

TITLE AND INTRODUCTION

CITY OF HENDRICKS AIRPORT ZONING ORDINANCE

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 HENDRICKS COMMUNITY HOSPITAL HELIPAD BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE HENDRICKS COMMUNITY HOSPITAL HELIPAD PROTECTED AIRSPACE AND SURFACE CONTOURS EXHIBITS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE HENDRICKS CITY COUNCIL PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES SECTION 360.061 THROUGH 360.074, AS FOLLOWS: PURPOSE AND AUTHORITY

The City of Hendricks, pursuant to the provisions and authority of Minnesota Statutes Section 360.063, hereby finds and declares that:

- A. An airport hazard endangers the lives and property of users of the Hendricks Hospital District Helipad, 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 said Helipad, the investment therein, and the ability to provide emergency medical care to area residents.
- B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Hendricks Community Hospital.
- C. For the protection of the public health, safety, 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 subdivisions may raise and expend public funds.
- F. The Hendricks Hospital District Helipad is an essential public facility that serves an important public safety and emergency transportation role and provides a public good.

G. The ordinance shall be incorporated into the Hendricks City Code as a new Chapter 11 as follows.

CHAPTER 11

AIRPORT ZONING

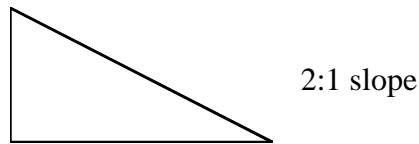
This Ordinance shall be known as the Hendricks Helipad Ordinance. Those sections of land affected by this Ordinance are indicated in Exhibit A, which is attached to this Ordinance.

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

1. Helipad or Airport means the Hendricks Community Hospital Helipad the location of which is more specifically noted on the attached Exhibit A.
2. "AIRPORT ELEVATION" means the established elevation of the highest point on the usable landing area which elevation is established to be 1797.50 feet above mean sea level.
3. "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 persons or property because of its proximity to the airport.
4. "CONFORMING USE" means any structure, tree, or object of natural growth, or use of land that complies with all the applicable provisions of this Ordinance or any amendment to this ordinance.
5. "DWELLING" means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.
6. "HEIGHT," for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on Exhibit A, the datum shall be mean sea level elevation unless otherwise specified.
7. "LANDING AREA" means the area of the Helipad used for the landing, taking off, or taxiing of aircraft.
8. "NONCONFORMING USE" means any pre-existing structure, tree, natural growth, or land use which is inconsistent with the provisions of this Ordinance or an amendment hereto.
9. "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.
10. "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, Minnesota Department of Transportation Office of Aeronautics, and the City of Hendricks.

11. "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.
12. "SLOPE" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



Slope = 2:1 = 2 feet horizontal to 1 foot vertical

13. "STRUCTURE" means any permanent or temporary object constructed or installed by man, including but without limitations, buildings, towers, radio and television aerial and antennae, cranes, smokestacks, earth formations, overhead transmission lines, and any type of material storage and/or processing facility or site, whether enclosed or non-enclosed.
14. "TRAVERSE WAYS," for the purpose of determining height limits as set forth in this Ordinance, shall be increased in height by 17 feet for interstate highways; by 15 feet for all public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.
15. "TREE" means any object of natural growth.
16. "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.
17. "WATER SURFACES" for the purpose of this ordinance, shall have the same meaning as land for the establishment of protected zones.

11.102 AIR SPACE OBSTRUCTION ZONING

1. PROTECTED HELIPORT AIRSPACE: The areas designated on the attached Exhibit A as the approach/departure path and Protected Heliport Airspace

shall be subject to the height and building restrictions in the following provisions of this ordinance.

2. **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 the protected Heliport airspace so as to project into any protected airspace above the elevations set out in the attached Exhibit A.
3. Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone shall have that meaning given to them in Minnesota Rules Section 8800.2400.

