the approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- D. The inner edge of the secondary approach surface is two thousand feet in width, the same width as the approach surface at its greatest point of horizontal extension at five thousand feet, and it expands uniformly to a width of four thousand feet.
- E. The secondary approach surface extends for an additional horizontal distance of five thousand feet beyond the greatest point of horizontal extension of the approach surface at a slope of thirty-four outward for each one foot upward.
- F. The outer width of the secondary approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

"Commission" means the zoning commission established by the city of Decorah in accordance with Sections 414.4 and 414.6 of the Code of Iowa.

"Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of thirty-four to one for a horizontal distance of four thousand feet.

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

"FAA" means the Federal Aviation Administration.

"Height" means the highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

"Horizontal surface" means a horizontal plane one hundred fifty feet above the established airport elevation of 1,156.6 feet, the perimeter of which is constructed by swinging arcs of radii ten thousand feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

"Obstruction" means any structure, growth or other object, including mobile object, which penetrates an imaginary surface. Also, any traverse ways that penetrate an imaginary surface after the heights of these traverse ways are increased by:

- A. Seventeen feet for an interstate highway;
- B. Fifteen feet for any other public roadway;
- C. Ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road;
- D. Twenty-three feet for a railroad.

"Primary surface" means a surface longitudinally centered on the runway that extends two hundred feet beyond each end of the runway, the elevation of which at 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 five hundred feet.

"Public assembly facility" means a permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

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

"Runway protection zone (RPZ)" means an area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of one thousand feet.

"Significant" means, as it relates to bird strike hazards, a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level

of flight activity by birds in the vicinity.

"Structure" means any constructed or erected object that requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

"Telecommunications facilities" means antennae and towers, either individually or together.

"Tower" means a structure, such as a lattice tower, guy tower or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, on which is located one or more antennae intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common carrier towers and cellular telephone towers.

"Transitional surface" means those surfaces that extend upward and outward at ninety degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of one thousand fifty feet measured horizontally from the edge of the approach surface at a ninety degree angle to the extended runway centerline.

"Water impoundment" includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of the ordinance codified in this chapter.

"Zoning administrator" means the zoning official the city of Decorah.
(Ord. 1080 §§ 2, 3, 2005; Ord. 1048 (part), 2002)

17.132.030 Imaginary surface.

The airport elevation, direct and secondary impact boundaries, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, secondary approach surface, horizontal surface and transitional surface shall be delineated for the airport and shall be made part of the Airport Safety Overlay Zone Map.
(Ord. 1048 (part), 2002)

17.132.040 Height limitations on allowed uses in underlying zones.

All uses permitted by the underlying zone shall comply with the height limitations of Chapter 17.128 of the Decorah City Code. When height limitations are in conflict, the more restrictive limitations shall control.

- A. Except as provided in subsections B and C of this section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.

- B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at a higher elevation than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, the city or county may authorize structures up to thirty-five feet in height.
- C. Other height exceptions or variances may be permitted but must follow the procedures for variance approval within the city.

(Ord. 1048 (part), 2002)

17.132.050 Land use compatibility requirements.

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this chapter as provided herein.

- A. **Outdoor Lighting.** No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach and secondary approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach and secondary approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.
- B. **Glare.** No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach and secondary approach surface or on nearby lands where glare could impede a pilot's vision.
- C. **Industrial Emissions.** No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach and secondary approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The planning commission shall impose such conditions as necessary to ensure that the use does not obscure visibility.
- D. **Telecommunications Facilities and Electrical Interference.** No use shall cause or create electrical interference with navigational signals or radio communications between the airport and aircraft. Proposals for the location of new or expanded radio, cellular, and television transmission facilities and electrical transmission lines within this overlay zone shall be approved by the planning and zoning commission. Approval of towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within ninety days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.
- E. **Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas.** The land uses identified in Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in this section, a limited use means a use that is allowed subject to special standards specific

to that use. All land uses shall be subject to restrictions resulting from the enforcement of height restrictions imposed by the FAA to manage imaginary surfaces.