11.103 LAND USE SAFETY ZONING

1. **SAFETY ZONE BOUNDARIES:** In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Hendricks Community Hospital Helipad, and, furthermore, to limit population and building density in approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established a safety zone consisting of All land in the Protected Heliport Airspace, as designated on the attached Exhibit A.
2. **GENERAL USE RESTRICTIONS:** Subject at all times to the height restrictions set forth in above, no use shall be made of any land in any safety zone which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make 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.
3. Subject at all times to the height restrictions set forth above and to the general restrictions contained in Subsection 2 above, areas designated Protected Heliport Airspace or Safety Zone shall contain no buildings, structures, exposed transmission lines, or other similar above-ground land use structural hazards, 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, light outdoor recreation (non-spectator), cemeteries, and automobile parking.
4. **BOUNDARY ASSURANCES:** A certified survey prepared by a licensed land surveyor shall be required to be submitted with a building permit application

for properties that are entirely or partially contained within the Protected Helipad Airspace, unless the City Council determines the proposed building site is clearly outside said Safety Zones. For any location within the air space jurisdiction of this ordinance, the City of Hendricks may require a survey that shows the elevation of a proposed structure will conform to the air space requirements of this ordinance.

11.104 AIRPORT/PROTECTED HELIPORT AIRSPACE MAP

The Protected Heliport Airspace established is shown in Exhibit A and has been prepared by DGR Engineering and dated April 27, 2015. Said exhibit is attached hereto and made a part hereof, which together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this Ordinance.

11.105 NONCONFORMING USES

Regulations not retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration 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 nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed within two years thereof.

11.106 PERMITS

1. FUTURE USES: Except as specifically provided 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 therefore shall have been applied for and granted by the City of Hendricks, 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 to include any lighting requirements or restrictions. If such determination is in the affirmative, the permit shall be granted.
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 this ordinance as set forth in and the land use limitations set forth in 11.102 paragraph 2 or the heights set out on the attached Exhibit A.
3. 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 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.

4. **NONCONFORMING USES ABANDONED OR DESTROYED:** Whenever the City Council determines that a nonconforming structure or tree has been abandoned or more than 80% 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 City Council 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 City Council 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.

11.107 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 Ordinance may apply to the City Council for a variance from such regulations. If the City Council fails to grant or deny the variance within 60 days after the City Council receives the application by certified mail, or as provided for within Minnesota State Statutes 15.99, the variance shall be deemed to be granted by the Council. When the variance is granted by reason of the failure of the Council to act on the variance, the person receiving the variance shall notify the City Council, by certified mail, that the variance has been granted. 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 City Council may deem necessary to effectuate the purpose of this Ordinance. The Council may grant a Variance when doing so is consistent with the safe

operation of the Helipad considering the height restrictions necessary for safe air travel determined in consultation with the City Engineer

11.108 HAZARD MARKING AND LIGHTING

1. **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 City Council, 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 Hendricks Community Hospital.
2. **PERMITS AND VARIANCES:** Any permit or variance deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, and granted by the City Council, shall require 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.

11.109 AIRPORT/HELIPAD ZONING ADMINISTRATOR

The City Council of the City of Hendricks shall act as Airport Zoning Administrator in consultation with the City Engineer, and will review and act on variance applications and appeals.

The Hendricks City Council shall enforce the regulations prescribed herein. Applications for permits, variances, and appeals shall be made to the City Council upon a form furnished by it. Upon request by the City Council and as made necessary by federal law, applicants must also complete a 7460 Obstruction Evaluation. Permit applications shall be promptly considered and granted or denied by them in accordance with the regulations prescribed herein or as provided for within Minnesota State Statutes 15.99.

11.110 JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected by any decision of the City Council, who is of the opinion that a decision of the City Council is illegal may present to the District Court of Lincoln 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 made by the City Council. 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.

11.111 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 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 \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The Hendricks City Council may enforce all provisions of this Ordinance through such proceedings for relief as may be proper under the laws of Minnesota Statutes Section 360.073 and other applicable law.

11.112 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.

11.113 SEVERABILITY

1. In any case in which the provision of this Ordinance, 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 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 other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.
2. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

11.114 EFFECTIVE DATE

This ordinance shall take effect upon publication, and shall be recorded in the office of the Lincoln County Recorder, Lincoln County, Minnesota.

Passed and adopted after public hearing by the City Council of the City of Hendricks this 2nd Day of May, 2016.

David Blees, City Administrator

Julie Hogie, Mayor