Table 1

Location	Public Assembly	Residential	Commercial	Industrial	Institutional	Communication Towers	Farm Use	Roads/Parking	Utilities	Parks/Open Space	Golf Course	Athletic Fields	Sanitary Landfills	Water Treatment Plants	Mining	Water Impoundment	Wetland Mitigation
RPZ ₁	L ₂	N	N	N	N	N	P ₃	L ₄	L ₅	L ₆	N	N	N	N	N	N	N
Approach Surface ₈	L ₉	L ₁₀	L ₁₅	L ₉	L ₉	L ₁₇	P ₃	P	L ₅	P	L _{7, 9}	L ₉	N	N	L ₁₁	N/L ₁₂	L ₁₃
Direct Impact Area	P	L ₁₀	L ₁₅	P	L ₁₅	L ₁₈	P ₃	P	L ₅	P	L ₇	L ₁₄	N	N	L ₁₁	L ₁₆	L ₁₃
Secondary Impact Area	P	P	P	P	P	L ₁₈	P ₃	P	L ₅	P	L ₇	P	N	P	L ₁₁	L ₁₆	P ₁₃

P = Use is Permitted
L = Use is Allowed Under Limited Circumstances (See Footnotes)
N = Use is Not Allowed

Table 1 Footnotes:

1. No structures shall be allowed within the Runway Protection Zone. Exceptions shall be made only for structures accessory to airport operations whose location within the RPZ has been approved by the Federal Aviation Administration.
2. In the RPZ, public airport uses are restricted to those uses and facilities that require location in the RPZ.
3. Farming practices that minimize wildlife attractants are encouraged.
4. Roads and parking areas are permitted in the RPZ only upon demonstration that there are no practicable alternatives. Lights, guardrails and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.
5. In the RPZ, utilities, powerlines and pipelines must be underground. In approach surfaces and in airport direct and secondary impact areas, the proposed height of utilities shall be coordinated with the city council or county board.
6. Public assembly facilities are prohibited within the RPZ.
7. Golf courses may be permitted only upon demonstration, supported by substantial evidence, that management techniques will be utilized to reduce existing wildlife attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of approval. Structures are not permitted within the RPZ. For purposes of this chapter, tee markers, tee signs, pin cups and pins are not considered to be structures.
8. Within five thousand feet from the end of the primary surface of the nonprecision instrument runway.
9. Public assembly facilities may be allowed in an approach surface only if the potential danger to public safety is minimal. In general, high-density uses should not be permitted within airport approach surfaces, and non-residential structures should be located outside approach surfaces unless no practicable alternatives exist. Any commercial or industrial use which meets the following minimum standards are allowed: (1) Each single commercial or industrial site shall not be less than twenty acres in size and shall contain no dwellings; (2) The use shall not permit, require, cause, or attract an assembly or concentration, public or private, at any one time, regardless of duration, of more than eighty persons per commercial or industrial site, or more than twenty persons in any one acre of such site; (3) Churches, hospitals, schools, theaters, stadia, hotels, motels, trailer courts, campgrounds, multi-unit dwellings, and other

places of frequent public assembly are specifically prohibited.

10. Residential densities within approach surfaces should not exceed the following densities: (1) within five hundred feet of the outer edge of the RPZ, one unit/acre; (2) within five hundred to one thousand five hundred feet of the outer edge of the RPZ, two units/acre; (3) within one thousand five hundred to three thousand feet of the outer edge of the RPZ, four units/acre. Within the Approach Surface, there shall not be more than one single-family dwelling and accessory buildings per five-acre tract of land.

11. Mining operations involving the creation or expansion of water impoundments shall comply with the requirements of this chapter regulating water impoundments.

12. Water impoundments are prohibited within five thousand feet from the end of a runway. See Section 17.132.080 regulating water impoundments beyond five thousand feet from the edge or end of a runway.

13. Wetland mitigation required for projects located within an approach surface or airport direct or secondary impact area shall be authorized only upon demonstration, supported by substantial evidence, that it is impracticable to provide mitigation outside of these areas. Proposals for wetland mitigation shall be coordinated with the city council, county board, the FAA, and wetland permitting agencies prior to the issuance of required permits. Wetland mitigation shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways and approach surfaces. Conditions shall be imposed as are appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces. See Section 17.132.090 for best management practices for airports located near significant wetlands or wildlife habitat areas.

14. Within the transition surface, residential uses are limited to two single-family dwellings per acre and athletic fields are not permitted.

15. Within the transition surface, overnight accommodations, such as hotels, motels, hospitals and dormitories, are not permitted.

16. See Section 17.132.080 prohibiting or regulating water impoundments beyond five thousand feet from the edge or end of a runway.

17. Telecommunication facilities and towers with antenna whose total height exceeds fifty feet are prohibited from locating in the approach surface and secondary approach surface.

18. Telecommunication facilities and towers within the direct impact area whose height exceeds fifty feet shall be subject to review by the zoning administrator. If it is determined that the proposed facilities pose flight and navigation hazards for arrival and departure flight operations, the facility may be prohibited or altered at the request of the zoning administrator. (Ord. 1048 (part), 2002)

17.132.060 Water impoundments within approach surfaces and airport direct and

secondary impact boundaries.

No new or expanded water impoundments of one-quarter acre in size or larger are permitted within the primary approach surface or on land owned by the city that is necessary for airport operations.
(Ord. 1048 (part), 2002)

17.132.070 Wetland mitigation, creation, enhancement and restoration within approach surfaces and airport direct and secondary impact boundaries.

Notwithstanding the requirements of Section 17.132.080, wetland mitigation, creation, enhancement or restoration projects located within areas regulated under Section 17.132.080 shall be allowed upon demonstration of compliance with this requirements of this section.

- A. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within areas regulated under Section 17.132.080 are recognized as lawfully existing uses.
- B. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces the areas regulated under Section 17.132.080 is encouraged.
- C. Applications to expand wetland mitigation projects in existence as of the effective date of this ordinance, and new wetland mitigation projects, that are proposed within areas regulated under Section 17.132.080 shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:
 - 1. It is not practicable to provide off-site mitigation; or
 - 2. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.
- D. Wetland mitigation permitted under subsection D of this section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.
- E. Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces or within areas regulated under Section 17.132.080, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

1. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and
 2. The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.
- F. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this section shall be coordinated with all applicable organizations.
- G. A decision approving an application under this section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

(Ord. 1048 (part), 2002)

17.132.080 Nonconforming uses.

A. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations, and shall not 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 overlay zone. Ever existing structure, final plat, and site plan shall be considered as a conforming use with this chapter so long as the structure, plat or plan satisfied the requirements of the applicable airport height ordinance at the time of its approval. In addition, any filed but not yet finally approved preliminary plat application which is pending at the time the ordinance codified in this chapter becomes effective shall be considered as a conforming use with this chapter so long as the ensuing final plat is recorded within two years of the date the ordinance codified in this chapter becomes effective.

B. Notwithstanding subsection A of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the FAA shall install or allow the installation of obstruction markers as deemed necessary by the FAA, so that the structures become more visible to pilots.

C. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.

(Ord. 1048 (part), 2002)

17.132.090 Avigation easement.

Within this overlay zone, the owners of properties that are the subjects of applications for

land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of fifty percent or one thousand square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the city. The avigation easement shall be in a form acceptable to the city and shall be signed and recorded in the deed records of the county. The avigation easement shall allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.

(Ord. 1048 (part), 2002)

17.132.100 Noise sensitivity zones.

Land use noise sensitivity zones shall be established when requested by the commissioner or by the governmental unit having airport zoning powers. The governmental unit having zoning powers, when required by the commissioner, shall secure a study as to the boundaries of the area to be zoned for this purpose and the uses permitted therein.

(Ord. 1048 (part), 2002)

17.132.110 Airport zoning administrator.

It shall be the duty of the city of Decorah zoning administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the zoning administrator upon a form furnished by either the Winneshiek County planning department or city of Decorah office of planning and zoning. Permit applications shall be promptly considered by the zoning administrator in accordance with the Winneshiek County comprehensive plan, Winneshiek County zoning ordinance II and subdivision regulations if the proposed activity is outside of the city of Decorah corporate limits. If the proposed activity is within the city of Decorah corporate limits, the zoning administrator shall consider the request in accordance with the city of Decorah comprehensive plan, city of Decorah zoning ordinance and subdivision regulations.

A. Rezoning applications will be considered by the commission with approval or denial of a request by the city council.

B. Variance applications for action by the board hereinafter provided for.

(Ord. 1048 (part), 2002)

17.132.120 Procedures.

An applicant seeking a land use or limited land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application to the zoning administrator:

A. A map or drawing showing the location of the property in relation to the airport imaginary surfaces.

- B. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed highest structure or object, measured in feet above mean sea level.
- C. If a height variance is requested, letters of support from the Airport Commission, IDOT Department of Aviation and the FAA.
- D. If deemed warranted by the Federal Aviation Administration, zoning administrator, commission, board of adjustment or the Airport Commission, a plan for obstruction marking and lighting may be required.

(Ord. 1048 (part), 2002)

17.132.130 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 shall be erected, altered, or otherwise established in any zone hereby created unless a permit has been applied for and granted by the zoning administrator. Each permit application shall indicate the purpose for which the permit is desired, with sufficient detail to define the conformance 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 seventy-five 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 five thousand feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.
2. Nothing contained in this foregoing exception 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 limitations established by Chapter 17.128 of the Decorah City Code.

B. Existing Uses. Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified in this chapter or any amendments thereto, or then 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 eighty percent torn down, 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 is made for a permit under this paragraph or not, the zoning administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at their expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this chapter. 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.
(Ord. 1048 (part), 2002)

17.132.140 Variances.

Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this chapter may apply to the board of adjustment, hereinafter provided for, for a variance from such regulations.
(Ord. 1048 (part), 2002)

17.132.150 Appeals.

A. Any person aggrieved, or any taxpayer affected by any decision of the zoning administrator made in the administration of this chapter may appeal to the board of adjustment. Such appeals may also be made by any governing body of a municipality, township, county, which is of the opinion that a decision of the zoning administrator is an improper application of this chapter as it concerns such governing body or board.

B. All appeals hereunder must be commenced within thirty days of the zoning administrator's decision, 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. In addition, any person aggrieved, or any taxpayer affected by any decisions of the zoning administrator made in his administration of this chapter who desires to appeal such decision shall submit an application for a variance, by certified mail, to the member of the board of adjustment.

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, 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 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.

(Ord. 1048 (part), 2002)

17.132.160 Judicial review.

Any person aggrieved, or any taxpayer affected by any decision of the board of adjustment, or any governing body of a municipality, township, county which is of the opinion that a decision of the board of adjustment is illegal may present to the district court of Winneshiek 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 thirty days after the decision is filed in the office of the board of adjustment. The petitioner must exhaust the remedies provided in this chapter before availing himself of the right to petition a court as provided by this section.

(Ord. 1048 (part), 2002)

17.132.170 Penalties.

Every person who shall construct, establish, substantially change, alter or repair any existing structure of use, or permit the growth of any tree without having complied with the provision of this chapter or who, having been granted a permit or variance under the provisions of this chapter shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than seven hundred dollars or imprisonment for not more than ninety days or by both. Each day a violation continues to exist shall constitute a separate offense. The zoning administrator may enforce all provisions of this chapter through such proceedings for injustice relief and other relief as may be proper under the laws of the state of Iowa.

(Ord. 1048 (part), 2002)

17.132.180 Conflicts.

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter 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.

(Ord. 1048 (part), 2002)

17.132.190 Severability.

A. In any case in which the provision of this chapter, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land

to such 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 chapter as to other structures and parcels of land, and to this end the provisions of this chapter are declared to be severable.

B. Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.
(Ord. 1048 (part), 2002)

Chapter 17.128

AIRPORT HEIGHT DISTRICT

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- 17.128.080 Airport zoning commission.
- 17.128.090 Judicial review.
- 17.128.100 Administrative agency.
- 17.128.110 Penalty for violation.
- 17.128.120 Conflicting regulations.

17.128.010 Title.

This chapter shall be known and may be cited as "The Decorah Municipal Airport Height Zoning Ordinance."
(Ord. 952 (part), 1993)

17.128.020 Definitions.

As used in this chapter, unless the context otherwise requires, certain terms shall be defined as follows:

"Airport" means the Decorah Municipal Airport.

"Airport elevation" means the highest point of an airport's usual landing area, measured in feet above mean sea level, which elevation is established to be one thousand one hundred fifty-eight feet.

"Airport hazard" means any structure or tree or use of land which would exceed the federal obstruction standards as contained in 14 Code of Federal Regulations Sections 77.21, 77.23, and 77.25 as revised March 4, 1972, and which obstruct the airspace required for the flight of aircraft and landing or takeoff at an airport or are otherwise hazardous to such landing or taking off of aircraft.

"Airport primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Airspace Height. For the purpose of determining the height limits in all zones set forth in

this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Control zone" means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

"Instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities or area-type navigation equipment, for which an instrument approach procedure has been approved or planned.

"Minimum descent altitude" means the lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

"Minimum en route altitude" means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

"Minimum obstruction clearance altitude" means the specified altitude in effect between radio fixes on VOR airways, off-airway routes or route segments, which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two miles of a VOR.

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

"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 FAA approved airport layout plan, a military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

(Ord. 952 (part), 1993)

17.128.030 Airport zones and airspace height limitations.

In order to carry out the provision of this chapter, there are created and established certain zones which are depicted on the municipal airport height zoning map. A structure located in more than one of the following zones is considered to be orderly in the zone with the more restrictive height limitation. The various zones are established and defined as follows:

- A. "Horizontal zone" means the land lying under a horizontal plane one hundred fifty feet above the established airport elevation, the perimeter of which is constructed by visual runway and nonprecision instrument utility runways, swinging arcs of five thousand feet radii from the center of each end of the primary surface of

Runways 11 and 29, and connecting the adjacent arcs by lines tangent to those arcs. No structure shall exceed one hundred fifty feet above the established airport elevation in the horizontal zone, as depicted on the municipal airport height zoning map.

- B. "Conical zone" means the land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one for a horizontal distance of four thousand feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the municipal airport height zoning map.
- C. "Approach zone" means the land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. (Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)
1. The inner edge of the approach surface is a visual and nonprecision instrument runway, five hundred feet wide for Runways 11 and 29.
 2. The outer edge of the approach zone is visual other than utility runways, one thousand five hundred feet for Runway 11; nonprecision instrument utility runways, two thousand feet for Runway 29.
 3. The approach zone extends for a horizontal distance of, on all visual and nonprecision instrument utility runways, five thousand feet at a slope of thirty-four to one for Runways 11 and 29. No structure shall exceed the approach surface to any runway as depicted on the municipal airport height zoning map.
- D. "Transitional zone" means the land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one from the sides of the primary surface and from the sides of the approach surfaces. No structure shall exceed the transitional surface, as depicted on the municipal airport height zoning map.
- E. No structure shall be erected in Decorah or Winneshiek County that raises the published minimum descent altitude for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any federal airway in Decorah or Winneshiek County.

(Ord. 1080 § 1, 2005; Ord. 952 (part), 1993)

17.128.040 Use restrictions.

Notwithstanding any other provisions of Section 17.128.030, no use may be made of land

or water within the city or Winneshiek County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

- A. All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that they are not misleading or dangerous to aircraft operating from the municipal airport or in the vicinity thereof.
- B. No operations from any use shall produce smoke, glare or other visual hazards within three statute miles of any usable runway of the municipal airport.
- C. No operations from any use in the city or Winneshiek County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

(Ord. 952 (part), 1993)

17.128.050 Lighting.

A. Notwithstanding the provisions of Section 17.128.040, the owner of any structure over two hundred feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA) Advisory Circular 70-7460-1D and amendments. Additionally, any structure, constructed after the effective date of the ordinance codified in this title, exceeding nine hundred forty-nine feet above ground level, must install on that structure high-intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments.

B. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the city and Winneshiek County at its own expense to install, operate and maintain thereon such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

(Ord. 952 (part), 1993)

17.128.060 Variances.

Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this chapter, may apply to the board of adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the board of adjustment unless a copy of the application has been submitted to the municipal airport manager, aeronautics director or any other person designated by the city council to receive a copy of the application, for an opinion as to the aeronautical effects of such a variance. If the municipal airport manager, aeronautics director or any other person designated by the city council to receive a copy of the application does not respond to the board of adjustment within fifteen days from receipt of the copy of the application, the board may make its decision to grant or deny the variance.

(Ord. 952 (part), 1993)

17.128.070 Airport board of adjustment.

A. The board of adjustment for the city, appointed and adopted pursuant to Chapter 414, Code of Iowa, and Chapter 17.28 of this code is designated and created by the board of supervisors of Winneshiek County and the city council as the airport board of adjustment, to 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 title or other applicable ordinances;
2. To hear and decide special exemptions to the terms of this chapter upon which such airport board of adjustment under such regulations may be required to pass;
3. To hear and decide specific variances.

B. The airport board of adjustment shall consist of the members duly appointed pursuant to Chapter 414, Code of Iowa, by the city council and each shall serve for the term of years pursuant to such term as they are now appointed by members of the city board of adjustment. Such members of the airport board of adjustment shall be subject to the same removal authority as is contained in Chapter 17.28 of this code and subject to the provisions of Chapter 414, Code of Iowa.

The airport board of adjustment shall also consist of two members from Winneshiek County, and the board of supervisors designates the two members on the city board of adjustment residing within Winneshiek County but not residents of the city as those two representative members on the airport board of adjustment. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which such member was selected pursuant to this code.

C. The airport board of adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the airport board of adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the airport board of adjustment shall be open to the public. The airport 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 city clerk.

D. The airport board of adjustment shall have the same powers as it currently may exercise as the Decorah board of adjustment pursuant to its authority under this code and powers established pursuant to Chapter 414 of the Code of Iowa.

E. The concurring vote of a majority of the members of the airport board of adjustment shall be sufficient to reverse any order, requirement, 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 chapter, or to effect variations of this chapter.
(Ord. 952 (part), 1993)

17.128.080 Airport zoning commission.

A. The zoning commission for the city appointed and adopted pursuant to Chapter 414, Code of Iowa and Chapter 2.26 of this code is designated and created by the board of supervisors of Winneshiek County and the city council as the airport zoning commission, to have and exercise the following powers:

1. To administer and enforce such regulations as it deems fit to adopt pursuant to this chapter;
2. All zoning regulations adopted shall be reasonable and shall not impose any requirement or restriction which is not necessary to effectuate the purposes of this chapter;
3. No airport zoning regulations adopted under this chapter shall require the removal, lowering or other change or alteration of any structure or tree, or interfere with any use not conforming to the regulations when adopted or amended, except that they may require the owner thereof to permit the municipality at its own expense to install, operate and maintain such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airspace hazard;
4. All such regulations shall provide that no preexisting nonconforming structure, tree or use, shall be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airspace hazard than it was when such airport zoning regulations or amendments thereto were adopted.

B. The airport zoning commission shall consist of the members duly appointed pursuant to Chapter 414 of the Code of Iowa by the city council and each shall serve for the term of years pursuant to said term as appointed as a member of the city zoning commission. Said members of the airport zoning commission shall be subject to the same removal authority as is contained in Chapter 2.26 of this code and subject to the provisions of Chapter 414 of the Code of Iowa. The airport zoning commission shall also consist of two members from Winneshiek County and the board of supervisors designates the two members of the city zoning commission residing within Winneshiek County but not residents of the city as those two representative members on the airport zoning commission. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected pursuant to this code.

C. The airport zoning commission shall have the same powers as it currently may exercise pursuant to the authority under this code and powers established pursuant to Chapter 414 of the Code of Iowa.

(Ord. 952 (part), 1993)

17.128.090 Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the airport board of adjustment may appeal to a court of record as provided in Section 414.15, Code of Iowa.
(Ord. 952 (part), 1993)

17.128.100 Administrative agency.

It shall be the duty of the airport zoning commission to administer the regulations prescribed in this chapter. Applications for permits and variances shall be made to the airport zoning commission upon a form furnished by the commission. Applications required by this chapter to be submitted to the airport zoning commission shall be promptly considered and granted or denied. Application for action by the airport board of adjustment shall be forthwith transmitted by the airport zoning commission. This chapter shall be administered by the zoning administrator pursuant to Chapter 17.12 of this code.
(Ord. 952 (part), 1993)

17.128.110 Penalty for violation.

Each violation of this chapter or of any regulation, order or ruling promulgated hereunder shall constitute a simple misdemeanor, and be punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days, and each day a violation continues to exist shall constitute a separate offense.
(Ord. 952 (part), 1993)

17.128.120 Conflicting regulations.

Where there exists a conflict between any of the regulations or limitation prescribed in this chapter and any other regulations applicable to the same area, whether the conflict is with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.
(Ord. 952 (part), 1993)